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HOUSE BILL NO. 1426

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Transportation
on March 5, 1998)

(Patron Prior to Substitute-Delegate Cantor)

A BILL to amend and reenact § 46.2-100 of the Code of Virginia, relating to the definition of "residence district" as used in Title 46.2 of the Code of Virginia.

Be it enacted by the General Assembly of Virginia:**1. That § 46.2-100 of the Code of Virginia are amended and reenacted as follows:**

§ 46.2-100. Definitions.

The following words and phrases when used in this title shall, for the purpose of this title, have the meanings respectively ascribed to them in this section except in those instances where the context clearly indicates a different meaning:

"Antique motor vehicle" means every motor vehicle, as defined in this section, which was actually manufactured or designated by the manufacturer as a model manufactured in a calendar year not less than twenty-five years prior to January 1 of each calendar year and is owned solely as a collector's item.

"Automobile or watercraft transporters" means any tractor truck, lowboy, vehicle, or combination, including vehicles or combinations which transport motor vehicles or watercraft on their power unit, designed and used exclusively for the transportation of motor vehicles or watercraft.

"Bicycle" means a device propelled solely by human power, having pedals, two or more wheels, and a seat height of more than twenty-five inches from the ground when adjusted to its maximum height. For purposes of Chapter 8 (§ 46.2-800 et seq.) of this title, a bicycle shall be a vehicle while operated on the highway.

"Business district" means the territory contiguous to a highway where seventy-five percent or more of the property contiguous to a highway, on either side of the highway, for a distance of 300 feet or more along the highway, is occupied by land and buildings actually in use for business purposes.

"Camping trailer" means every vehicle which has collapsible sides and contains sleeping quarters but may or may not contain bathing and cooking facilities and is designed to be drawn by a motor vehicle.

"Cancel" or "cancellation" means that the document or privilege cancelled has been annulled or terminated because of some error, defect, or ineligibility, but the cancellation is without prejudice and reapplication may be made at any time after cancellation.

"Chauffeur" means every person employed for the principal purpose of driving a motor vehicle and every person who drives a motor vehicle while in use as a public or common carrier of persons or property.

"Commission" means the State Corporation Commission.

"Commissioner" means the Commissioner of the Department of Motor Vehicles of the Commonwealth.

"Crosswalk" means that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway; or any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

"Decal" means a device to be attached to a license plate that validates the license plate for a predetermined registration period.

"Department" means the Department of Motor Vehicles of the Commonwealth.

"Disabled parking license plate" means a license plate that displays the international symbol of access in the same size as the numbers and letters on the plate and in a color that contrasts with the background.

"Disabled veteran" means a veteran who (i) has either lost, or lost the use of, a leg, arm, or hand; (ii) is blind; or (iii) is permanently and totally disabled as certified by the U. S. Veterans Administration. A veteran shall be considered blind if he has a permanent impairment of both eyes to the following extent: (i) central visual acuity of 20/200 or less in the better eye, with corrective lenses, or central visual acuity of more than 20/200, if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance no greater than twenty degrees in the better eye.

"Driver's license" means any license, including a commercial driver's license as defined in the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.), issued under the laws of the Commonwealth authorizing the operation of a motor vehicle.

"Essential parts" means all integral parts and body parts, the removal, alteration, or substitution of

60 which will tend to conceal the identity of a vehicle.

61 "Farm tractor" means every motor vehicle designed and used as a farm, agricultural, or horticultural
62 implement for drawing plows, mowing machines, and other farm, agricultural, or horticultural machinery
63 and implements including self-propelled mowers designed and used for mowing lawns.

64 "Federal safety requirements" means applicable provisions of the National Traffic and Motor Vehicle
65 Safety Act of 1966 as amended (15 U.S.C. § 1381 et seq.) and all administrative regulations and policies
66 adopted pursuant thereto.

67 "Financial responsibility" means the ability to respond in damages for liability thereafter incurred
68 arising out of the ownership, maintenance, use, or operation of a motor vehicle, in the amounts provided
69 for in § 46.2-472.

