***Selected Acts of the 2014***

***Virginia General Assembly***



***Compiled by***

***The Virginia Department of State Police***

This volume of Selected Acts contains legislation passed by the 2014 Session of the Virginia General Assembly that is relevant to criminal law and highway safety. Additional copies of this reference guide may be found at the Virginia State Police website at: <http://www.vsp.state.va.us/FormsPublications.shtm>.

**EXPLANATIONS WHICH MAY BE HELPFUL IN STUDYING THESE ACTS:**

1. *Italicized* words indicate new language.

2. ~~Lined through~~ words indicate language that has been removed.

3. The table of contents is divided into four categories: Traffic, Criminal, Firearms and Miscellaneous. The bills in those categories are presented in either **full text** or **summary** form. Summarized bills are less relevant, yet still important legislation, and are found at the back of each section. Although summarized bills are not discussed in the recorded Selected Acts presentation, they should be reviewed.

4. Emergency Acts - are Acts with an emergency clause and were effective the moment they were signed by the Governor. Generally, the emergency clause appears as the last sentence of the Act.

5. Effective date - All Acts, other than those containing an emergency clause or those specifying a delayed effective date, become law on July 1, 2014. Note that different portions of a bill may carry different effective dates.

6. A brief overview outlining changes, provided by the Division of Legislative Services, appears at the beginning of each full text bill. This overview is only a brief synopsis of the bill. Before taking any enforcement action, carefully read the entire bill. Also, note that the Table of Contents contains a bill description which is not necessarily the same as the short title of the bill.

7. Questions regarding Selected Acts may be directed to the Office of Legal Affairs at (804) 674-6722.

8. Additional information on legislation may be found at: <http://legis.state.va.us/> and the Virginia State Police website at [www.vsp.state.va.us](http://www.vsp.state.va.us).

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**TRAFFIC – FULL TEXT**

**Maximum speed limit on nonsurface-treated highways.** Applies statewide the 35 mph maximum speed limit on nonsurface-treated highways that is currently applied only in Albemarle, Clarke, Fauquier, Frederick, Loudoun, Montgomery, Nelson, Page, Rappahannock, Warren, and Wythe Counties and in any other county whose governing body adopts an ordinance to do so. This bill is identical to [SB 470](http://leg1.state.va.us/cgi-bin/legp504.exe?141+sum+SB470)

**CHAPTER 80**

*An Act to amend and reenact §* [*46.2-873.1*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-873.1) *of the Code of Virginia, relating to maximum speed limits on nonsurface-treated highways.*

[H 854]

Approved March 3, 2014

 Be it enacted by the General Assembly of Virginia:

1. That § [46.2-873.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-873.1) of the Code of Virginia is amended and reenacted as follows:

§ [46.2-873.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-873.1). Maximum speed limit on nonsurface-treated highways.

The maximum speed limit on nonsurface-treated highways, which are roads that are comprised of an earth-aggregate or aggregate surface (i.e., dirt and gravel) that have not been stabilized with a bituminous or cementitious material, shall be 35 miles per hour. The maximum speed limit upon such highways may be increased or decreased by the Commissioner of Highways or other authority having jurisdiction over highways. However, such increased or decreased maximum speed limit shall be effective only when indicated by sign on the highway. For such highways upon which maximum speed limit is not indicated by sign, the maximum speed limit shall be 35 miles per hour.

~~The provisions of this section shall apply in the Counties of Albemarle, Clarke, Fauquier, Frederick, Loudoun, Montgomery, Nelson, Page, Rappahannock, Warren, and Wythe and in any other county wherein the governing body adopts an ordinance pursuant to the provisions of this section.~~

**New vehicle classification; autocycle.** Defines a new class of vehicle, known as an autocycle, and provides for examination of drivers, registration fees, safety, inspection, and other requirements pursuant to creating this new class of vehicle. The bill contains technical amendments. This bill is identical to [SB 383.](http://leg1.state.va.us/cgi-bin/legp504.exe?141+sum+SB383)

**CHAPTER 53**

*An Act to amend and reenact §§* [*46.2-100*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-100)*,* [*46.2-325*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-325)*,* [*46.2-626.1*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-626.1)*,* [*46.2-662*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-662)*,* [*46.2-694*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-694)*, as it is currently effective and as it may become effective,* [*46.2-711*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-711)*,* [*46.2-715*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-715)*,* [*46.2-730*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-730)*,* [*46.2-910*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-910)*,* [*46.2-1011*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1011)*,* [*46.2-1012*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1012)*,* [*46.2-1014*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1014)*,* [*46.2-1057*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1057)*,* [*46.2-1067*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1067)*,* [*46.2-1068*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1068)*,* [*46.2-1092*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1092)*,* [*46.2-1157*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1157)*,* [*46.2-1167*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1167)*,* [*46.2-1500*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1500)*, and* [*46.2-1993*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1993) *of the Code of Virginia, relating to a new class of vehicle known as an autocycle; licensure, fees, license plates, and safety, inspection, and other requirements.*

[H 122]

Approved March 3, 2014

 Be it enacted by the General Assembly of Virginia:

1. That §§ [46.2-100](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-100), [46.2-325](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-325), [46.2-626.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-626.1), [46.2-662](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-662), [46.2-694](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-694), as it is currently effective and as it may become effective, [46.2-711](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-711), [46.2-715](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-715), [46.2-730](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-730), [46.2-910](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-910), [46.2-1011](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1011), [46.2-1012](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1012), [46.2-1014](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1014), [46.2-1057](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1057), [46.2-1067](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1067), [46.2-1068](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1068), [46.2-1092](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1092), [46.2-1157](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1157), [46.2-1167](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1167), [46.2-1500](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1500), and [46.2-1993](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1993) of the Code of Virginia are amended and reenacted as follows:

§ [46.2-100](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-100). Definitions.

~~The following words and phrases when used in this title shall, for the purpose of~~ *As used in* this title, ~~have the meanings respectively ascribed to them in this section except in those instances where~~ *unless* the context ~~clearly indicates~~ *requires* a different meaning:

"All-terrain vehicle" means a motor vehicle having three or more wheels that is powered by a motor and is manufactured for off-highway use. "All-terrain vehicle" does not include four-wheeled vehicles commonly known as "go-carts" that have low centers of gravity and are typically used in racing on relatively level surfaces, nor does the term include any riding lawn mower.

"Antique motor vehicle" means every motor vehicle, as defined in this section, which was actually manufactured or designated by the manufacturer as a model manufactured in a calendar year not less than 25 years prior to January 1 of each calendar year and is owned solely as a collector's item.

"Antique trailer" means every trailer or semitrailer, as defined in this section, that was actually manufactured or designated by the manufacturer as a model manufactured in a calendar year not less than 25 years prior to January 1 of each calendar year and is owned solely as a collector's item.

*"Autocycle" means a three-wheeled motor vehicle that has a steering wheel and seating that does not require the operator to straddle or sit astride and is manufactured to comply with federal safety requirements for motorcycles. Except as otherwise provided, an autocycle shall not be deemed to be a motorcycle.*

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

"Bicycle" means a device propelled solely by human power, upon which a person may ride either on or astride a regular seat attached thereto, having two or more wheels in tandem, including children's bicycles, except a toy vehicle intended for use by young children. For purposes of Chapter 8 (§ [46.2-800](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-800) et seq.), a bicycle shall be a vehicle while operated on the highway.

"Bicycle lane" means that portion of a roadway designated by signs and/or pavement markings for the preferential use of bicycles, electric power-assisted bicycles, and mopeds.

"Business district" means the territory contiguous to a highway where 75 percent or more of the property contiguous to a highway, on either side of the highway, for a distance of 300 feet or more along the highway, is occupied by land and buildings actually in use for business purposes.

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

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

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

"Circular intersection" means an intersection that has an island, generally circular in design, located in the center of the intersection, where all vehicles pass to the right of the island. Circular intersections include roundabouts, rotaries, and traffic circles.

"Commission" means the State Corporation Commission.

