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HOUSE BILL NO. 2036

Offered January 8, 2025

Prefiled January 7, 2025

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; street takeover and exhibition driving; penalties.

 Patron—Bulova

 Committee Referral Pending

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, street takeover, or exhibition driving; definitions; penalties.

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

"Exhibition driving" means the operation of a motor vehicle in close proximity to one or more spectators that intentionally results in two or more of the following:

- 1. The excessive, abrupt acceleration or deceleration of the motor vehicle;*
- 2. The skidding, squealing, burning, or smoking of the tires of the motor vehicle;*
- 3. The swerving or swaying of the motor vehicle from side to side while accelerating;*
- 4. The engine of the motor vehicle producing excessive or unusual levels of noise above that of a type installed as standard factory equipment;*
- 5. The grinding of the gears of the motor vehicle or the backfiring of the engine of the motor vehicle;*
- 6. Any wheels of the motor vehicle losing contact with the ground; or*
- 7. The transportation of a passenger on or in an area of the motor vehicle that is not designed or intended for passenger transport, including on the hood or roof of the motor vehicle.*

"Spectator" means any person who is knowingly present at an unlawful race, street takeover, or exhibition driving event for the purpose of viewing, observing, watching, or witnessing the event as it progresses. For a spectator to be considered present, the person must be within 200 feet of the location of the race, street takeover, or exhibition driving event. "Spectator" does not include (i) law-enforcement officers, firefighters, or persons employed by or members of an emergency medical services agency while acting in the course of their official duties; (ii) members of the media engaged in the course and scope of their employment; or (iii) persons who are unintentionally present and are not participating, aiding, or abetting the unlawful race, street takeover, or exhibition driving.

"Street takeover" means two or more individuals impeding the flow of traffic on a highway or portion thereof or any driveway or premises of a church, school, recreational facility, or business property open to the public in the Commonwealth for the purpose of performing exhibition driving for spectators.

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 a street takeover or 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 or in an area of a motor vehicle that is not designed or intended for passenger transportation, including placing any part of such person's body other than arms outside of the passenger area, during any race, street takeover, or exhibition driving in violation of subsection B or C is guilty of a Class 1 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, street takeover, or exhibition driving in violation of subsection B or C is guilty of a Class 1 misdemeanor.

F. Any person who is a spectator at any race, street takeover, or exhibition driving conducted in violation of subsection B or C is guilty of a Class 3 misdemeanor.

G. 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-

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H. 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, street takeover, or exhibition driving; penalties.

A. Any person who, while engaging in a race, street takeover, 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.

§ 46.2-866. Racing, street takeover, or exhibition driving; aiders or abettors.

Any person, although not engaged in a race, street takeover, or exhibition driving as defined in § 46.2-865, who aids or abets any such race, ~~shall be street takeover, 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. Street takeover or exhibition driving; impoundment of motor vehicle.

A. The motor vehicle being driven by any person arrested for a first violation of street takeover or exhibition driving pursuant to subsection C 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 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. 2. 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.