70 "Foreign market vehicle" means any motor vehicle originally manufactured outside the United States,
71 which was not manufactured in accordance with the National Traffic and Motor Vehicle Safety Act as
72 amended (15 U.S.C. § 1381 et seq.) and the policies and regulations adopted pursuant to that Act, and
73 for which a Virginia title or registration is sought.

74 "Foreign vehicle" means every motor vehicle, trailer, or semitrailer which is brought into the
75 Commonwealth otherwise than in the ordinary course of business by or through a manufacturer or dealer
76 and which has not been registered in the Commonwealth.

77 "Golf cart" means a self-propelled vehicle which is designed to transport persons playing golf and
78 their equipment on a golf course.

79 "Gross weight" means the aggregate weight of a vehicle or combination of vehicles and the load
80 thereon.

81 "Highway" means the entire width between the boundary lines of every way or place open to the use
82 of the public for purposes of vehicular travel in the Commonwealth, including the streets and alleys,
83 and, for law-enforcement purposes, the entire width between the boundary lines of all private roads or
84 private streets which have been specifically designated "highways" by an ordinance adopted by the
85 governing body of the county, city, or town in which such private roads or streets are located.

86 "Intersection" means (i) the area embraced within the prolongation or connection of the lateral
87 curblines or, if none, then the lateral boundary lines of the roadways of two highways which join one
88 another at, or approximately at, right angles, or the area within which vehicles traveling on different
89 highways joining at any other angle may come in conflict; (ii) where a highway includes two roadways
90 thirty feet or more apart, then every crossing of each roadway of such divided highway by an
91 intersecting highway shall be regarded as a separate intersection, in the event such intersecting highway
92 also includes two roadways thirty feet or more apart, then every crossing of two roadways of such
93 highways shall be regarded as a separate intersection; or (iii) for purposes only of authorizing
94 installation of traffic-control devices, every crossing of a highway or street at grade by a pedestrian
95 crosswalk.

96 "Law-enforcement officer" means any officer authorized to direct or regulate traffic or to make
97 arrests for violations of this title or local ordinances authorized by law. For the purposes of access to
98 law-enforcement databases regarding motor vehicle registration and ownership only, this term shall also
99 include city and county commissioners of the revenue and treasurers, together with their duly designated
100 deputies and employees, when such officials are actually engaged in the enforcement of §§ 46.2-752,
101 46.2-753 and 46.2-754 and local ordinances enacted thereunder.

102 "License plate" means a device containing letters, numerals, or a combination of both, attached to a
103 motor vehicle, trailer, or semitrailer to indicate that the vehicle is properly registered with the
104 Department.

105 "Light" means a device for producing illumination or the illumination produced by the device.

106 "Mobile home" means a structure, transportable in one or more sections, which in the traveling mode
107 is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is
108 320 or more square feet, and which is built on a permanent chassis and designed to be used as a
109 dwelling with or without a permanent foundation when connected to the required utilities, and includes
110 the plumbing, heating, air conditioning, and electrical systems contained therein.

111 "Moped" means (i) a bicycle-like device with pedals and a helper motor which is rated at no more
112 than two brake horsepower and which produces speeds up to a maximum of thirty miles per hour and
113 (ii) a motorcycle with an engine displacement of 50 cubic centimeters or less and a maximum speed of
114 less than thirty miles per hour. For purposes of Chapter 8 of this title, a moped shall be a vehicle while
115 operated on a highway.

116 "Motor home" means every private motor vehicle with a normal seating capacity of not more than
117 ten persons, including the driver, designed primarily for use as living quarters for human beings.

118 "Motor vehicle" means every vehicle as defined in this section which is self-propelled or designed
119 for self-propulsion except as otherwise provided in this title. Any structure designed, used, or maintained
120 primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, sleeping place,
121 office, or commercial space shall be considered a part of a motor vehicle. For the purposes of this title,

any device herein defined as a bicycle or a moped shall be deemed not to be a motor vehicle.

"Motorcycle" means every motor vehicle designed to travel on not more than three wheels in contact with the ground, except any vehicle included within the term "farm tractor" or "moped" as defined in this section.

