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HOUSE BILL NO. 793

Offered January 12, 2022

Prefiled January 11, 2022

A BILL to amend and reenact §§ 46.2-920, 46.2-1023, 46.2-1029.2, and 46.2-1030 of the Code of Virginia, relating to traffic incident management vehicles.

Patron—LaRock

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-920, 46.2-1023, 46.2-1029.2, and 46.2-1030 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-920. Certain vehicles exempt from regulations in certain situations; exceptions and additional requirements.

A. The driver of any emergency vehicle, when such vehicle is being used in the performance of public services, and when such vehicle is operated under emergency conditions, may, without subjecting himself to criminal prosecution:

1. Disregard speed limits, while having due regard for safety of persons and property;
2. Proceed past any steady or flashing red signal, traffic light, stop sign, or device indicating moving traffic shall stop if the speed of the vehicle is sufficiently reduced to enable it to pass a signal, traffic light, or device with due regard to the safety of persons and property;

3. Park or stop notwithstanding the other provisions of this chapter;

4. Disregard regulations governing a direction of movement of vehicles turning in specified directions so long as the operator does not endanger life or property;

5. Pass or overtake, with due regard to the safety of persons and property, another vehicle at any intersection;

6. Pass or overtake with due regard to the safety of persons and property, while en route to an emergency, stopped or slow-moving vehicles, by going to the left of the stopped or slow-moving vehicle either in a no-passing zone or by crossing the highway centerline; or

7. Pass or overtake with due regard to the safety of persons and property, while en route to an emergency, stopped or slow-moving vehicles, by going off the paved or main traveled portion of the roadway on the right. Notwithstanding other provisions of this section, vehicles exempted in this instance will not be required to sound a siren or any device to give automatically intermittent signals.

B. The exemptions granted to emergency vehicles by subsection A in subdivisions A1, A3, A4, A5, and A6 shall apply only when the operator of such vehicle displays a flashing, blinking, or alternating emergency light or lights as provided in §§ 46.2-1022 and 46.2-1023 and sounds a siren, exhaust whistle, or air horn designed to give automatically intermittent signals, as may be reasonably necessary. The exemption granted under subdivision A 2 shall apply only when the operator of such emergency vehicle displays a flashing, blinking, or alternating emergency light or lights as provided in §§ 46.2-1022 and 46.2-1023 and either (a) sounds a siren, exhaust whistle, or air horn designed to give automatically intermittent signals or (b) slows the vehicle down to a speed reasonable for the existing conditions, yields right-of-way to the driver of another vehicle approaching or entering the intersection from another direction or, if required for safety, brings the vehicle to a complete stop before proceeding with due regard for the safety of persons and property. In addition, the exemptions granted to emergency vehicles by subsection A shall apply only when there is in force and effect for such vehicle either (i) standard motor vehicle liability insurance covering injury or death to any person in the sum of at least \$100,000 because of bodily injury to or death of one person in any one accident and, subject to the limit for one person, to a limit of \$300,000 because of bodily injury to or death of two or more persons in any one accident, and to a limit of \$20,000 because of injury to or destruction of property of others in any one accident or (ii) a certificate of self-insurance issued pursuant to § 46.2-368. Such exemptions shall not, however, protect the operator of any such vehicle from criminal prosecution for conduct constituting reckless disregard of the safety of persons and property. Nothing in this section shall release the operator of any such vehicle from civil liability for failure to use reasonable care in such operation.

C. For the purposes of this section, ~~the term~~ "emergency vehicle" ~~shall mean~~ means:

1. Any law-enforcement vehicle operated by or under the direction of a federal, state, or local law-enforcement officer (i) in the chase or apprehension of violators of the law or persons charged with or suspected of any such violation or (ii) in response to an emergency call;

2. Any regional detention center vehicle operated by or under the direction of a correctional officer

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59 responding to an emergency call or operating in an emergency situation;

60 3. Any vehicle used to fight fire, including publicly owned state forest warden vehicles, when
61 traveling in response to a fire alarm or emergency call;