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

"Converted electric vehicle" means any motor vehicle, other than a motorcycle *or autocycle*, that has been modified subsequent to its manufacture to replace an internal combustion engine with an electric propulsion system. Such vehicles shall retain their original vehicle identification number, line-make, and model year. A converted electric vehicle shall not be deemed a "reconstructed vehicle" as defined in this section unless it has been materially altered from its original construction by the removal, addition, or substitution of new or used essential parts other than those required for the conversion to electric propulsion.

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

"Decal" means a device to be attached to a license plate that validates the license plate for a predetermined registration period.

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

"Disabled parking license plate" means a license plate that displays the international symbol of access in the same size as the numbers and letters on the plate and in a color that contrasts with the background.

"Disabled veteran" means a veteran who (i) has either lost, or lost the use of, a leg, arm, or hand; (ii) is blind; or (iii) is permanently and totally disabled as certified by the U.S. Department of Veterans Affairs. A veteran shall be considered blind if he has a permanent impairment of both eyes to the following extent: central visual acuity of 20/200 or less in the better eye, with corrective lenses, or central visual acuity of more than 20/200, if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance no greater than 20 degrees in the better eye.

"Driver's license" means any license, including a commercial driver's license as defined in the Virginia Commercial Driver's License Act (§ [46.2-341.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.1) et seq.), issued under the laws of the Commonwealth authorizing the operation of a motor vehicle.

"Electric personal assistive mobility device" means a self-balancing two-nontandem-wheeled device that is designed to transport only one person and powered by an electric propulsion system that limits the device's maximum speed to 15 miles per hour or less. For purposes of Chapter 8 (§ [46.2-800](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-800) et seq.), an electric personal assistive mobility device shall be a vehicle when operated on a highway.

"Electric power-assisted bicycle" means a vehicle that travels on not more than three wheels in contact with the ground and is equipped with (i) pedals that allow propulsion by human power and (ii) an electric motor with an input of no more than 1,000 watts that reduces the pedal effort required of the rider. For the purposes of Chapter 8 (§ [46.2-800](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-800) et seq.), an electric power-assisted bicycle shall be a vehicle when operated on a highway.

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

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

"Farm utility vehicle" means a vehicle that is powered by a motor and is designed for off-road use and is used as a farm, agricultural, or horticultural service vehicle, generally having four or more wheels, bench seating for the operator and a passenger, a steering wheel for control, and a cargo bed. "Farm utility vehicle" does not include pickup or panel trucks, golf carts, low-speed vehicles, or riding lawn mowers.

"Federal safety requirements" means applicable provisions of 49 U.S.C. § 30101 et seq. and all administrative regulations and policies adopted pursuant thereto.

"Financial responsibility" means the ability to respond in damages for liability thereafter incurred arising out of the ownership, maintenance, use, or operation of a motor vehicle, in the amounts provided for in § [46.2-472](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-472).

"Foreign market vehicle" means any motor vehicle originally manufactured outside the United States, which was not manufactured in accordance with 49 U.S.C. § 30101 et seq. and the policies and regulations adopted pursuant to that Act, and for which a Virginia title or registration is sought.

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

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

"Governing body" means the board of supervisors of a county, council of a city, or council of a town, as context may require.

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

"Highway" means the entire width between the boundary lines of every way or place open to the use of the public for purposes of vehicular travel in the Commonwealth, including the streets and alleys, and, for law-enforcement purposes, (i) the entire width between the boundary lines of all private roads or private streets that have been specifically designated "highways" by an ordinance adopted by the governing body of the county, city, or town in which such private roads or streets are located and (ii) the entire width between the boundary lines of every way or place used for purposes of vehicular travel on any property owned, leased, or controlled by the United States government and located in the Commonwealth.

"Intersection" means (i) the area embraced within the prolongation or connection of the lateral curblines or, if none, then the lateral boundary lines of the roadways of two highways that join one another at, or approximately at, right angles, or the area within which vehicles traveling on different highways joining at any other angle may come in conflict; (ii) where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection, in the event such intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection; or (iii) for purposes only of authorizing installation of traffic-control devices, every crossing of a highway or street at grade by a pedestrian crosswalk.

"Lane-use control signal" means a signal face displaying indications to permit or prohibit the use of specific lanes of a roadway or to indicate the impending prohibition of such use.

"Law-enforcement officer" means any officer authorized to direct or regulate traffic or to make arrests for violations of this title or local ordinances authorized by law. For the purposes of access to law-enforcement databases regarding motor vehicle registration and ownership only, ~~this term shall~~ *"law-enforcement officer"* also ~~include~~ *includes* city and county commissioners of the revenue and treasurers, together with their duly designated deputies and employees, when such officials are actually engaged in the enforcement of §§ [46.2-752](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-752), [46.2-753](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-753), and [46.2-754](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-754) and local ordinances enacted thereunder.

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

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

"Low-speed vehicle" means any four-wheeled electrically-powered vehicle, except a motor vehicle or low-speed vehicle that is used exclusively for agricultural or horticultural purposes or a golf cart, whose maximum speed is greater than 20 miles per hour but not greater than 25 miles per hour and is manufactured to comply with safety standards contained in Title 49 of the Code of Federal Regulations, § 571.500.

"Manufactured home" means a structure subject to federal regulation, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein.

"Moped" means every vehicle that travels on not more than three wheels in contact with the ground that (i) has a seat that is no less than 24 inches in height, measured from the middle of the seat perpendicular to the ground; (ii) has a gasoline, electric, or hybrid motor that (a) displaces 50 cubic centimeters or less or (b) has an input of 1500 watts or less; (iii) is power-driven, with or without pedals that allow propulsion by human power; and (iv) is not operated at speeds in excess of 35 miles per hour. For purposes of this title, a moped shall be a motorcycle when operated at speeds in excess of 35 miles per hour. For purposes of Chapter 8 (§ [46.2-800](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-800) et seq.), a moped shall be a vehicle while operated on a highway.

"Motor-driven cycle" means every motorcycle that has a gasoline engine that (i) displaces less than 150 cubic centimeters; (ii) has a seat less than 24 inches in height, measured from the middle of the seat perpendicular to the ground; and (iii) has no manufacturer-issued vehicle identification number.

"Motor home" means every private motor vehicle with a normal seating capacity of not more than 10 persons, including the driver, designed primarily for use as living quarters for human beings.

"Motor vehicle" means every vehicle as defined in this section that is self-propelled or designed for self-propulsion except as otherwise provided in this title. Any structure designed, used, or maintained primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, sleeping place, office, or commercial space shall be considered a part of a motor vehicle. Except as otherwise provided, for the purposes of this title, any device herein defined as a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped shall be deemed not to be a motor vehicle.

"Motorcycle" means every motor vehicle designed to travel on not more than three wheels in contact with the ground and is capable of traveling at speeds in excess of 35 miles per hour. ~~The term "motorcycle"~~ *"Motorcycle"* does not include any *"autocycle,"* "electric personal assistive mobility device," "electric power-assisted bicycle," "farm tractor," "golf cart," "moped," "motorized skateboard or foot-scooter," "utility vehicle*,*" or "wheelchair or wheelchair conveyance" as defined in this section.

"Motorized skateboard or foot-scooter" means every vehicle, regardless of the number of its wheels in contact with the ground, that (i) has no seat, but is designed to be stood upon by the operator, (ii) has no manufacturer-issued vehicle identification number, and (iii) is powered by an electric motor having an input of no more than 1,000 watts or a gasoline engine that displaces less than 36 cubic centimeters. ~~The term "motorized~~ *"Motorized* skateboard or foot-scooter" includes vehicles with or without handlebars~~,~~ but does not include "electric personal assistive mobility devices."