"Nonresident" means every person who is not domiciled in the Commonwealth, except: (i) any foreign corporation which is authorized to do business in the Commonwealth by the State Corporation Commission shall be a resident of the Commonwealth for the purpose of this title; in the case of corporations incorporated in the Commonwealth but doing business outside the Commonwealth, only such principal place of business or branches located within the Commonwealth shall be dealt with as residents of the Commonwealth; (ii) a person who becomes engaged in a gainful occupation in the Commonwealth for a period exceeding sixty days shall be a resident for the purposes of this title except for the purposes of Chapter 3 (§ 46.2-300 et seq.) of this title; (iii) a person, other than a nonresident student as defined in this section, who has actually resided in the Commonwealth for a period of six months, whether employed or not, or who has registered a motor vehicle, listing an address in the Commonwealth in the application for registration shall be deemed a resident for the purposes of this title, except for the purposes of the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.).

"Nonresident student" means every nonresident person who is enrolled as a full-time student in an accredited institution of learning in the Commonwealth and who is not gainfully employed.

"Operation or use for rent or for hire, for the transportation of passengers, or as a property carrier for compensation," and "business of transporting persons or property" mean any owner or operator of any motor vehicle, trailer, or semitrailer operating over the highways in the Commonwealth who accepts or receives compensation for the service, directly or indirectly; but these terms do not mean a "truck lessor" as defined in this section and do not include persons or businesses that receive compensation for delivering a product that they themselves sell or produce, where a separate charge is made for delivery of the product or the cost of delivery is included in the sale price of the product, but where the person or business does not derive all or a substantial portion of its income from the transportation of persons or property except as part of a sales transaction.

"Operator" or "driver" means every person who either (i) drives or is in actual physical control of a motor vehicle on a highway or (ii) is exercising control over or steering a vehicle being towed by a motor vehicle.

"Owner" means a person who holds the legal title to a vehicle; however, if a vehicle is the subject of an agreement for its conditional sale or lease with the right of purchase on performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee or if a mortgagor of a vehicle is entitled to possession, then the conditional vendee or lessee or mortgagor shall be the owner for the purpose of this title. In all such instances when the rent paid by the lessee includes charges for services of any nature or when the lease does not provide that title shall pass to the lessee on payment of the rent stipulated, the lessor shall be regarded as the owner of the vehicle, and the vehicle shall be subject to such requirements of this title as are applicable to vehicles operated for compensation. A "truck lessor" as defined in this section shall be regarded as the owner, and his vehicles shall be subject to such requirements of this title as are applicable to vehicles of private carriers.

"Passenger car" means every motor vehicle other than a motorcycle designed and used primarily for the transportation of no more than ten persons including the driver.

"Payment device" means any credit card as defined in 15 U.S.C. § 1602(k) or any "accepted card or other means of access" set forth in 15 U.S.C. § 1693(a) (1). For the purposes of this title, this definition shall also include a card that enables a person to pay for transactions through the use of value stored on the card itself.

"Pickup or panel truck" means every motor vehicle designed for the transportation of property and having a registered gross weight of 7,500 pounds or less.

"Private road or driveway" means every way in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

"Reconstructed vehicle" means every vehicle of a type required to be registered under this title materially altered from its original construction by the removal, addition, or substitution of new or used essential parts.

"Residence district" means the territory contiguous to a highway, not comprising a business district, where seventy-five percent or more of the property ~~contiguous to~~ *abutting* such highway, on either side of the highway, for a distance of 300 feet or more along the highway ~~is occupied by dwellings and consists of~~ *land improved for dwelling purposes, or is occupied by dwellings, land improved for dwelling purposes and or consists of* land or buildings in use for business purposes.

"Revoke" or "revocation" means that the document or privilege revoked is not subject to renewal or restoration except through reapplication after the expiration of the period of revocation.

183 "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular
184 travel, exclusive of the shoulder. A highway may include two or more roadways if divided by a physical
185 barrier or barriers or an unpaved area.

186 "Safety zone" means the area officially set apart within a roadway for the exclusive use of
187 pedestrians and which is protected or is so marked or indicated by plainly visible signs.

