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HOUSE BILL NO. 1439

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Joint Conference Committee
on March 5, 2020)

(Patron Prior to Substitute—Delegate Jones)

A BILL to amend and reenact §§ 46.2-1094 and 46.2-1300 of the Code of Virginia and to amend the Code of Virginia by adding in Article 2 of Chapter 2 of Title 46.2 a section numbered 46.2-224.1, relating to transportation safety.

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-1094 and 46.2-1300 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 2 of Chapter 2 of Title 46.2 a section numbered 46.2-224.1 as follows:

§ 46.2-224.1. *Education and oversight of enforcement of highway safety policies.*

The Commissioner shall establish an advisory council to monitor the effectiveness and enforcement of highway safety policies. The council shall include members representing (i) a nonprofit organization primarily focused on promoting programs and education related to traffic safety in the Commonwealth, (ii) the Virginia Association of Chiefs of Police and the Virginia Sheriffs' Association, (iii) organizations focused on social equity and justice issues, (iv) the Virginia State Police, and (v) a traffic safety organization. The council shall review whether the enforcement of highway safety policies has a disproportionate impact on minority or low-income populations. The Commissioner shall provide such review to the Joint Commission on Transportation Accountability established pursuant to § 30-282.

§ 46.2-1094. **Occupants of front seats of motor vehicles required to use safety lap belts and shoulder harnesses; penalty.**

A. Any driver, and any other person at least 18 years of age and occupying the front seat, any seat of a motor vehicle equipped or required by the provisions of this title to be equipped with a safety belt system, consisting of lap belts, shoulder harnesses, combinations thereof or similar devices, shall wear the appropriate safety belt system at all times while the motor vehicle is in motion on any public highway. A passenger under the age of 18 years, however, shall be protected as required by the provisions of Article 13 (§ 46.2-1095 et seq.) of this chapter.

B. This section shall not apply to:

1. Any person for whom a licensed physician determines that the use of such safety belt system would be impractical by reason of such person's physical condition or other medical reason, provided the person so exempted carries on his person or in the vehicle a signed written statement of the physician identifying the exempted person and stating the grounds for the exemption; or

2. Any law-enforcement officer transporting persons in custody or traveling in circumstances which render the wearing of such safety belt system impractical; or

3. Any person while driving a motor vehicle and performing the duties of a rural mail carrier for the United States Postal Service; or

4. Any person driving a motor vehicle and performing the duties of a rural newspaper route carrier, newspaper bundle hauler or newspaper rack carrier; or

5. Drivers of and passengers in taxicabs; or

6. Personnel of commercial or municipal vehicles while actually engaged in the collection or delivery of goods or services, including but not limited to solid waste, where such collection or delivery requires the personnel to exit and enter the cab of the vehicle with such frequency and regularity so as to render the use of safety belt systems impractical and the safety benefits derived therefrom insignificant. Such personnel shall resume the use of safety belt systems when actual collection or delivery has ceased or when the vehicle is in transit to or from a point of final disposition or disposal, including but not limited to solid waste facilities, terminals, or other location where the vehicle may be principally garaged; or

7. Any person driving a motor vehicle and performing the duties of a utility meter reader; or

8. Law-enforcement agency personnel driving motor vehicles to enforce laws governing motor vehicle parking;

9. Any person in a motor vehicle not equipped with seat belts; or

10. Any person who is actively involved in the provision of patient care in the patient compartment of a licensed emergency medical services vehicle.

C. Any person who violates this section shall be subject to a civil penalty of ~~twenty-five dollars~~ \$25 for a first offense, \$35 for a second offense, and \$50 for a third or subsequent offense to be paid into the state treasury and credited to the Literary Fund. Upon a conviction under this section, the court shall furnish the Commissioner of the Department of Motor Vehicles in accordance with § 46.2-383 an

60 *abstract of the record of such conviction, which shall become part of the person's driving record. No*
61 *assignment of demerit points shall be made under Article 19 (§ 46.2-489 et seq.) of Chapter 3*
62 *(§ 46.2-489 et seq.) of this title and no court costs shall be assessed for violations of this section.*

63 D. A violation of this section shall not constitute negligence, be considered in mitigation of damages
64 of whatever nature, be admissible in evidence or be the subject of comment by counsel in any action for
65 the recovery of damages arising out of the operation, ownership, or maintenance of a motor vehicle, nor
66 shall anything in this section change any existing law, rule, or procedure pertaining to any such civil
67 action.