"Nonresident" means every person who is not domiciled in the Commonwealth, except: (i) any foreign corporation that is authorized to do business in the Commonwealth by the State Corporation Commission shall be a resident of the Commonwealth for the purpose of this title; in the case of corporations incorporated in the Commonwealth but doing business outside the Commonwealth, only such principal place of business or branches located within the Commonwealth shall be dealt with as residents of the Commonwealth; (ii) a person who becomes engaged in a gainful occupation in the Commonwealth for a period exceeding 60 days shall be a resident for the purposes of this title except for the purposes of Chapter 3 (§ [46.2-300](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-300) et seq.); (iii) a person, other than a nonresident student as defined in this section, who has actually resided in the Commonwealth for a period of six months, whether employed or not, or who has registered a motor vehicle, listing an address in the Commonwealth in the application for registration shall be deemed a resident for the purposes of this title, except for the purposes of the Virginia Commercial Driver's License Act (§ [46.2-341.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.1) et seq.).

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

"Off-road motorcycle" means every motorcycle designed exclusively for off-road use by an individual rider with not more than two wheels in contact with the ground. Except as otherwise provided in this chapter, for the purposes of this chapter off-road motorcycles shall be deemed to be "motorcycles."

"Operation or use for rent or for hire, for the transportation of passengers, or as a property carrier for compensation," and "business of transporting persons or property" mean any owner or operator of any motor vehicle, trailer, or semitrailer operating over the highways in the Commonwealth who accepts or receives compensation for the service, directly or indirectly; but these terms do not mean a "truck lessor" as defined in this section and do not include persons or businesses that receive compensation for delivering a product that they themselves sell or produce, where a separate charge is made for delivery of the product or the cost of delivery is included in the sale price of the product, but where the person or business does not derive all or a substantial portion of its income from the transportation of persons or property except as part of a sales transaction.

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

"Owner" means a person who holds the legal title to a vehicle; however, if a vehicle is the subject of an agreement for its conditional sale or lease with the right of purchase on performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee or if a mortgagor of a vehicle is entitled to possession, then the conditional vendee or lessee or mortgagor shall be the owner for the purpose of this title. In all such instances when the rent paid by the lessee includes charges for services of any nature or when the lease does not provide that title shall pass to the lessee on payment of the rent stipulated, the lessor shall be regarded as the owner of the vehicle, and the vehicle shall be subject to such requirements of this title as are applicable to vehicles operated for compensation. A "truck lessor" as defined in this section shall be regarded as the owner, and his vehicles shall be subject to such requirements of this title as are applicable to vehicles of private carriers.

"Passenger car" means every motor vehicle other than a motorcycle *or autocycle* designed and used primarily for the transportation of no more than 10 persons*,* including the driver.

"Payment device" means any credit card as defined in 15 U.S.C. § 1602(k) or any "accepted card or other means of access" set forth in 15 U.S.C. § 1693a(1). For the purposes of this title, this definition shall also include a card that enables a person to pay for transactions through the use of value stored on the card itself.

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

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

"Reconstructed vehicle" means every vehicle of a type required to be registered under this title materially altered from its original construction by the removal, addition, or substitution of new or used essential parts. Such vehicles, at the discretion of the Department, shall retain their original vehicle identification number, line-make, and model year. Except as otherwise provided in this title, this definition shall not include a "converted electric vehicle" as defined in this section.

"Replica vehicle" means every vehicle of a type required to be registered under this title not fully constructed by a licensed manufacturer but either constructed or assembled from components. Such components may be from a single vehicle, multiple vehicles, a kit, parts, or fabricated components. The kit may be made up of "major components" as defined in § [46.2-1600](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1600), a full body, or a full chassis, or a combination of these parts. The vehicle shall resemble a vehicle of distinctive name, line-make, model, or type as produced by a licensed manufacturer or manufacturer no longer in business and is not a reconstructed or specially constructed vehicle as herein defined.

"Residence district" means the territory contiguous to a highway, not comprising a business district, where 75 percent or more of the property abutting such highway, on either side of the highway, for a distance of 300 feet or more along the highway consists of land improved for dwelling purposes, or is occupied by dwellings, or consists of land or buildings in use for business purposes, or consists of territory zoned residential or territory in residential subdivisions created under Chapter 22 (§ [15.2-2200](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+15.2-2200) et seq.) of Title 15.2.

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

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

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

"School bus" means any motor vehicle, other than a station wagon, automobile, truck, or commercial bus, which is: (i) designed and used primarily for the transportation of pupils to and from public, private or religious schools, or used for the transportation of the mentally or physically handicapped to and from a sheltered workshop; (ii) painted yellow and bears the words "School Bus" in black letters of a specified size on front and rear; and (iii) is equipped with warning devices prescribed in § [46.2-1090](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1090). A yellow school bus may have a white roof provided such vehicle is painted in accordance with regulations promulgated by the Department of Education.

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

"Shared-use path" means a bikeway that is physically separated from motorized vehicular traffic by an open space or barrier and is located either within the highway right-of-way or within a separate right-of-way. Shared-use paths may also be used by pedestrians, skaters, users of wheel chairs or wheel chair conveyances, joggers, and other nonmotorized users.

"Shoulder" means that part of a highway between the portion regularly traveled by vehicular traffic and the lateral curbline or ditch.

"Sidewalk" means the portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use by pedestrians.

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

"Special construction and forestry equipment" means any vehicle which is designed primarily for highway construction, highway maintenance, earth moving, timber harvesting or other construction or forestry work and which is not designed for the transportation of persons or property on a public highway.

"Specially constructed vehicle" means any vehicle that was not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles and not a reconstructed vehicle as herein defined.

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

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

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

"Tow truck" means a motor vehicle for hire (i) designed to lift, pull, or carry another vehicle by means of a hoist or other mechanical apparatus and (ii) having a manufacturer's gross vehicle weight rating of at least 10,000 pounds. "Tow truck" also includes vehicles designed with a ramp on wheels and a hydraulic lift with a capacity to haul or tow another vehicle, commonly referred to as "rollbacks." "Tow truck" does not include any "automobile or watercraft transporter," "stinger-steered automobile or watercraft transporter," or "tractor truck" as those terms are defined in this section.

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

"Toy vehicle" means any motorized or propellant-driven device that has no manufacturer-issued vehicle identification number~~,~~ that is designed or used to carry any person or persons, on any number of wheels, bearings, glides, blades, runners, or a cushion of air. ~~The term~~ *"Toy vehicle"* does not include electric personal assistive mobility devices, electric power-assisted bicycles, mopeds, or motorcycles, nor does it include any nonmotorized or nonpropellant-driven devices such as bicycles, roller skates, or skateboards.

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

"Traffic control device" means a sign, signal, marking, or other device used to regulate, warn, or guide traffic placed on, over, or adjacent to a street, highway, private road open to public travel, pedestrian facility, or shared-use path by authority of a public agency or official having jurisdiction, or in the case of a private road open to public travel, by authority of the private owner or private official having jurisdiction.

"Traffic infraction" means a violation of law punishable as provided in § [46.2-113](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-113), which is neither a felony nor a misdemeanor.

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

"Trailer" means every vehicle without motive power designed for carrying property or passengers wholly on its own structure and for being drawn by a motor vehicle, including manufactured homes.

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

"Truck lessor" means a person who holds the legal title to any motor vehicle, trailer, or semitrailer that is the subject of a bona fide written lease for a term of one year or more to another person, provided that: (i) neither the lessor nor the lessee is a common carrier by motor vehicle or restricted common carrier by motor vehicle or contract carrier by motor vehicle as defined in § [46.2-2000](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-2000); (ii) the leased motor vehicle, trailer, or semitrailer is used exclusively for the transportation of property of the lessee; (iii) the lessor is not employed in any capacity by the lessee; (iv) the operator of the leased motor vehicle is a bona fide employee of the lessee and is not employed in any capacity by the lessor; and (v) a true copy of the lease, verified by affidavit of the lessor, is filed with the Commissioner.

"Utility vehicle" means a motor vehicle that is (i) designed for off-road use, (ii) powered by a motor, and (iii) used for general maintenance, security, agricultural, or horticultural purposes. "Utility vehicle" does not include riding lawn mowers.

"Vehicle" means every device in, on or by which any person or property is or may be transported or drawn on a highway, except devices moved by human power or used exclusively on stationary rails or tracks. For the purposes of Chapter 8 (§ [46.2-800](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-800) et seq.), bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, and mopeds shall be vehicles while operated on a highway.