188 "School bus" means any motor vehicle, other than a station wagon, automobile, truck, or commercial
189 bus, which is: (i) designed and used primarily for the transportation of pupils to and from public, private
190 or parochial schools, or used for the transportation of the mentally or physically handicapped to and
191 from a sheltered workshop; (ii) painted yellow and bears the words "School Bus" in black letters of a
192 specified size on front and rear; and (iii) is equipped with warning devices prescribed in § 46.2-1090. A
193 yellow school bus may have a white roof provided such vehicle is painted in accordance with
194 regulations promulgated by the Department of Education.

195 "Semitrailer" means every vehicle of the trailer type so designed and used in conjunction with a
196 motor vehicle that some part of its own weight and that of its own load rests on or is carried by another
197 vehicle.

198 "Shoulder" means that part of a highway between the portion regularly travelled by vehicular traffic
199 and the lateral curbline or ditch.

200 "Snowmobile" means a self-propelled vehicle designed to travel on snow or ice, steered by skis or
201 runners, and supported in whole or in part by one or more skis, belts, or cleats.

202 "Specially constructed vehicle" means any vehicle which was not originally constructed under a
203 distinctive name, make, model, or type by a generally recognized manufacturer of vehicles and not a
204 reconstructed vehicle as herein defined.

205 "Stinger-steered automobile or watercraft transporter" means an automobile or watercraft transporter
206 configured as a semitrailer combination wherein the fifth wheel is located on a drop frame behind and
207 below the rearmost axle of the power unit.

208 "Superintendent" means the Superintendent of the Department of State Police of the Commonwealth.

209 "Suspend" or "suspension" means that the document or privilege suspended has been temporarily
210 withdrawn, but may be reinstated following the period of suspension unless it has expired prior to the
211 end of the period of suspension.

212 "Towing and recovery operator" means a person engaged in the business of (i) removing disabled
213 vehicles, parts of vehicles, their cargoes, and other objects to facilities for repair or safekeeping and (ii)
214 restoring to the highway or other location where they either can be operated or removed to other
215 locations for repair or safekeeping vehicles which have come to rest in places where they cannot be
216 operated.

217 "Tractor truck" means every motor vehicle designed and used primarily for drawing other vehicles
218 and not so constructed as to carry a load other than a part of the load and weight of the vehicle attached
219 thereto.

220 "Traffic infraction" means a violation of law punishable as provided in § 46.2-113, which is neither a
221 felony nor a misdemeanor.

222 "Traffic lane" or "lane" means that portion of a roadway designed or designated to accommodate the
223 forward movement of a single line of vehicles.

224 "Trailer" means every vehicle without motive power designed for carrying property or passengers
225 wholly on its own structure and for being drawn by a motor vehicle, including mobile homes.

226 "Truck" means every motor vehicle designed to transport property on its own structure independent
227 of any other vehicle and having a registered gross weight in excess of 7,500 pounds.

228 "Truck lessor" means a person who holds the legal title to any motor vehicle, trailer, or semitrailer
229 which is the subject of a bona fide written lease for a term of one year or more to another person,
230 provided that: (i) neither the lessor nor the lessee is a common carrier by motor vehicle or restricted
231 common carrier by motor vehicle or contract carrier by motor vehicle as defined in § 46.2-2000; (ii) the
232 leased motor vehicle, trailer, or semitrailer is used exclusively for the transportation of property of the
233 lessee; (iii) the lessor is not employed in any capacity by the lessee; (iv) the operator of the leased
234 motor vehicle is a bona fide employee of the lessee and is not employed in any capacity by the lessor;
235 and (v) a true copy of the lease, verified by affidavit of the lessor, is filed with the Commissioner.

236 "Vehicle" means every device in, on or by which any person or property is or may be transported or
237 drawn on a highway, except devices moved by human power or used exclusively on stationary rails or
238 tracks. For the purposes of Chapter 8 of this title, bicycles and mopeds shall be vehicles while operated
239 on a highway.

240 "Wheel chair or wheel chair conveyance" means a chair or seat equipped with wheels, typically used
241 to provide mobility for persons who, by reason of physical disability, are otherwise unable to move
242 about as pedestrians. The term includes both three-wheeled and four-wheeled devices. So long as it is
243 operated only as provided in § 46.2-677, a self-propelled wheel chair or self-propelled wheel chair
244 conveyance shall not be considered a motor vehicle.