

**REPORT OF THE  
JOINT SUBCOMMITTEE STUDYING**

**Laws Relating To The  
Towing And Recovery Industry**

**TO THE GOVERNOR AND  
THE GENERAL ASSEMBLY OF VIRGINIA**



**SENATE DOCUMENT NO. 14**

**COMMONWEALTH OF VIRGINIA  
RICHMOND  
1990**

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## SUMMARY

The present study is the result of the 1989 General Assembly's passage of Senate Joint Resolution No. 206 (SJR 206), sponsored by Senator Joseph V. Gartlan, Jr., of Fairfax. The resolution called for a general review of applicable law with emphasis on five subjects:

- Abandoned and unattended vehicles;
- Powers of local law-enforcement officers;
- Operation of motor vehicles responding to emergencies;
- Information gathering and dissemination policy of local and state governmental agencies; and
- Mechanics' and other liens.

The measure did not contemplate consideration of any scheme of licensure or similar state regulation of the towing and recovery industry.

Pursuant to its mandate from the legislature, the study subcommittee held six meetings, three of which were public hearings. In the course of its work the group heard from representatives of the towing and recovery industry, consumer groups, local governments, state agencies, law-enforcement agencies, and others.

The joint subcommittee found that the towing and recovery industry is performing a significant public service in safeguarding lives and property by responding to motor vehicle crashes and similar emergencies, by removing trespassing vehicles from public and private property, and by disposing of abandoned motor vehicles. The panel also found that, without changing the basic relationship of state or local government to the towing and recovery industry, certain changes in present law would (i) enable the industry to perform its services more effectively and efficiently and (ii) address some of the more frequently-voiced consumer complaints relating to towing and recovery operators.

The joint subcommittee recommended seven pieces of legislation (see Appendices I through VII) to:

- Exempt tow trucks at or en route to accident scenes from certain motor vehicle laws when operated under the direction of law-enforcement agencies;
- Immunize towing operators, when towing vehicles at the direction of law-enforcement agencies, from law suits alleging wrongful towing;
- Hold owners of trucks and tractor trucks liable for costs of towing, recovery, and storage in cases involving trucks, combination vehicles, and their cargoes, while preserving their ability subsequently to seek to recover all or portions of these costs from trailer, semitrailer, and cargo owners;
- Increase the limit on liens for storage charges from \$150 to \$300;

- Impose a civil penalty of up to \$500 for abandoning vehicles;
- Require owners of Virginia-registered motor vehicles to notify the Department of Motor Vehicles of the sale of their motor vehicles;
- Limit the charges which may be imposed for less than twenty-four hours' storage of motor vehicles; and
- Provide a definition of "towing and recovery operator."

## BACKGROUND AND SUBCOMMITTEE ACTIVITIES

Recent consideration of alterations in Virginia's laws relating to the towing and recovery industry began in 1988 with the introduction of Senate Bill No. 266 by Senator Joseph V. Gartlan, Jr., of Fairfax. The measure was carried over to the 1989 Session in the Senate Transportation Committee. During the 1989 Session the Transportation Committee took no action on Senate Bill No. 266 but reported a similar bill, Senate Bill No. 737, offered in 1989 by Senator Gartlan.

While this measure was before the General Assembly, the legislature was also considering (and ultimately approved) a revision of the entire Virginia motor vehicle code (Title 46.1 of the Code of Virginia) in House Bill No. 1925, offered by Delegate J. Samuel Glasscock of Suffolk. Preferring to consider possible changes in the towing and recovery laws in light of the revision of Title 46.1, Senate Bill No. 737 was passed by indefinitely and a joint subcommittee was created (through the mechanism of Senate Joint Resolution No. 206, sponsored by Senator Gartlan) to study the matter and report to the Governor and the 1990 Session of the General Assembly.

In the course of its work, the subcommittee conducted an organizational meeting (where it was briefed by staff on the issues before it and formulated a work plan), held three public hearings (in Virginia Beach, Annandale, and Harrisonburg), and met for two working sessions to consider the evidence and prepare its report.

