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HOUSE BILL NO. 2036
AMENDMENT IN THE NATURE OF A SUBSTITUTE
 (Proposed by the Governor
 on March 24, 2025)

(Patron Prior to Substitute—Delegate Bulova)

A BILL to amend and reenact §§ 46.2-865 through 46.2-867 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 46.2-867.1, relating to reckless driving; exhibition driving; penalties; emergency.

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-865 through 46.2-867 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 46.2-867.1 as follows:

§ 46.2-865. Racing or exhibition driving; definitions; penalties.

A. As used in this article, unless the context requires a different meaning:

"Exhibition driving" means the intentional performance of any of the following in close proximity to a group of two or more people:

1. Maintaining a motor vehicle in a stationary position by using the brake pedal or parking brake of such vehicle while simultaneously engaging the gas pedal, causing one set of wheels to spin or lose contact with the pavement;

2. Operating a motor vehicle in an unnecessary manner that causes such vehicle to move in a manner inconsistent with the normal operation of such vehicle, such as zigzagging or spinning around in a circular pattern. "Exhibition driving" does not include operating a motor vehicle in an otherwise lawful manner and engaging in such described conduct as necessary to avoid collision, damage, or injury;

3. Operating one or more motor vehicles, for the purpose of exhibiting the speed or power of such vehicle or vehicles, from a designated starting point to a designated ending point or over a common selected course, including drag racing; or

4. Transporting a passenger on the hood or roof of the motor vehicle.

B. Any person who engages in a race between two or more motor vehicles on the highways in the Commonwealth or on any driveway or premises of a church, school, recreational facility, or business property open to the public in the Commonwealth shall be guilty of reckless driving, unless authorized by the owner of the property or his agent.

C. Any person who engages in exhibition driving on the highways in the Commonwealth or on any driveway or premises of a church, school, recreational facility, or business property open to the public in the Commonwealth is guilty of reckless driving, unless authorized by the owner of the property or his agent.

D. Any person who purposefully rides as a passenger on the hood or roof during any race or exhibition driving in violation of subsection B or C is guilty of a Class 3 misdemeanor.

E. Any person who purposefully slows, stops, or impedes, or attempts to slow, stop, or impede, the movement of traffic, including pedestrian traffic, for the purpose of a race or exhibition driving in violation of subsection B or C is guilty of a Class 1 misdemeanor.

F. When any person is convicted of reckless driving under this section subsection B, in addition to any other penalties provided by law, the driver's license of such person shall be suspended by the court for a period of not less than six months nor more than two years. In the case of conviction, the court shall order the surrender of the license to the court where it shall be disposed of in accordance with the provisions of § 46.2-398.

G. When any person is convicted of an offense of reckless driving under subsection C, in addition to any other penalties provided by law, the driver's license of such person shall be suspended by the court for a period of up to six months. In the case of conviction, the court shall order the surrender of the license to the court where it shall be disposed of in accordance with the provisions of § 46.2-398.

§ 46.2-865.1. Injuring another or causing the death of another while engaging in a race or exhibition driving; penalties.

A. Any person who, while engaging in a race or exhibition driving in violation of subsection B or C of § 46.2-865 in a manner so gross, wanton, and culpable as to show a reckless disregard for human life:

1. Causes serious bodily injury to another person who is not involved in the violation of subsection B or C of § 46.2-865 is guilty of a Class 6 felony; or

2. Causes the death of another person is guilty of a felony punishable by a term of imprisonment of not less than one nor more than 20 years; ~~one year of which shall be a mandatory minimum term of imprisonment.~~

B. Upon conviction, the court shall suspend the driver's license of such person for a period of not less than one year nor more than three years; and shall order the surrender of the license to be disposed of in accordance with the provisions of § 46.2-398.

HOUSE SUBSTITUTE

HB2036H3

§ 46.2-866. Racing or exhibition driving; aiders or abettors; penalty.

Any person, although not engaged in a race or exhibition driving as defined in § 46.2-865, who aids or abets any such race, shall be or exhibition driving is guilty of a Class 1 misdemeanor.

§ 46.2-867. Racing; seizure of motor vehicle.

If the owner of a motor vehicle (i) is convicted of racing such vehicle in a prearranged, organized, and planned speed competition in violation of subsection B of § 46.2-865; (ii) is present in the vehicle which that is being operated by another in violation of subsection B of § 46.2-865; and knowingly consents to the racing; or (iii) is convicted of a violation of § 46.2-865.1, the vehicle shall be seized and shall be forfeited to the Commonwealth, and upon being condemned as forfeited in proceedings under Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2, the proceeds of sale shall be disposed of according to law. Such sections shall apply mutatis mutandis.

The penalties imposed by these sections are in addition to any other penalty imposed by law.

§ 46.2-867.1. Exhibition driving; impoundment of motor vehicle.

A. The motor vehicle being driven by any person arrested for a violation of exhibition driving pursuant to subsection C or E of § 46.2-865 shall be impounded or immobilized by the arresting law-enforcement officer for a period of 20 days. The impoundment shall follow the procedures set out in subsections A, B, and C of § 46.2-301.1, mutatis mutandis.

At the time of arrest, the arresting officer, acting on behalf of the Commonwealth, shall serve notice of the impoundment upon the arrested person. Such notice shall include information on the person's right to petition for review of the impoundment pursuant to this section. The arresting officer shall at the time of arrest provide the arrested person information on the location of the motor vehicle and how and when the vehicle will be released. A copy of the notice of impoundment shall be delivered to the magistrate and thereafter promptly forwarded to the clerk of the general district court of the jurisdiction where the arrest was made. Transmission of such notice may be by electronic means.

B. All reasonable costs of impoundment or immobilization, including removal and storage expenses, shall be paid by the offender prior to the release of the motor vehicle. However, where the arresting law-enforcement officer discovers that the vehicle was being rented or leased from a vehicle renting or leasing company, the officer shall not impound the vehicle or continue the impoundment but shall notify the rental or leasing company that the vehicle is available for pickup and shall notify the clerk of the general district court if he has previously been notified of the impoundment.

C. Notwithstanding any provision of this section, a dismissal or acquittal of the charge of a violation of subsection C or E of § 46.2-865 for which the motor vehicle was impounded or immobilized shall result in an immediate rescission of the impoundment or immobilization provided in subsection A.

D. The penalties imposed by this section are in addition to any other penalty imposed by law.

2. That an emergency exists and this act is in force from its passage.

3. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2024, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.