"Wheel chair or wheel chair conveyance" means a chair or seat equipped with wheels, typically used to provide mobility for persons who, by reason of physical disability, are otherwise unable to move about as pedestrians. ~~The term~~ *"Wheel chair or wheel chair conveyance"* includes both three-wheeled and four-wheeled devices. So long as it is operated only as provided in § [46.2-677](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-677), a self-propelled wheel chair or self-propelled wheel chair conveyance shall not be considered a motor vehicle.

§ [46.2-325](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-325). Examination of applicants; waiver of Department's examination under certain circumstances; behind-the-wheel and knowledge examinations.

A. The Department shall examine every applicant for a driver's license before issuing any license to determine (i) his physical and mental qualifications and his ability to drive a motor vehicle without jeopardizing the safety of persons or property and (ii) if any facts exist which would bar the issuance of a license under §§ [46.2-311](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-311) through [46.2-316](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-316), [46.2-334](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-334), or [46.2-335](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-335). The examination, however, shall not include investigation of any facts other than those directly pertaining to the ability of the applicant to drive a motor vehicle with safety, or other than those facts declared to be prerequisite to the issuance of a license under this chapter. No applicant otherwise competent shall be required to demonstrate ability to park any motor vehicle except in an adequate parking space between horizontal markers, and not between flags or sticks simulating parked vehicles. Except as provided for in § [46.2-337](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-337), applicants for licensure to drive motor vehicles of the classifications referred to in § [46.2-328](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-328) shall submit to examinations which relate to the operation of those vehicles. The motor vehicle to be used by the applicant for the behind-the-wheel examination shall meet the safety and equipment requirements specified in Chapter 10 (§ [46.2-1000](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1000) et seq.) and possess a valid inspection sticker as required pursuant to § [46.2-1157](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1157). *An autocycle shall not be used by the applicant for a behind-the-wheel examination.*

Prior to taking the examination, the applicant shall either (a) present evidence that the applicant has completed a state-approved driver education class pursuant to the provisions of § [46.2-324.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-324.1) or [46.2-334](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-334) or (b) submit to the examiner a behind-the-wheel maneuvers checklist, on a form provided by the Department, that describes the vehicle maneuvers the applicant may be expected to perform while taking the behind-the-wheel examination, that has been signed by a licensed driver, certifying that the applicant has practiced the driving maneuvers contained and described therein, and that has been signed by the applicant certifying that, at all times while holding a learner's permit, the applicant has complied with the provisions of § [46.2-335](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-335) while operating a motor vehicle.

Except for applicants subject to § [46.2-312](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-312), if the Commissioner is satisfied that an applicant has demonstrated the same proficiency as required by the Department's examination through successful completion of either (1) the driver education course approved by the Department of Education or (2) a driver training course offered by a driver training school licensed under Chapter 17 (§ [46.2-1700](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1700) et seq.), he may waive those parts of the Department's examination provided for in this section that require the applicant to drive and park a motor vehicle.

B. Any person who fails the behind-the-wheel examination for a driver's license administered by the Department shall wait two days before being permitted to take another such examination. No person who fails the behind-the-wheel examination for a driver's license administered by the Department three times shall be permitted to take such examination a fourth time until he successfully completes, subsequent to the third examination failure, the in-vehicle component of driver instruction at a driver training school licensed under Chapter 17 (§ [46.2-1700](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1700) et seq.) or a comparable course approved by the Department or the Department of Education. In addition, no person who fails the driver knowledge examination for a driver's license administered by the Department three times shall be permitted to take such examination a fourth time until he successfully completes, subsequent to the third examination failure, the classroom component of driver instruction at a driver training school licensed under Chapter 17 (§ [46.2-1700](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1700) et seq.) or, for persons at least 19 years old, a course of instruction based on the Virginia Driver's Manual offered by a driver training school licensed under Chapter 17 (§ [46.2-1700](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1700) et seq.) and approved by the Department or the Department of Education.

The provisions of this subsection shall not apply to persons placed under medical control by the Department pursuant to § [46.2-322](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-322).

§ [46.2-626.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-626.1). Motorcycle purchased by manufacturer for parts; documentation required for sale of parts.

For the purposes of this section, ~~the terms~~ "certificate of origin," "line-make," ~~and~~ "manufacturer*,*" ~~shall~~ *and "new motorcycle"* have the meanings ascribed to them in § [46.2-1993](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1993).

A licensed motorcycle manufacturer shall not be required to obtain a certificate of title for a new motorcycle of a different line-make purchased by the manufacturer for the purpose of obtaining parts used in the production of another *new* motorcycle *or an autocycle*, provided such manufacturer obtains a salvage dealer license in accordance with § [46.2-1601](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1601). The manufacturer shall not be required to obtain a nonrepairable certificate for the purchased motorcycle, as required by § [46.2-1603.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1603.1), but shall stamp the words "Va. Code § [46.2-626.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-626.1): DISASSEMBLED FOR PARTS" in a minimum font size of 14 point across the face of the original manufacturer's certificate of origin. The certificate of origin shall be forwarded to the Department, which shall make a record of the disassembly of the motorcycle. The manufacturer shall retain a photocopy of the stamped certificate of origin for its records.

Any parts remaining from the purchased motorcycle and sold as parts by the manufacturer shall be accompanied by documentation of how such parts were obtained. Documentation accompanying the frame of the purchased motorcycle shall include a photocopy of the stamped manufacturer's certificate of origin and certification from the manufacturer that the original certificate of origin has been forwarded to the Department.

§ [46.2-662](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-662). Temporary exemption for new resident operating vehicle registered in another state or country.

A. A resident owner of any passenger car, pickup or panel truck, moped, *autocycle,* or motorcycle, other than those provided for in § [46.2-652](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-652), that has been duly registered for the current calendar year in another state or country and that at all times when operated in the Commonwealth displays the license plate or plates issued for the vehicle in the other state or country, may operate or permit the operation of the passenger car, pickup or panel truck, moped, *autocycle,* or motorcycle within or partly within the Commonwealth for the first 30 days of his residency in the Commonwealth without registering the passenger car, pickup or panel truck, moped, *autocycle,* or motorcycle or paying any fees to the Commonwealth.

B. In addition to any penalty authorized under this title, any locality may adopt an ordinance imposing a penalty of up to $250 upon the resident owner of any motor vehicle that, following the end of the 30-day period provided in subsection A, is required to be registered in Virginia but has not been so registered. The ordinance shall set forth a reasonable method for assessing and collecting the penalty, whether by civil, criminal, or administrative process, and shall identify the employees or agents of the locality who are to execute such assessment and collection.

§ [46.2-694](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-694). (Contingent expiration date) Fees for vehicles designed and used for transportation of passengers; weights used for computing fees; burden of proof.

A. The annual registration fees for motor vehicles, trailers, and semitrailers designed and used for the transportation of passengers on the highways in the Commonwealth are:

1. Thirty-three dollars for each private passenger car or motor home if the passenger car or motor home weighs 4,000 pounds or less, provided that it is not used for the transportation of passengers for compensation and is not kept or used for rent or for hire, or is not operated under a lease without a chauffeur.

2. Thirty-eight dollars for each passenger car or motor home which weighs more than 4,000 pounds, provided that it is not used for the transportation of passengers for compensation and is not kept or used for rent or for hire, or is not operated under a lease without a chauffeur.

3. Thirty cents per 100 pounds or major fraction thereof for a private motor vehicle other than a motorcycle with a normal seating capacity of more than 10 adults*,* including the driver*,* if the private motor vehicle is not used for the transportation of passengers for compensation and is not kept or used for rent or for hire or is not operated under a lease without a chauffeur. In no case shall the fee be less than $23 if the vehicle weighs 4,000 pounds or less or $28 if the vehicle weighs more than 4,000 pounds.

4. Thirty cents per 100 pounds or major fraction thereof for a school bus. In no case shall the fee be less than $23 if the vehicle weighs 4,000 pounds or less or $28 if the vehicle weighs more than 4,000 pounds.