## FINDINGS AND RECOMMENDATIONS

### IDENTIFICATION, REMOVAL, AND DISPOSAL OF ABANDONED VEHICLES

In 1988 the Virginia Code Commission undertook a revision of Virginia's motor vehicle laws -- including the laws relating to abandoned vehicles. Legislation embodying the Code Commission's recommendations was enacted by the 1989 Session of the General Assembly. (See Chapter 727 of the 1989 Acts of Assembly.) This revision was limited, however, to reorganizing and simplifying existing law without making substantive changes. Accordingly, the Commission was limited in its ability to address the need for substantive alteration in the statutes relating to abandoned vehicles. Having worked with major portions of Virginia's abandoned vehicle statutes in the course of its study, the subcommittee felt that it would be appropriate for significant changes to be made in these statutes to eliminate conflicts and inconsistencies which the Code Commission could not address. However, the subcommittee also believed that such an undertaking was both beyond its present mandate from the General Assembly and too time consuming, given its required reporting date. The group felt it would be appropriate that further study of Virginia's laws on abandoned vehicles be made with the aim of proposing substantive revisions and clarifications.

## RESPONSES TO EMERGENCIES

The subcommittee was persuaded that towing and recovery operators should be granted limited exemptions from Virginia's traffic laws in order to comply with requests from law-enforcement agencies to get to traffic accident scenes as quickly as possible. Draft legislation was prepared, based on the language proposed in § 46.1-171.1:1 of Senate Bill No. 737 of 1989, to achieve this end while also ensuring that these exemptions would not permit negligent operation of towing and recovery vehicles. (See Appendix I.)

## AVAILABILITY OF VEHICLE OWNER AND LIENHOLDER INFORMATION

The subcommittee felt it desirable that towing and recovery operators be able more quickly to determine the identity of the owners of towed vehicles and any parties holding liens on those vehicles. The members agreed with Commissioner Williams of the Department of Motor Vehicles (DMV) that increased publicity regarding use agreements between DMV and towing and recovery operators would contribute to an improvement of the situation. They also recommended that DMV take additional steps to speed the flow of information.

The subcommittee also discussed the provision of § 43-34 of the Code of Virginia which requires that holders of liens for vehicle storage charges "... ascertain from the Commissioner of the Department of Motor Vehicles whether the certificate of title of the motor vehicle shows a lien thereon." The group concluded that the language of this section did not prevent towing and recovery operators from using lienholder data supplied to them through law-enforcement agencies, since these agencies, in turn, obtained the data from DMV records. Use of data thus supplied by law-enforcement agencies, the subcommittee urged, could not only save towing and recovery operators time and expense but also expedite notification of all parties having an interest in the sale of the vehicle.

## IMMUNITY FROM SUITS ALLEGING WRONGFUL TOWING

The subcommittee was persuaded that, when towing vehicles at the request of law-enforcement agencies or in conformity with contracts with local governments, towing and recovery operators should not be subject to lawsuits alleging that vehicles should not have been towed. Draft legislation was prepared, based on the language proposed in § 46.1-576 of Senate Bill No. 737 of 1989, to carry out this proposal. This legislation would not immunize operators from suits alleging negligence in performing the towing. (See draft legislation in Appendix II.)

## APPORTIONMENT OF TOWING CHARGES

The subcommittee considered the industry's suggestion that, in the event of an accident involving either a loaded truck or a tractor-trailer combination, the owner of the truck or tractor truck (the power unit in a combination) be held liable to the towing and recovery operator for the entire cost of the recovery, towing, and storage. The members agreed with the industry's recommendation, with the provision that the ability of the truck and tractor truck owner subsequently to seek to recover all or a portion of these costs from the owners of the cargo and other vehicles in the combination be preserved. Draft legislation, based on the language proposed in § 46.1-572 of Senate Bill No. 737 of 1989, was prepared to carry out this proposal. (See Appendix III.)

## ADEQUACY AND APPROPRIATENESS OF LIENS

The subcommittee found that the present limit of \$150 on liens for storage charges under § 43-32 had been raised from \$75 in 1981 (Chapter 435, Acts of Assembly of 1981). After consideration of the relative merits of either (i) retaining the present limit or (ii) removing the limit entirely for cases in which proper and timely notice had been provided, the subcommittee decided to raise the \$150 limit on liens for storage charges under § 43-32 to \$300. Draft legislation was prepared to carry out this recommendation. (See Appendix III.)

