



Virginia State Crime Commission

Senate Bill 847: Emergency Vehicles
Proceeding Past Red Lights

May 11, 2009

Overview



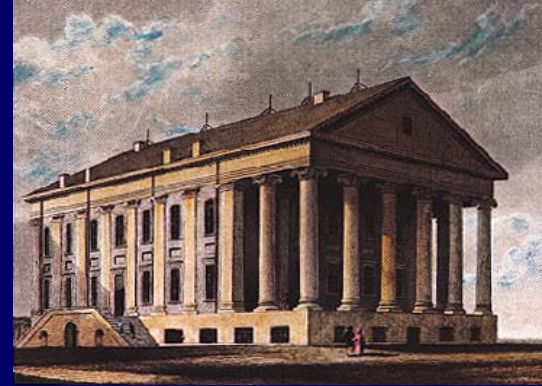
- Study Authorization
- Va. Code § 46.2-920
- Case law

Study Authorization



- The study was referred to the Crime Commission as a letter request from the Senate Courts of Justice, based on Senator Puller's bill, SB 847, introduced during the 2009 Session of the General Assembly.
 - The bill was introduced because of a fatal accident in Fairfax County where an individual was killed when struck by an police vehicle at an intersection.
- Currently, there is a civil lawsuit, filed earlier this year, as a result of the accident.
- The Crime Commission's Executive Committee requested that staff conduct a study limited to statutory and case law related to police vehicles proceeding past stops or red lights.

Va. Code § 46.2-920



- Provides exemptions from criminal prosecution of traffic laws for drivers of emergency vehicles “when such vehicle is being used in the performance of public services, *and* when such vehicle is operated under emergency conditions.”
 - Emergency conditions are not specifically defined, however, law enforcement officers must be in “the chase or apprehension of violators of the law or persons charged with or suspected of any such violation” or “in response to an emergency call.”
- Specifically, drivers of these vehicles, including any “law-enforcement vehicle operated by or under the direction of a federal, state, or local law-enforcement officer,” are exempt from the following traffic regulations:
 - “Disregard speed limits;”
 - Move through posted stops “if the speed of the vehicle is sufficiently reduced to enable it to pass;”
 - “Park or stop notwithstanding the other provisions of this chapter;”
 - “Disregard regulations governing a direction of movement of vehicles turning in specified directions;”
 - Move around or pass another vehicle at any intersection;
 - “Pass or overtake” stopped or slow-moving vehicles on the left, in a no-passing zone or by crossing the “highway center line, on the way to an emergency; and,
 - “Pass or overtake” stopped or slow-moving vehicles “by going off the paved or main traveled portion of the roadway on the right.
- Also, law enforcement officers are required to exercise these exemptions “while having due regard for safety of persons and property.”

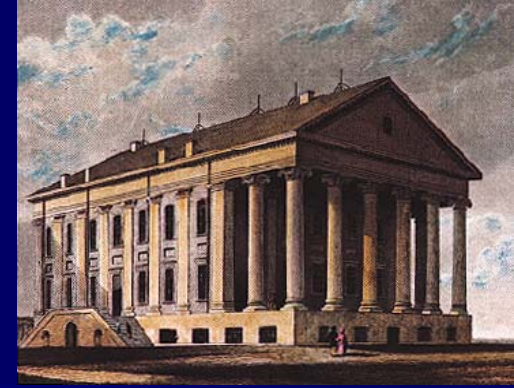
Va. Code § 46.2-920



- **There are some additional requirements for law enforcement officers to obtain the exemptions:**
 - “displays a flashing, blinking, or alternating emergency light or lights;” and,
 - “sounds a siren, exhaust whistle, or air horn designed to give automatically intermittent signals, as may be reasonably necessary; and,”
 - “only when there is in force and effect for such vehicle either” standard motor vehicle liability insurance or a certificate of self insurance.

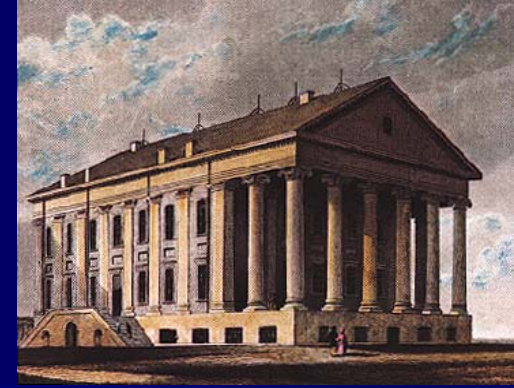
- **Law enforcement officers will lose these exemptions from criminal prosecution for “conduct constituting reckless disregard of the safety of persons and property.”**
 - Likewise ,the General Assembly also addressed civil liability in the statute, stating “Nothing in this section shall release the operator of any such vehicle from civil liability for failure to use reasonable care in such operation.”

Case Law



- The overwhelming majority of case law related to § 46.2-920 addresses civil suits filed against localities and individual operators of emergency vehicles.
- There is only one case that focuses on a criminal prosecution under § 46.2-920. In Phillips v. Commonwealth, 25 Va. App. 144, 487 S.E.2d 235 (1997), a police officer was convicted of reckless driving because he crossed a double-yellow line. The Virginia Court of Appeals held that (at the time) the General Assembly had not explicitly granted an exemption to allow emergency vehicles to cross a double-yellow line. Additionally, the court also held that the police officer lost the exemption because his pursuit did not “present an emergency situation.”

Case Law



- The Supreme Court of Virginia commented, in Colby v. Boyden, 241 Va. 125, 132 400 S.E.2d 184, 189 (1991), “In enacting the statute (§ 46.2-920), the legislature balanced the need for prompt, effective action by law enforcement officers and other emergency vehicle operators with the safety of the motoring public.”
- Additionally, while the main emphasis of the statute is an exemption from criminal prosecution, the Supreme Court of Virginia also held, in Colby v. Boyden, 241 Va. 125, 132 400 S.E.2d 184, 188 (1991), that the statute “affords the protection of a standard tailored to the situation” and that “one will not be held negligent *per se* for the specific acts authorized under the statute.”

Discussion