5. Twenty-three dollars for each trailer or semitrailer designed for use as living quarters for human beings.

6. Thirteen dollars plus $0.30 per 100 pounds or major fraction thereof for each motor vehicle, trailer, or semitrailer used as a common carrier of passengers, operating either intrastate or interstate. Interstate common carriers of interstate passengers may elect to be licensed and pay the fees prescribed in subdivision 7 ~~of this subsection~~ on submission to the Commissioner of a declaration of operations and equipment as he may prescribe. An additional $5 shall be charged if the motor vehicle weighs more than 4,000 pounds.

7. Thirteen dollars plus $0.70 per 100 pounds or major fraction thereof for each motor vehicle, trailer, or semitrailer used as a common carrier of interstate passengers if election is made to be licensed under this subsection. An additional $5 shall be charged if the motor vehicle weighs more than 4,000 pounds. In lieu of the foregoing fee of $0.70 per 100 pounds, a motor carrier of passengers, operating two or more vehicles both within and outside the Commonwealth and registered for insurance purposes with the Surface Transportation Board of the ~~United States~~ *U.S.* Department of Transportation, Federal Highway Administration, may apply to the Commissioner for prorated registration. Upon the filing of such application, in such form as the Commissioner may prescribe, the Commissioner shall apportion the registration fees provided in this subsection so that the total registration fees to be paid for such vehicles of such carrier shall be that proportion of the total fees, if there were no apportionment, that the total number of miles traveled by such vehicles of such carrier within the Commonwealth bears to the total number of miles traveled by such vehicles within and outside the Commonwealth. Such total mileage in each instance is the estimated total mileage to be traveled by such vehicles during the license year for which such fees are paid, subject to the adjustment in accordance with an audit to be made by representatives of the Commissioner at the end of such license year, the expense of such audit to be borne by the carrier being audited. Each vehicle passing into or through Virginia shall be registered and licensed in Virginia and the annual registration fee to be paid for each such vehicle shall not be less than $33. For the purpose of determining such apportioned registration fees, only those motor vehicles, trailers, or semitrailers operated both within and outside the Commonwealth shall be subject to inclusion in determining the apportionment provided for herein.

8. Thirteen dollars plus $0.80 per 100 pounds or major fraction thereof for each motor vehicle, trailer or semitrailer kept or used for rent or for hire or operated under a lease without a chauffeur for the transportation of passengers. An additional fee of $5 shall be charged if the vehicle weighs more than 4,000 pounds. This subsection does not apply to vehicles used as common carriers.

9. Twenty-three dollars for a taxicab or other vehicle which is kept for rent or hire operated with a chauffeur for the transportation of passengers, and which operates or should operate under permits issued by the Department as required by law. An additional fee of $5 shall be charged if the vehicle weighs more than 4,000 pounds. This subsection does not apply to vehicles used as common carriers.

10. Eighteen dollars for a motorcycle, with or without a sidecar. To this fee shall be added a surcharge of $3 which shall be distributed as provided in § [46.2-1191](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1191).

10a. Fourteen dollars for a moped, to be paid into the state treasury and set aside as a special fund to be used to meet the expenses of the Department.

*10b. Eighteen dollars for an autocycle.*

11. Twenty-three dollars for a bus used exclusively for transportation to and from church school, for the purpose of religious instruction, or church, for the purpose of divine worship. If the empty weight of the vehicle exceeds 4,000 pounds, the fee shall be $28.

12. Thirteen dollars plus $0.70 per 100 pounds or major fraction thereof for other passenger-carrying vehicles.

13. An additional fee of $4.25 per year shall be charged and collected at the time of registration of each pickup or panel truck and each motor vehicle under subdivisions 1 through 12 ~~of this subsection~~. All funds collected from $4 of the $4.25 fee shall be paid into the state treasury and shall be set aside as a special fund to be used only for emergency medical service purposes. The moneys in the special emergency medical services fund shall be distributed as follows:

a. Two percent shall be distributed to the State Department of Health to provide funding to the Virginia Association of Volunteer Rescue Squads to be used solely for the purpose of conducting volunteer recruitment, retention*,* and training activities;

b. Thirty percent shall be distributed to the State Department of Health to support (i) emergency medical services training programs (excluding advanced life support classes); (ii) advanced life support training; (iii) recruitment and retention programs (all funds for such support shall be used to recruit and retain volunteer emergency medical services personnel only, including public awareness campaigns, technical assistance programs, and similar activities); (iv) emergency medical services system development, initiatives, and priorities based on needs identified by the State Emergency Medical Services Advisory Board; (v) local, regional, and statewide performance contracts for emergency medical services to meet the objectives stipulated in § [32.1-111.3](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+32.1-111.3); (vi) technology and radio communication enhancements; and (vii) improved emergency preparedness and response. Any funds set aside for distribution under this provision and remaining undistributed at the end of any fiscal year shall revert to the Rescue Squad Assistance Fund;

c. Thirty-two percent shall be distributed to the Rescue Squad Assistance Fund;

d. Ten percent shall be available to the State Department of Health's Office of Emergency Medical Services for use in emergency medical services; and

e. Twenty-six percent shall be returned by the Comptroller to the locality wherein such vehicle is registered, to provide funding for training of volunteer or salaried emergency medical service personnel of licensed, nonprofit emergency medical services agencies and for the purchase of necessary equipment and supplies for use in such locality for licensed, nonprofit emergency medical and rescue services.

All revenues generated by the remaining $0.25 of the $4.25 fee approved by the 2008 Session of the General Assembly shall be deposited into the Rescue Squad Assistance Fund and used only to pay for the costs associated with the certification and recertification training of emergency medical services personnel.

The Comptroller shall clearly designate on the warrant, check, or other means of transmitting these funds that such moneys are only to be used for purposes set forth in this subdivision. Such funds shall be in addition to any local appropriations and local governing bodies shall not use these funds to supplant local funds. Each local governing body shall report annually to the Board of Health on the use of the funds returned to it pursuant to this section. In any case in which the local governing body grants the funds to a regional emergency medical services council to be distributed to the licensed, nonprofit emergency medical and rescue services, the local governing body shall remain responsible for the proper use of the funds. If, at the end of any fiscal year, a report on the use of the funds returned to the locality pursuant to this section for that year has not been received from a local governing body, any funds due to that local governing body for the next fiscal year shall be retained until such time as the report has been submitted to the Board.

B. All motor vehicles, trailers, and semitrailers registered as provided in subsection B of § [46.2-646](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-646) shall pay a registration fee equal to one-twelfth of all fees required by subsection A of this section or § [46.2-697](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-697) for such motor vehicle, trailer, or semitrailer, computed to the nearest cent, multiplied by the number of months in the registration period for such motor vehicles, trailers, and semitrailers.

C. The manufacturer's shipping weight or scale weight shall be used for computing all fees required by this section to be based upon the weight of the vehicle.

D. The applicant for registration bears the burden of proof that the vehicle for which registration is sought is entitled by weight, design, and use to be registered at the fee tendered by the applicant to the Commissioner or to his authorized agent.

§ [46.2-694](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-694). (Contingent effective date) Fees for vehicles designed and used for transportation of passengers; weights used for computing fees; burden of proof.

A. The annual registration fees for motor vehicles, trailers, and semitrailers designed and used for the transportation of passengers on the highways in the Commonwealth are:

1. Twenty-three dollars for each private passenger car or motor home if the passenger car or motor home weighs 4,000 pounds or less, provided that it is not used for the transportation of passengers for compensation and is not kept or used for rent or for hire, or is not operated under a lease without a chauffeur.

2. Twenty-eight dollars for each passenger car or motor home which weighs more than 4,000 pounds, provided that it is not used for the transportation of passengers for compensation and is not kept or used for rent or for hire, or is not operated under a lease without a chauffeur.

3. Thirty cents per 100 pounds or major fraction thereof for a private motor vehicle other than a motorcycle with a normal seating capacity of more than 10 adults*,* including the driver*,* if the private motor vehicle is not used for the transportation of passengers for compensation and is not kept or used for rent or for hire or is not operated under a lease without a chauffeur. In no case shall the fee be less than $23 if the vehicle weighs 4,000 pounds or less or $28 if the vehicle weighs more than 4,000 pounds.