## COMPENSATION FOR REMOVAL AND DISPOSAL OF ABANDONED VEHICLES; PAYMENTS TO PERSONS WHO DISPOSE OF "JUNK" VEHICLES PROPERLY

In the course of the group's hearings, it was suggested that local governments or the Commonwealth either (i) compensate towing and recovery operators for disposing of abandoned vehicles or (ii) pay a "bounty" to persons who dispose of their "junk vehicles" through salvage dealers or scrap processors, rather than abandoning them. The subcommittee felt that a sufficient case had not been made to warrant the intrusion of the Commonwealth or local governments into a situation presently controlled largely by the forces of the economic marketplace. Additionally, it was feared that a "local option" approach to the issue would have the unfortunate result of attracting abandoned vehicles to any locality which did provide some form of "bounty" for disposal of these vehicles. Neither the Commonwealth nor local governments, the subcommittee concluded, presently have sufficient financial resources to make any "bounty" scheme workable.

## INCREASED PENALTIES FOR ABANDONING VEHICLES

The members agreed that present Virginia law provided an inadequate deterrent to prevent abandonment of vehicles. After considerable weighing of alternatives, particularly recently-passed Indiana and New York statutes on the subject, draft legislation was prepared to (i) provide a rebuttable presumption that, when a vehicle was found abandoned, its last owner of record was the person who had abandoned it; (ii) impose a civil penalty of up to \$500 for abandoning a vehicle; (iii) provide for revocation or suspension of the driver's licenses of persons who, having been convicted, failed to pay the civil penalty; (iv) provide for the proper disposition of penalties collected; (v) supply a mechanism by which owners of Virginia-registered or Virginia-titled motor vehicles may notify DMV of the sale or transfer of ownership of their vehicles, (vi) provide that the last registered owner of the abandoned vehicle would not be presumed to be responsible for the vehicle's abandonment if that owner had notified DMV of the sale or transfer of ownership of the vehicle; and (vii) supply other required mechanical and technical details. (See Appendix IV.)

## NOTICE OF SALE OF VEHICLES

Present Virginia law (§ 46.2-604) requires that a form be provided on vehicle registration cards for providing to DMV notice of the sale or transfer of ownership of the vehicle. The subcommittee felt that, particularly in light of its recommendations concerning penalties for abandoning vehicles, registered owners should be required to complete this form and return it to DMV when they sell their vehicles. Appropriate draft legislation was prepared. (See Appendix V.)

## TOWING AND RECOVERY BUSINESS PRACTICES

One suggestion concerning towing and recovery industry business practices was accepted by the subcommittee. Draft legislation was prepared to require that, in determining storage charges, a charge for storage of twenty-four hours or less could not exceed that made for a single day. It was the subcommittee's intent that this measure would eliminate billing for multiple days' storage in cases where vehicles had been taken into storage before midnight and released to their owners the following morning. (See Appendix VI.)

Without recommending any specific draft legislation, the subcommittee endorsed the general concept of permitting all local governing bodies to adopt ordinances regulating drop charges. Drop charges are fees (usually lower than those charged for actually towing vehicles) collected by towing and recovery operators when the owners of vehicles which are about to be towed reclaim their vehicles prior to actual removal. Elements of this concept are presently contained in §§ 46.2-1231 and 46.2-1233 of the Virginia Code.

### DEFINITION OF "TOWING AND RECOVERY OPERATOR"

Since much of its legislative recommendations used the term "towing and recovery operator," and since the term is presently undefined, the members agreed it would be appropriate to include in its legislative recommendations a definition of "towing and recovery operator." (See Appendix VII.)

Respectfully submitted,

Joseph V. Gartlan, Jr., (Chairman)

James F. Almand (Vice Chairman)

Bernard S. Cohen

Howard E. Copeland

James H. Dillard II

Jack Kennedy

Kevin G. Miller

Moody E. Stallings, Jr.

# APPENDIX I

## RECOMMENDED LEGISLATION:

## RESPONSES TO EMERGENCIES



1 D 11/7/89 Wambold C 11/28/89 smw

2 SENATE BILL NO. .... HOUSE BILL NO. ....

3 A BILL to amend the Code of Virginia by adding a section numbered  
4 46.2-920.1, relating to operation of tow trucks under certain  
5 circumstances.