62 4. Any emergency medical services vehicle designed or used for the principal purpose of providing
63 emergency medical services where human life is endangered;

64 5. Any Department of Emergency Management vehicle or Office of Emergency Medical Services
65 vehicle, when responding to an emergency call or operating in an emergency situation;

66 6. Any Department of Corrections vehicle designated by the Director of the Department of
67 Corrections, when (i) responding to an emergency call at a correctional facility, (ii) participating in a
68 drug-related investigation, (iii) pursuing escapees from a correctional facility, or (iv) responding to a
69 request for assistance from a law-enforcement officer;

70 7. Any vehicle authorized to be equipped with alternating, blinking, or flashing red or red and white
71 secondary warning lights under the provisions of § 46.2-1029.2; ~~and~~

72 8. Any Virginia National Guard Civil Support Team vehicle when responding to an emergency; *and*

73 9. *A traffic incident management vehicle when operating at or en route to the scene of a traffic*
74 *accident or similar incident. For purposes of this subdivision, "traffic incident management vehicle"*
75 *means (i) a Department of Transportation vehicle, (ii) a vehicle operated pursuant to the Department of*
76 *Transportation Safety Service Patrol program or pursuant to a contract with the Department of*
77 *Transportation that includes traffic incident management services, or (iii) any other vehicle designated*
78 *as a traffic incident management vehicle by the Commissioner of Highways. In order to operate a traffic*
79 *incident management vehicle pursuant to this subdivision, a vehicle operator shall be required to (a)*
80 *complete an initial emergency vehicle operators course from an approved course list provided by the*
81 *Department of Fire Programs, the Office of Emergency Medical Services, or an equivalent agency and*
82 *(b) be recertified as an emergency vehicle operator every five years.*

83 D. Any law-enforcement vehicle operated by or under the direction of a federal, state, or local
84 law-enforcement officer may disregard speed limits, while having due regard for safety of persons and
85 property, (i) in testing the accuracy of speedometers of such vehicles, (ii) in testing the accuracy of
86 speed measuring devices specified in § 46.2-882, or (iii) in following another vehicle for the purpose of
87 determining its speed.

88 E. A Department of Environmental Quality vehicle, while en route to an emergency and with due
89 regard to the safety of persons and property, may overtake and pass stopped or slow-moving vehicles by
90 going off the paved or main traveled portion of the highway on the right or on the left. These
91 Department of Environmental Quality vehicles shall not be required to sound a siren or any device to
92 give automatically intermittent signals, but shall display red or red and white warning lights when
93 performing such maneuvers.

94 F. Any law-enforcement vehicle operated by or under the direction of a federal, state, or local
95 law-enforcement officer while conducting a funeral escort, wide-load escort, dignitary escort, or any
96 other escort necessary for the safe movement of vehicles and pedestrians may, without subjecting
97 himself to criminal prosecution:

98 1. Disregard speed limits, while having due regard for safety of persons and property;

99 2. Proceed past any steady or flashing red signal, traffic light, stop sign, or device indicating moving
100 traffic shall stop if the speed of the vehicle is sufficiently reduced to enable it to pass a signal, traffic
101 light, or device with due regard for the safety of persons and property;

102 3. Park or stop notwithstanding the other provisions of this chapter;

103 4. Disregard regulations governing a direction of movement of vehicles turning in specified directions
104 so long as the operator does not endanger life or property; or

105 5. Pass or overtake, with due regard for the safety of persons and property, another vehicle.

106 Notwithstanding other provisions of this section, vehicles exempted in this subsection may sound a
107 siren or any device to give automatically intermittent signals.