4. Thirty cents per 100 pounds or major fraction thereof for a school bus. In no case shall the fee be less than $23 if the vehicle weighs 4,000 pounds or less or $28 if the vehicle weighs more than 4,000 pounds.

5. Twenty-three dollars for each trailer or semitrailer designed for use as living quarters for human beings.

6. Thirteen dollars plus $0.30 per 100 pounds or major fraction thereof for each motor vehicle, trailer, or semitrailer used as a common carrier of passengers, operating either intrastate or interstate. Interstate common carriers of interstate passengers may elect to be licensed and pay the fees prescribed in subdivision 7 ~~of this subsection~~ on submission to the Commissioner of a declaration of operations and equipment as he may prescribe. An additional $5 shall be charged if the motor vehicle weighs more than 4,000 pounds.

7. Thirteen dollars plus $0.70 per 100 pounds or major fraction thereof for each motor vehicle, trailer, or semitrailer used as a common carrier of interstate passengers if election is made to be licensed under this subsection. An additional $5 shall be charged if the motor vehicle weighs more than 4,000 pounds. In lieu of the foregoing fee of $0.70 per 100 pounds, a motor carrier of passengers, operating two or more vehicles both within and outside the Commonwealth and registered for insurance purposes with the Surface Transportation Board of the ~~United States~~ *U.S.* Department of Transportation, Federal Highway Administration, may apply to the Commissioner for prorated registration. Upon the filing of such application, in such form as the Commissioner may prescribe, the Commissioner shall apportion the registration fees provided in this subsection so that the total registration fees to be paid for such vehicles of such carrier shall be that proportion of the total fees, if there were no apportionment, that the total number of miles traveled by such vehicles of such carrier within the Commonwealth bears to the total number of miles traveled by such vehicles within and outside the Commonwealth. Such total mileage in each instance is the estimated total mileage to be traveled by such vehicles during the license year for which such fees are paid, subject to the adjustment in accordance with an audit to be made by representatives of the Commissioner at the end of such license year, the expense of such audit to be borne by the carrier being audited. Each vehicle passing into or through Virginia shall be registered and licensed in Virginia and the annual registration fee to be paid for each such vehicle shall not be less than $33. For the purpose of determining such apportioned registration fees, only those motor vehicles, trailers, or semitrailers operated both within and outside the Commonwealth shall be subject to inclusion in determining the apportionment provided for herein.

8. Thirteen dollars plus $0.80 per 100 pounds or major fraction thereof for each motor vehicle, trailer or semitrailer kept or used for rent or for hire or operated under a lease without a chauffeur for the transportation of passengers. An additional fee of $5 shall be charged if the vehicle weighs more than 4,000 pounds. This subsection does not apply to vehicles used as common carriers.

9. Twenty-three dollars for a taxicab or other vehicle which is kept for rent or hire operated with a chauffeur for the transportation of passengers, and which operates or should operate under permits issued by the Department as required by law. An additional fee of $5 shall be charged if the vehicle weighs more than 4,000 pounds. This subsection does not apply to vehicles used as common carriers.

10. Eighteen dollars for a motorcycle, with or without a sidecar. To this fee shall be added a surcharge of $3 which shall be distributed as provided in § [46.2-1191](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1191).

10a. Fourteen dollars for a moped, to be paid into the state treasury and set aside as a special fund to be used to meet the expenses of the Department.

*10b. Eighteen dollars for an autocycle.*

11. Twenty-three dollars for a bus used exclusively for transportation to and from church school, for the purpose of religious instruction, or church, for the purpose of divine worship. If the empty weight of the vehicle exceeds 4,000 pounds, the fee shall be $28.

12. Thirteen dollars plus $0.70 per 100 pounds or major fraction thereof for other passenger-carrying vehicles.

13. An additional fee of $4.25 per year shall be charged and collected at the time of registration of each pickup or panel truck and each motor vehicle under subdivisions 1 through 12 ~~of this subsection~~. All funds collected from $4 of the $4.25 fee shall be paid into the state treasury and shall be set aside as a special fund to be used only for emergency medical service purposes. The moneys in the special emergency medical services fund shall be distributed as follows:

a. Two percent shall be distributed to the State Department of Health to provide funding to the Virginia Association of Volunteer Rescue Squads to be used solely for the purpose of conducting volunteer recruitment, retention and training activities;

b. Thirty percent shall be distributed to the State Department of Health to support (i) emergency medical services training programs (excluding advanced life support classes); (ii) advanced life support training; (iii) recruitment and retention programs (all funds for such support shall be used to recruit and retain volunteer emergency medical services personnel only, including public awareness campaigns, technical assistance programs, and similar activities); (iv) emergency medical services system development, initiatives, and priorities based on needs identified by the State Emergency Medical Services Advisory Board; (v) local, regional, and statewide performance contracts for emergency medical services to meet the objectives stipulated in § [32.1-111.3](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+32.1-111.3); (vi) technology and radio communication enhancements; and (vii) improved emergency preparedness and response. Any funds set aside for distribution under this provision and remaining undistributed at the end of any fiscal year shall revert to the Rescue Squad Assistance Fund;

c. Thirty-two percent shall be distributed to the Rescue Squad Assistance Fund;

d. Ten percent shall be available to the State Department of Health's Office of Emergency Medical Services for use in emergency medical services; and

e. Twenty-six percent shall be returned by the Comptroller to the locality wherein such vehicle is registered, to provide funding for training of volunteer or salaried emergency medical service personnel of licensed, nonprofit emergency medical services agencies and for the purchase of necessary equipment and supplies for use in such locality for licensed, nonprofit emergency medical and rescue services.

All revenues generated by the remaining $0.25 of the $4.25 fee approved by the 2008 Session of the General Assembly shall be deposited into the Rescue Squad Assistance Fund and used only to pay for the costs associated with the certification and recertification training of emergency medical services personnel.

The Comptroller shall clearly designate on the warrant, check, or other means of transmitting these funds that such moneys are only to be used for purposes set forth in this subdivision. Such funds shall be in addition to any local appropriations and local governing bodies shall not use these funds to supplant local funds. Each local governing body shall report annually to the Board of Health on the use of the funds returned to it pursuant to this section. In any case in which the local governing body grants the funds to a regional emergency medical services council to be distributed to the licensed, nonprofit emergency medical and rescue services, the local governing body shall remain responsible for the proper use of the funds. If, at the end of any fiscal year, a report on the use of the funds returned to the locality pursuant to this section for that year has not been received from a local governing body, any funds due to that local governing body for the next fiscal year shall be retained until such time as the report has been submitted to the Board.

B. All motor vehicles, trailers, and semitrailers registered as provided in subsection B of § [46.2-646](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-646) shall pay a registration fee equal to one-twelfth of all fees required by subsection A of this section or § [46.2-697](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-697) for such motor vehicle, trailer, or semitrailer, computed to the nearest cent, multiplied by the number of months in the registration period for such motor vehicles, trailers, and semitrailers.

C. The manufacturer's shipping weight or scale weight shall be used for computing all fees required by this section to be based upon the weight of the vehicle.

D. The applicant for registration bears the burden of proof that the vehicle for which registration is sought is entitled by weight, design, and use to be registered at the fee tendered by the applicant to the Commissioner or to his authorized agent.

§ [46.2-711](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-711). Furnishing number and design of plates; displaying on vehicles required.

A. The Department shall furnish one license plate for every registered moped, motorcycle, *autocycle,* tractor truck, semitrailer, or trailer, and two license plates for every other registered motor vehicle, except to licensed motor vehicle dealers and persons delivering unladen vehicles who shall be furnished one license plate. The license plates for trailers, semitrailers, commercial vehicles, and trucks, other than license plates for dealers, may be of such design as to prevent removal without mutilating some part of the indicia forming a part of the license plate, when secured to the bracket.