6

7 Be it enacted by the General Assembly of Virginia:

8 1. That the Code of Virginia is amended by adding a section numbered  
9 46.2-920.1 as follows:

10 § 46.2-920.1. Operation of tow trucks under certain  
11 circumstances.--When operating at or en route to the scene of a  
12 traffic accident or similar emergency and when specifically directed  
13 by a law-enforcement agency, tow truck operators may:

- 14 1. Operate on a highway in a direction opposite that otherwise
- 15 permitted for traffic;
- 16 2. Cross medians of divided highways;
- 17 3. Use cross-overs and turn-arounds otherwise reserved for use
- 18 only by authorized vehicles;
- 19 4. Drive on a portion of the highway other than the roadway;
- 20 5. Stop or stand on any portion of the highway; and
- 21 6. Operate in any other manner as directed by a law-enforcement
- 22 officer at the scene.

23 Nothing in this section, however, shall (i) protect the driver of  
24 any tow truck from criminal prosecution for conduct constituting  
5 reckless disregard of the safety of persons and property or (ii)  
26 release the driver of any tow truck from any civil liability for

1 failure to use reasonable care in operations permitted in this  
2 section.

3 #

## APPENDIX II

### RECOMMENDED LEGISLATION:

### IMMUNITY FROM SUITS ALLEGING WRONGFUL TOWING

1 D 11/7/89 Wambold C 11/13/89 jds

2 SENATE BILL NO. .... HOUSE BILL NO. ....

3 A BILL to amend the Code of Virginia by adding a section numbered  
4 46.2-1231.1, relating to immunity from certain liability for  
5 towing and recovery operators.

6

7 Be it enacted by the General Assembly of Virginia:

8 1. That the Code of Virginia is amended by adding a section numbered  
9 46.2-1231.1 as follows:

10 § 46.2-1231.1. Immunity from liability for certain towing.--No  
11 towing and recovery operator shall be liable for damages in any civil  
12 action for responding in good faith to the lawful direction of a  
13 law-enforcement agency to tow, recover, or store any vehicle,  
14 combination of vehicles, their contents, or any other object. The  
15 immunity provided by this section shall not extend to the liability  
16 for negligence in the towing, recovery, or storage carried out by the  
17 towing and recovery operator. For the purposes of this section, any  
18 towing, recovery, or storage carried out in compliance with a contract  
19 between a towing business and a local law-enforcement agency or local  
20 government shall be deemed to have been performed at the lawful  
21 direction of a law-enforcement agency.

22 #

## APPENDIX III

### RECOMMENDED LEGISLATION:

APPORTIONMENT OF TOWING, RECOVERY, AND STORAGE CHARGES;

ADEQUACY OF LIENS

1 D 11/7/89 Wambold C 11/29/89 jds

2 SENATE BILL NO. .... HOUSE BILL NO.

3 A BILL to amend and reenact § 43-32 of the Code of Virginia, relating  
4 to liens of keepers of livery stables, garages, marinas, etc.

5

6 Be it enacted by the General Assembly of Virginia:

7 1. That § 43-32 of the Code of Virginia is amended and reenacted as  
8 follows:

9 § 43-32. Lien of keeper of livery stable, garage, marina, etc.--

10 A. Every keeper of a livery stable, hangar, tie-down, marina, or  
11 garage, and every person pasturing or keeping any horses or other  
12 animals, vehicles, boats, aircraft, or harness, shall have a lien upon  
13 such horses and other animals, vehicles, boats, aircraft, and harness,  
14 for the amount which may be due him for the keeping, supporting, and  
15 care thereof, until such amount is paid. ~~However, in-~~

16 B. In the case of any boat, aircraft, or vehicle which is  
17 subject to a chattel mortgage, security agreement, deed of trust, or  
18 other instrument securing money, the keeper of the marina, hangar,  
19 tie-down, or garage shall have a lien thereon for his just and  
20 reasonable charges for storage under this section not to the extent of  
21 ~~\$150-exceed \$300~~ and for alteration and repair under § 43-33 not to  
22 ~~the extent of-exceed \$500.~~

23 C. In addition, ~~such any~~ keeper shall be entitled to a lien  
24 against ~~the any~~ proceeds, ~~if any,~~ remaining after the satisfaction  
25 of all prior security interests or liens, and may retain possession of

1 such property until such charges are paid. ~~The-Any~~ lien created  
2 under ~~the-provisions-of-this~~ section shall not extend to any personal  
3 property which is not attached to, or considered to be necessary for  
4 the proper operation of any motor vehicle, and it shall be the duty of  
5 any keeper of such personal property to promptly return it to the  
6 owner.