108 **§ 46.2-1023. Flashing red or red and white warning lights.**

109 Fire apparatus, forest warden vehicles, emergency medical services vehicles, vehicles of the
110 Department of Emergency Management, vehicles of the Department of Environmental Quality, vehicles
111 of the Virginia National Guard Civil Support Team and the Virginia National Guard Chemical,
112 Biological, Radiological, Nuclear and High Yield Explosive (CBRNE) Enhanced Response Force
113 Package (CERFP) when responding to an emergency, vehicles of county, city, or town Departments of
114 Emergency Management, vehicles of the Office of Emergency Medical Services, *traffic incident*
115 *management vehicles as defined in § 46.2-920*, animal warden vehicles, and vehicles used by security
116 personnel of the Huntington Ingalls Industries, Bassett-Walker, Inc., the Winchester Medical Center, the
117 National Aeronautics and Space Administration's Wallops Flight Facility, and, within those areas
118 specified in their orders of appointment, by special conservators of the peace and policemen for certain
119 places appointed pursuant to §§ 19.2-13 and 19.2-17 may be equipped with flashing, blinking, or
120 alternating red or red and white combination warning lights of types approved by the Superintendent.

Such warning lights may be of types constructed within turn signal housings or motorcycle headlight housings, subject to approval by the Superintendent.

§ 46.2-1029.2. Certain vehicles may be equipped with secondary warning lights.

In addition to other lights authorized by this article, any (i) fire apparatus, (ii) government-owned vehicle operated on official business by a local fire chief or other local fire official, ~~and~~ (iii) emergency medical services vehicle, *and (iv) traffic incident management vehicle as defined in § 46.2-920* may be equipped with alternating, blinking, or flashing red or red and white secondary warning lights mounted inside the vehicle's taillights or marker lights of a type approved by the Superintendent of State Police.

§ 46.2-1030. When lights to be lighted; number of lights to be lighted at any time; use of warning lights.

A. Every vehicle in operation on a highway in the Commonwealth shall display lighted headlights and illuminating devices as required by this article (i) from sunset to sunrise; (ii) during any other time when, because of rain, smoke, fog, snow, sleet, insufficient light, or other unfavorable atmospheric conditions, visibility is reduced to a degree whereby persons or vehicles on the highway are not clearly discernible at a distance of 500 feet; and (iii) whenever windshield wipers are in use as a result of fog, rain, sleet, or snow. The provisions of this subsection, however, shall not apply to instances when windshield wipers are used intermittently in misting rain, sleet, or snow.

B. Not more than four lights used to provide general illumination ahead of the vehicle, including at least two headlights and any other combination of fog lights or other auxiliary lights approved by the Superintendent, shall be lighted at any time. However, motorcycles may be equipped with and use not more than five approved lights in order to provide general illumination ahead of the motorcycle. These limitations shall not preclude the display of warning lights authorized in §§ 46.2-1020 through 46.2-1027, or other lights as may be authorized by the Superintendent.

C. Vehicles equipped with warning lights authorized in §§ 46.2-1020 through 46.2-1027 shall display lighted warning lights as authorized in such sections at all times when responding to emergency calls, *responding to traffic incidents*, towing disabled vehicles, or constructing, repairing, and maintaining public highways or utilities on or along public highways, except that amber lights on vehicles designed with a ramp on wheels and a hydraulic lift with a capacity to haul or tow another vehicle, commonly referred to as "rollbackers," need not be lit while the vehicle is in motion unless it is actually towing a vehicle.

D. The failure to display lighted headlights and illuminating devices under the conditions set forth in clause (iii) of subsection A shall not constitute negligence per se, nor shall violation of clause (iii) of subsection A constitute a defense to any claim for personal injury or recovery of medical expenses for injuries sustained in a motor vehicle accident.

E. No demerit points shall be assessed for failure to display lighted headlights and illuminating devices during periods of fog, rain, sleet, or snow in violation of clause (iii) of subsection A.

F. No citation for a violation of clause (iii) of subsection A shall be issued unless the officer issuing such citation has cause to stop or arrest the driver of such motor vehicle for the violation of some other provision of this Code or local ordinance relating to the operation, ownership, or maintenance of a motor vehicle or any criminal statute. No law-enforcement officer shall stop a motor vehicle for a violation of this section, except that a law-enforcement officer may stop a vehicle if it displays no lighted headlights during the time periods set forth in subsection A. No evidence discovered or obtained as the result of a stop in violation of this subsection, including evidence discovered or obtained with the operator's consent, shall be admissible in any trial, hearing, or other proceeding.