68 E. A violation of this section may be charged on the uniform traffic summons form.

69 F. ~~No citation for a violation of this section shall be issued unless the officer issuing such citation~~
70 ~~has cause to stop or arrest the driver of such motor vehicle for the violation of some other provision of~~
71 ~~this Code or local ordinance relating to the operation, ownership, or maintenance of a motor vehicle or~~
72 ~~any criminal statute.~~

73 G. The governing body of the City of Lynchburg may adopt an ordinance not inconsistent with the
74 provisions of this section, requiring the use of safety belt systems. The penalty for violating any such
75 ordinance shall not exceed a fine or civil penalty of ~~twenty-five dollars~~ \$25.

76 **§ 46.2-1300. Powers of local authorities generally; erection of signs and markers; maximum**
77 **penalties.**

78 A. The governing bodies of counties, cities, and towns may adopt ordinances not in conflict with the
79 provisions of this title to regulate the operation of vehicles on the highways in such counties, cities, and
80 towns. They may also repeal, amend, or modify such ordinances and may erect appropriate signs or
81 markers on the highway showing the general regulations applicable to the operation of vehicles on such
82 highways. The governing body of any county, city, or town may by ordinance, or may by ordinance
83 authorize its chief administrative officer to:

84 1. Increase or decrease the speed limit within its boundaries, provided such increase or decrease in
85 speed shall be based upon an engineering and traffic investigation by such county, city or town and
86 provided such speed area or zone is clearly indicated by markers or signs;

87 2. Authorize the city or town manager or such officer thereof as it may designate, to reduce for a
88 temporary period not to exceed ~~sixty~~ 60 days, without such engineering and traffic investigation, the
89 speed limit on any portion of any highway of the city or town on which work is being done or where
90 the highway is under construction or repair;

91 3. Require vehicles to come to a full stop or yield the right-of-way at a street intersection if one or
92 more of the intersecting streets has been designated as a part of the primary state highway system in a
93 town which has a population of less than 3,500;

94 4. *Reduce the speed limit to less than 25 miles per hour, but not less than 15 miles per hour, on any*
95 *highway within its boundaries that is located in a business district or residential district, as determined*
96 *by the Commonwealth Transportation Board, provided such reduced speed limit is indicated by lawfully*
97 *placed signs.*

98 B. No such ordinance shall be violated if at the time of the alleged violation the sign or marker
99 placed in conformity with this section is missing, substantially defaced, or obscured so that an ordinarily
100 observant person under the same circumstances would not be aware of the existence of the ordinance.

101 C. No governing body of a county, city, or town may provide penalties for violating a provision of
102 an ordinance adopted pursuant to this section which is greater than the penalty imposed for a similar
103 offense under the provisions of this title.

104 D. No county whose roads are under the jurisdiction of the Department of Transportation shall
105 designate, in terms of distance from a school, the placement of flashing warning lights unless the
106 authority to do so has been expressly delegated to such county by the Department of Transportation, in
107 its discretion.

108 **2. That the provisions of this act amending §§ 46.2-1094 and 46.2-1300 of the Code of Virginia**
109 **shall become effective July 1, 2021.**

110 **3. That the Chairmen of the House Committee for Courts of Justice and the Senate Committee on**
111 **the Judiciary and the Joint Commission on Transportation Accountability shall annually request**
112 **the Office of the Executive Secretary of the Supreme Court of Virginia to report all of the**
113 **citations issued pursuant to § 46.2-1094 of the Code of Virginia and to the extent available the**
114 **relevant demographic characteristics of those persons issued a citation.**

115 **4. That the advisory council established pursuant to § 46.2-224.1 of the Code of Virginia, as**
116 **created by this act, shall create training and educational materials on the implementation and**
117 **enforcement of § 46.2-1094 of the Code of Virginia, as amended by this act, to be made available**
118 **to law-enforcement agencies.**

119 **5. That the Commissioner of the Department of Motor Vehicles, working with (i) a nonprofit**
120 **organization primarily focused on promoting programs and education related to traffic safety in**
121 **the Commonwealth and (ii) a traffic safety organization participating on the advisory council**

122 established pursuant to § 46.2-224.1 of the Code of Virginia, as created by this act, shall develop
123 and provide educational materials to members of the public regarding § 46.2-1094 of the Code of
124 Virginia, as amended by this act, prior to January 1, 2021.