7 D. For the purposes of this section, in the case of a truck or  
8 combination of vehicles, the owner of the truck or tractor truck shall  
9 be liable for the costs of the towing, recovery, and storage of the  
10 cargo and of any trailer or semitrailer in the combination. Nothing  
11 in this subsection, however, shall bar the owner of the truck or  
12 tractor truck from subsequently seeking to recover from the owner of  
13 any trailer, semitrailer, or cargo all or any portion of these towing,  
14 recovery, and storage costs.

15

#

## APPENDIX IV

### RECOMMENDED LEGISLATION:

### INCREASED PENALTIES FOR ABANDONING VEHICLES



1 D 11/7/89 Wambold C 11/29/89 jds

2 SENATE BILL NO. .... HOUSE BILL NO. ....

3 A BILL to amend the Code of Virginia by adding a section numbered  
4 46.2-1200.1, relating to abandoned motor vehicles; penalty.

5

6 Be it enacted by the General Assembly of Virginia:

7 1. That the Code of Virginia is amended by adding a section numbered  
8 46.2-1200.1 as follows:

9 § 46.2-1200.1. Abandoning motor vehicles prohibited;  
10 penalty.--No person shall cause any motor vehicle to become an  
11 abandoned motor vehicle as defined in § 46.2-1200. In any prosecution  
2 for a violation of this section, proof that the defendant was, at the  
13 time that the vehicle was found abandoned, the owner of the vehicle  
14 shall constitute in evidence a rebuttable presumption that the owner  
15 was the person who committed the violation. Such presumption,  
16 however, shall not arise if the owner of the vehicle provided notice  
17 to the Department, as provided in § 46.2-604, that he had sold or  
18 otherwise transferred the ownership of the vehicle.

19 A summons for a violation of this section shall be executed by  
20 mailing a copy of the summons by first-class mail to the address of  
21 the owner of the vehicle as shown on the records of the Department of  
22 Motor Vehicles. If the person fails to appear on the date of return  
23 set out in the summons, the summons shall be delivered to the sheriff  
24 to the county, city, or town for delivery to the accused personally.  
25 If the person then fails to appear on the date of return set out in

1 the summons, proceedings for contempt or arrest of the summoned person  
2 shall be instituted.

3 Any person convicted of a violation of this section shall be  
4 subject to a civil penalty of no more than \$500. If any person fails  
5 to pay any such penalty, his privilege to drive a motor vehicle on the  
6 highways of the Commonwealth shall be suspended as provided in §  
7 46.2-395.

8 All penalties collected under this section shall be paid into the  
9 state treasury to be credited to the Literary Fund as provided in §  
10 46.2-114.

11

#

## APPENDIX V

RECOMMENDED LEGISLATION:

NOTICE OF SALE OF VEHICLES

1 D 11/29/89 Wambold C 12/4/89 1j1

2 SENATE BILL NO. .... HOUSE BILL NO. ....

3 A BILL to amend and reenact § 46.2-604 of the Code of Virginia,  
4 relating to contents of motor vehicle registration cards and  
5 certificates.

6

7 Be it enacted by the General Assembly of Virginia:

8 1. That § 46.2-604 of the Code of Virginia is amended and reenacted  
9 as follows:

10 § 46.2-604. Contents of registration card and certificate.--The  
11 registration card and the certificate of title shall each contain the  
12 date issued, the registration number assigned to the motor vehicle,  
13 trailer, or semitrailer, the name and address of the owner, a  
14 description of the registered motor vehicle, trailer, or semitrailer,  
15 and other statement of facts as may be determined by the Department.

16 The registration card shall contain forms for providing notice to  
17 the Department of a transfer of the ownership of the motor vehicle,  
18 trailer, or semitrailer. Whenever a Virginia-registered motor vehicle  
19 is sold or its ownership otherwise transferred, the seller or  
20 transferor shall notify the Department of the sale or transfer by  
21 completing the appropriate portion of the registration card. Section  
22 46.2-113 shall not apply to failures to provide such notification.

23 The certificate of title shall contain a statement of the owner's  
24 title and of all liens or encumbrances on the motor vehicle, trailer,  
25 or semitrailer described in the certificate and whether possession is  
26 held by the owner under a lease, contract, or conditional sale or

1 other like agreement. The certificate of title shall also contain  
2 forms of assignment of title or interest and warranty of title with  
3 space for notation of liens and encumbrances on the motor vehicle,  
4 trailer, or semitrailer at the time of a transfer.