B. The Department shall issue appropriately designated license plates for:

1. Passenger-carrying vehicles for rent or hire for the transportation of passengers for private trips;

2. Taxicabs;

3. Passenger-carrying vehicles operated by common carriers or restricted common carriers;

4. Property-carrying motor vehicles to applicants who operate as private carriers only;

5. Applicants who operate motor vehicles as carriers for rent or hire;

6. Vehicles operated by nonemergency medical transportation carriers as defined in § [46.2-2000](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-2000); and

7. Trailers and semitrailers.

C. The Department shall issue appropriately designated license plates for motor vehicles held for rental as defined in § [58.1-1735](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+58.1-1735).

D. The Department shall issue appropriately designated license plates for low-speed vehicles.

E. No vehicles shall be operated on the highways in the Commonwealth without displaying the license plates required by this chapter. The provisions of this subsection shall not apply to vehicles used to collect and deliver the Unites States mail to the extent that their rear license plates may be covered by the "CAUTION, FREQUENT STOPS, U.S. MAIL" sign when the vehicle is engaged in the collection and delivery of the United States mail.

F. Pickup or panel trucks are exempt from the provisions of subsection B with reference to displaying for-hire license plates when operated as a carrier for rent or hire. However, this exemption shall not apply to pickup or panel trucks subject to regulation under Chapter 21 (§ [46.2-2100](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-2100) et seq.) ~~of this title~~.

§ [46.2-715](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-715). Display of license plates.

License plates assigned to a motor vehicle, other than a moped, motorcycle, *autocycle,* tractor truck, trailer, or semitrailer, or to persons licensed as motor vehicle dealers or transporters of unladen vehicles, shall be attached to the front and the rear of the vehicle. The license plate assigned to a moped, motorcycle, *autocycle,* trailer, or semitrailer shall be attached to the rear of the vehicle. The license plate assigned to a tractor truck shall be attached to the front of the vehicle. The license plates issued to licensed motor vehicle dealers and to persons licensed as transporters of unladen vehicles shall consist of one plate for each set issued and shall be attached to the rear of the vehicle to which it is assigned.

§ [46.2-730](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-730). License plates for antique motor vehicles and antique trailers; fee.

A. On receipt of an application and evidence that the applicant owns or has regular use of another passenger car*, autocycle,* or motorcycle, the Commissioner shall issue appropriately designed license plates to owners of antique motor vehicles and antique trailers. These license plates shall be valid so long as title to the vehicle is vested in the applicant. The fee for the registration card and license plates of any of these vehicles shall be a one-time fee of $50.

B. On receipt of an application and evidence that the applicant owns or has regular use of another passenger car*, autocycle,* or motorcycle, the Commissioner may authorize for use on antique motor vehicles and antique trailers Virginia license plates manufactured prior to 1976 and designed for use without decals, if such license plates are embossed with or are of the same year of issue as the model year of the antique motor vehicle or antique trailer on which they are to be displayed. Original metal year tabs issued in place of license plates for years 1943 and 1952 and used with license plates issued in 1942 and 1951, respectively, also may be authorized by the Commissioner for use on antique motor vehicles and antique trailers that are of the same model year as the year the metal tab was originally issued. These license plates and metal tabs shall remain valid so long as title to the vehicle is vested in the applicant. The fee for the registration card and permission to use the license plates and metal tabs on any of these vehicles shall be a one-time fee of $50. If more than one request is made for use, as provided in this section, of license plates having the same number, the Department shall accept only the first such application.

C. Notwithstanding the provisions of §§ [46.2-711](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-711) and [46.2-715](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-715), antique motor vehicles may display single license plates if the original manufacturer's design of the antique motor vehicles allows for the use of only single license plates or if the license plate was originally issued in one of the following years and is displayed in accordance with the provisions of subsection B ~~of this section~~: 1906, 1907, 1908, 1909, 1945, or 1946.

D. Antique motor vehicles and antique trailers registered with license plates issued or authorized for use under this section shall not be used for general transportation purposes, including, but not limited to, daily travel to and from the owner's place of employment, but shall only be used:

1. For participation in club activities, exhibits, tours, parades, and similar events;

2. On the highways of the Commonwealth for the purpose of testing their operation or selling the vehicle or trailer, obtaining repairs or maintenance, transportation to and from events as described in subdivision 1 ~~of this subsection~~, and for occasional pleasure driving not exceeding 250 miles from the residence of the owner; and

3. To carry or transport (i) passengers in the antique motor vehicles, (ii) personal effects in the antique motor vehicles and antique trailers, or (iii) other antique motor vehicles being transported for show purposes.

The registration card issued to an antique motor vehicle or an antique trailer registered pursuant to subsections A, B, and C shall indicate such vehicle or trailer is for limited use.

E. Owners of motor vehicles and trailers applying for registration pursuant to subsections A, B and C shall submit to the Department, in the manner prescribed by the Department, certifications that such vehicles or trailers are capable of being safely operated on the highways of the Commonwealth.

Pursuant to § [46.2-1000](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1000), the Department shall suspend the registration of any vehicle or trailer registered with license plates issued under this section that the Department or the Department of State Police determines is not properly equipped or otherwise unsafe to operate. Any law-enforcement officer shall take possession of the license plates, registration card and decals, if any, of any vehicle or trailer registered with license plates issued under this section when he observes any defect in such vehicle or trailer as set forth in § [46.2-1000](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1000).

F. Antique motor vehicles and antique trailers displaying license plates issued or authorized for use pursuant to subsections B and C ~~of this section~~ may be used for general transportation purposes if the following conditions are met:

1. The physical condition of the vehicle's license plate or plates has been inspected and approved by the Department;

2. The license plate or plates are registered to the specific vehicle by the Department;

3. The owner of the vehicle periodically registers the vehicle with the Department and pays a registration fee for the vehicle equal to that which would be charged to obtain regular state license plates for that vehicle;

4. The vehicle passes a periodic safety inspection as provided in Article 21 (§ [46.2-1157](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1157) et seq.) of Chapter 10 ~~of this title~~;

5. The vehicle displays current decals attached to the license plate, issued by the Department, indicating the valid registration period for the vehicle; and

6. When applicable, the vehicle meets the requirement of Article 22 (§ [46.2-1176](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1176) et seq.) of Chapter 10 ~~of this title~~.

If more than one request is made for use, as provided in this subsection, of license plates having the same number, the Department shall accept only the first such application. Only vehicles titled to the person seeking to use license plates as provided in this subsection shall be eligible to use license plates as provided in this subsection.

G. Nothing in this section shall be construed as prohibiting the use of an antique motor vehicle to tow a trailer or semitrailer.

H. Any owner of an antique motor vehicle or antique trailer registered with license plates pursuant to this section who is convicted of a violation of this section ~~shall be~~ *is* guilty of a Class 4 misdemeanor. Upon receiving a record of conviction of a violation of this section, the Department shall revoke and not reinstate the owner's privilege to register the vehicle operated in violation of this section with license plates issued or authorized for use pursuant to this section for a period of five years from the date of conviction.

I. Except for the one-time $50 registration fee prescribed in subsections A and B, the provisions of this section shall apply to all owners of vehicles and trailers registered with license plates issued under this section prior to July 1, 2007. Such owners shall, based on a schedule and a manner prescribed by the Department, (i) provide evidence that they own or have regular use of another passenger car or motorcycle, as required under subsections A and B, and (ii) comply with the certification provisions of subsection E. The Department shall cancel the registrations of vehicles owned by persons that, prior to January 1, 2008, do not provide the Department (i) evidence of owning or having regular use of another *autocycle,* passenger car*,* or motorcycle as required under subsections A and B, and (ii) the certification required pursuant to subsection E.

§ [46.2-910](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-910). Motorcycle and autocycle operators to wear helmets, etc.; certain sales prohibited; penalty.