5 #

## APPENDIX VI

### RECOMMENDED LEGISLATION:

### TOWING AND RECOVERY BUSINESS PRACTICES

1 D 11/7/89 Wambold C 11/9/89 jds

2 SENATE BILL NO. .... HOUSE BILL NO. ....

3 A BILL to amend the Code of Virginia by adding a section numbered  
4 46.2-1233.1, relating to charges for storage of motor vehicles.

5

6 Be it enacted by the General Assembly of Virginia:

7 1. That the Code of Virginia is amended by adding a section numbered  
8 46.2-1233.1 as follows:

9 § 46.2-1233.1. Limitation on charges for storage of motor  
10 vehicles.--No charges imposed for the storage and safekeeping of a  
11 motor vehicle for a period of twenty-four hours or less by a garage  
12 keeper or towing and recovery business operator shall exceed charges  
13 imposed for one day of storage and safekeeping.

14 #

APPENDIX VII

RECOMMENDED LEGISLATION:

DEFINITION OF "TOWING AND REVOCERY OPERATOR"



1 D 11/29/89 Wambold C 12/1/89 ljl

2 SENATE BILL NO. .... HOUSE BILL NO. ....

3 A BILL to amend § 46.2-100 of the Code of Virginia, relating to  
4 definitions applicable to the motor vehicle laws of the  
5 Commonwealth.

6

7 Be it enacted by the General Assembly of Virginia:

8 1. That § 46.2-100 of the Code of Virginia is amended and reenacted  
9 as follows:

10 § 46.2-100. Definitions.--The following words and phrases when  
11 used in this title shall, for the purpose of this title, have the  
12 meanings respectively ascribed to them in this section except in those  
13 instances where the context clearly indicates a different meaning:

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

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

24 "Bicycle" means a device propelled solely by human power, having  
25 pedals, two or more wheels, and a seat height of more than twenty-five  
26 inches from the ground when adjusted to its maximum height. For

1 purposes of Chapter 8 of this title, a bicycle shall be a vehicle  
2 while operated on the highway.

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

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

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

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

18 "Commission" means the State Corporation Commission.

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

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

28 "Decal" means a device to be attached to a license plate that

1 validates the license plate for a predetermined registration period.

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

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

8 "Essential parts" means all integral parts and body parts, the  
9 removal, alteration, or substitution of which will tend to conceal the  
10 identity of a vehicle.

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

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

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

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

1 registration is sought.

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

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

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

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

18 "Intersection" means (i) the area embraced within the  
19 prolongation or connection of the lateral curblines or, if none, then  
20 the lateral boundary lines of the roadways of two highways which join  
21 one another at, or approximately at, right angles, or the area within  
22 which vehicles traveling on different highways joining at any other  
23 angle may come in conflict; or, (ii) where a highway includes two  
24 roadways thirty feet or more apart, then every crossing of each  
25 roadway of such divided highway by an intersecting highway shall be  
26 regarded as a separate intersection, in the event such intersecting  
27 highway also includes two roadways thirty feet or more apart, then  
28 every crossing of two roadways of such highways shall be regarded as

1 separate intersection; or (iii) for purposes only of authorizing  
2 installation of traffic-control devices, every crossing of a highway  
3 or street at grade by a pedestrian crosswalk.

4 "Law-enforcement officer" means any officer authorized to direct  
5 or regulate traffic or to make arrests for violations of this title or  
6 local ordinances authorized by law.

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

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

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

21 "Moped" means a bicycle-like device with pedals and a helper  
22 motor which is rated at no more than two brake horsepower and which  
23 produces speeds up to a maximum of thirty miles per hour. For  
24 purposes of Chapter 8 of this title, a moped shall be a vehicle while  
25 operated on a highway.

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

1 "Motor vehicle" means every vehicle as defined in this section  
2 which is self-propelled or designed for self-propulsion except as  
3 otherwise provided in this title. Any structure designed, used, or  
4 maintained primarily to be loaded on or affixed to a motor vehicle to  
5 provide a mobile dwelling, sleeping place, office, or commercial space  
6 shall be considered a part of a motor vehicle. For the purposes of  
7 this title, any device herein defined as a bicycle or a moped shall be  
8 deemed not to be a motor vehicle.

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

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

1 registration shall be deemed a resident for the purposes of this  
2 title, except for the purposes of the Virginia Commercial Driver's  
3 License Act (§ 46.2-341.1 et seq.).

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

7 "Operation or use for rent or for hire, for the transportation of  
8 passengers, or as a property carrier for compensation", and "business  
9 of transporting persons or property" mean any owner or operator of any  
10 motor vehicle, trailer, or semitrailer operating over the highways in  
11 the Commonwealth who accepts or receives compensation for the service,  
12 directly or indirectly; but these terms do not mean a "truck lessor"  
13 as defined in this section.

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

18 "Owner" means a person who holds the legal title to a vehicle or,  
19 if a vehicle is the subject of an agreement for its conditional sale  
20 or lease with the right of purchase on performance of the conditions  
21 stated in the agreement and with an immediate right of possession  
22 vested in the conditional vendee or lessee or, if a mortgagor of a  
23 vehicle is entitled to possession, then the conditional vendee or  
24 lessee or mortgagor shall be the owner for the purpose of this title;  
25 except that in all such instances when the rent paid by the lessee  
26 includes charges for services of any nature or when the lease does not  
27 provide that title shall pass to the lessee on payment of the rent  
28 stipulated, the lessor shall be regarded as the owner of the vehicle,

1 and the vehicle shall be subject to such requirements of this title as  
2 are applicable to vehicles operated for compensation. A "truck lessor"  
3 as defined in this section shall be regarded as the owner, and his  
4 vehicles shall be subject to such requirements of this title as are  
5 applicable to vehicles of private carriers.

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

9 "Pickup or panel truck" means every motor vehicle designed for  
10 the transportation of property and having a registered gross weight of  
11 7,500 pounds or less.

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

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

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

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



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

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

8 "School bus" means any motor vehicle, other than a station wagon,  
9 automobile, truck, or commercial bus, which is: (i) designed and used  
10 primarily for the transportation of pupils to and from public, private  
11 or parochial schools, or used for the transportation of the mentally  
12 or physically handicapped to and from a sheltered workshop; and (ii)  
13 painted yellow and bears the words "School Bus" in black letters of a  
4 specified size on front and rear; and (iii) is equipped with warning  
15 devices prescribed in § 46.2-1090.

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

20 "Shoulder" means that part of a highway between the portion  
21 regularly travelled by vehicular traffic and the lateral curblineline or  
22 ditch.

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

26 "Specially constructed vehicle" means any vehicle which was not  
7 originally constructed under a distinctive name, make, model, or type  
28 by a generally recognized manufacturer of vehicles and not a

1 reconstructed vehicle as herein defined.

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

6 "Superintendent" means the Superintendent of the Department of  
7 State Police of the Commonwealth.

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

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

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

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

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

28 "Trailer" means every vehicle without motive power designed for

1 carrying property or passengers wholly on its own structure and for  
2 being drawn by a motor vehicle, including mobile homes.

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

6 "Truck lessor" means a person who holds the legal title to any  
7 motor vehicle, trailer, or semitrailer which is the subject of a bona  
8 fide written lease for a term of one year or more to another person,  
9 provided that: (i) neither the lessor nor the lessee is a common  
10 carrier by motor vehicle or restricted common carrier by motor vehicle,  
11 or contract carrier by motor vehicle as defined in § 56-273; (ii) the  
12 leased motor vehicle, trailer, or semitrailer is used exclusively for  
13 the transportation of property of the lessee; (iii) the lessor is not  
14 employed in any capacity by the lessee; (iv) the operator of the  
15 leased motor vehicle is a bona fide employee of the lessee and is not  
16 employed in any capacity by the lessor; and (v) a true copy of the  
17 lease, verified by affidavit of the lessor, is filed with the  
18 Commissioner.

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

24 "Wheel chair or wheel chair conveyance" means a chair or seat  
25 equipped with wheels, typically used to provide mobility for persons  
26 who, by reason of physical disability, are otherwise unable to move  
27 about as pedestrians. The term includes both three-wheeled and  
28 four-wheeled devices. So long as it is operated only as provided in §

1 46.2-677, a self-propelled wheel chair or self-propelled wheel chair  
2 conveyance shall not be considered a motor vehicle.

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APPENDIX VIII

Joint Subcommittee Members

Joseph V. Gartlan, Jr., (Chairman)

James F. Almand (Vice Chairman)

Bernard S. Cohen

Howard E. Copeland

James H. Dillard II

Jack Kennedy

Kevin G. Miller

Moody E. Stallings, Jr.

Clerical, research, and legal staff support for the  
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The Senate Clerk's Office  
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The Division of Legislative Services