A. Every person operating a motorcycle *or autocycle* shall wear a face shield, safety glasses or goggles, or have his motorcycle *or autocycle* equipped with safety glass or a windshield at all times while operating the vehicle, and operators and any passengers thereon shall wear protective helmets. Operators and passengers riding on motorcycles with wheels of eight inches or less in diameter or in three-wheeled motorcycles ~~which~~ *or autocycles that* have nonremovable roofs, windshields*,* and enclosed bodies shall not be required to wear protective helmets. The windshields, face shields, glasses or goggles, and protective helmets required by this section shall meet or exceed the standards and specifications of the Snell Memorial Foundation, the American National Standards Institute, Inc., or the federal Department of Transportation. Failure to wear a face shield, safety glasses or goggles, or protective helmets shall not constitute negligence per se in any civil proceeding. The provisions of this section requiring the wearing of protective helmets shall not apply to operators of or passengers on motorcycles *or autocycles* being operated (i) as part of an organized parade authorized by the Department of Transportation or the locality in which the parade is being conducted and escorted, accompanied, or participated in by law-enforcement officers of the jurisdiction wherein the parade is held and (ii) at speeds of no more than ~~fifteen~~ *15* miles per hour.

No motorcycle *or autocycle* operator shall use any face shield, safety glasses*,* or goggles, or have his motorcycle *or autocycle* equipped with safety glass or a windshield*,* unless of a type either (i) approved by the Superintendent prior to July 1, 1996, or (ii) that meets or exceeds the standards and specifications of the Snell Memorial Foundation, the American National Standards Institute, Inc., or the federal Department of Transportation and is marked in accordance with such standards.

B. It shall be unlawful to sell or offer for sale, for highway use in Virginia, any protective helmet that fails to meet or exceed any standard as provided in the foregoing provisions of this section. Any violation of this subsection ~~shall constitute~~ *is* a Class 4 misdemeanor.

§ [46.2-1011](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1011). Headlights on motor vehicles.

Every motor vehicle other than a motorcycle, *autocycle,* road roller, road machinery, or tractor used on a highway shall be equipped with at least two headlights as approved by the Superintendent, at the front of and on opposite sides of the motor vehicle.

§ [46.2-1012](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1012). Headlights, auxiliary headlights, tail lights, brake lights, and illumination of license plates on motorcycles or autocycles.

Every motorcycle *or autocycle* shall be equipped with at least one headlight which shall be of a type that has been approved by the Superintendent and shall be capable of projecting sufficient light to the front of such motorcycle *or autocycle* to render discernible a person or object at a distance of 200 feet. However, the lights shall not project a glaring or dazzling light to persons approaching such motorcycles *or autocycles*. In addition, each motorcycle *or autocycle* may be equipped with not more than two auxiliary headlights of a type approved by the Superintendent.

Motorcycles *or autocycles* may be equipped with means of modulating the high beam of their headlights between high and low beam at a rate of 200 to 280 flashes per minute. Such headlights shall not be so modulated during periods when headlights would ordinarily be required to be lighted under § [46.2-1030](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1030).

Every motorcycle *or autocycle* registered in the Commonwealth and operated on the highways of the Commonwealth shall be equipped with at least one brake light of a type approved by the Superintendent. Motorcycles *or autocycles* may be equipped with one or more auxiliary brake lights of a type approved by the Superintendent. The Superintendent may by regulation prescribe or limit the size, number, location, and configuration of such auxiliary brake lights.

Every motorcycle *or autocycle* shall carry at the rear at least one or more red lights plainly visible in clear weather from a distance of 500 feet to the rear of such vehicle. Such tail lights shall be constructed and so mounted in their relation to the rear license plate as to illuminate the license plate with a white light so that the same may be read from a distance of 50 feet to the rear of such vehicle. Alternatively, a separate white light shall be so mounted as to illuminate the rear license plate from a distance of 50 feet to the rear of such vehicle. Any such tail lights or special white light shall be of a type approved by the Superintendent.

Motorcycles *or autocycles* may be equipped with a means of varying the brightness of the vehicle's brake light for a duration of not more than five seconds upon application of the vehicle's brakes.

§ [46.2-1014](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1014). Brake lights.

Every motor vehicle, trailer, or semitrailer, except an antique vehicle not originally equipped with a brake light, registered in the Commonwealth and operated on the highways in the Commonwealth shall be equipped with at least two brake lights of a type approved by the Superintendent. Such brake lights shall automatically exhibit a red or amber light plainly visible in clear weather from a distance of 500 feet to the rear of such vehicle when the brake is applied.

The provisions of this section shall not apply to motorcycles *or autocycles* equipped with brake lights as required by § [46.2-1012](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1012).

§ [46.2-1057](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1057). Windshields.

It shall be unlawful for any person to drive on a highway in the Commonwealth any motor vehicle or reconstructed motor vehicle, other than a motorcycle *or autocycle*, registered in the Commonwealth~~, which~~ *that* was manufactured, assembled*,* or reconstructed after July 1, 1970, unless the motor vehicle is equipped with a windshield.

§ [46.2-1067](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1067). Within what distances brakes should stop vehicle.

On a dry, hard, approximately level stretch of highway free from loose material, the service braking system shall be capable of stopping a motor vehicle or combination of vehicles at all times and under all conditions of loading at a speed of ~~twenty~~ *20* miles per hour within the following distances:

1. Passenger motor vehicles, except buses and antique vehicles, ~~twenty-five~~ *25* feet.

2. Buses, trucks, and tractor trucks, ~~forty~~ *40* feet.

3. Motor vehicles registered or qualified to be registered as antique vehicles, when equipped with two-wheel brakes, ~~forty-five~~ *45* feet; four-wheel brakes, ~~twenty-five~~ *25* feet.

4. All combinations of vehicles, ~~forty~~ *40* feet.

5. Motorcycles *or autocycles*, ~~thirty~~ *30* feet.

§ [46.2-1068](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1068). Emergency or parking brakes.

Every motor vehicle and combination of vehicles, except motorcycles *or autocycles*, shall be equipped with emergency or parking brakes adequate to hold the vehicle or vehicles on any grade on which it is operated, under all conditions of loading on a surface free from snow, ice, or loose material.

§ [46.2-1092](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1092). Safety lap belts or a combination of lap belts and shoulder harnesses to be installed in certain motor vehicles.

No passenger car *or autocycle* registered in the Commonwealth and manufactured for the year 1963 or for subsequent years shall be operated on the highways in the Commonwealth unless the front seats thereof are equipped with adult safety lap belts or a combination of lap belts and shoulder harnesses of types approved by the Superintendent.

Failure to use the safety lap belts or a combination of lap belts and shoulder harnesses after installation shall not be deemed to be negligence. Nor shall evidence of such nonuse of such devices be considered in mitigation of damages of whatever nature.

No motor vehicle registered in the Commonwealth and manufactured after January 1, 1968, shall be issued a safety inspection approval sticker if any lap belt, combination of lap belt and shoulder harness, or passive belt systems required to be installed at the time of manufacture by the federal Department of Transportation have been either removed from the motor vehicle or rendered inoperable.

*No autocycle registered in the Commonwealth shall be issued a safety inspection sticker if any lap belt, combination of lap belt and shoulder harness, or passive belt systems required to be installed under this section have been either removed from the autocycle or rendered inoperable.*

No passenger car, except convertibles, registered in the Commonwealth and manufactured on or after September 1, 1990, shall be operated on the highways in the Commonwealth unless the forward-facing rear outboard seats thereof are equipped with rear seat lap/shoulder belts of types required to be installed at the time of manufacture by the federal Department of Transportation.

No passenger car, including convertibles, registered in the Commonwealth and manufactured on or after September 1, 1991, shall be operated on the highways in the Commonwealth unless the forward-facing rear outboard seats thereof are equipped with rear seat lap/shoulder belts of types required to be installed at the time of manufacture by the federal Department of Transportation.

No truck, multi-purpose vehicle, or bus, except school buses and motor homes, with a gross vehicle weight rating of 10,000 pounds or less, registered in the Commonwealth and manufactured on or after September 1, 1991, shall be operated on the highways in the Commonwealth unless the forward-facing rear outboard seats thereof are equipped with rear seat lap/shoulder belts of types required to be installed at the time of manufacture by the federal Department of Transportation.

Passenger cars, trucks, multipurpose vehicles, and buses, except school buses and motor homes, registered in the Commonwealth and manufactured on or after September 1, 1992, shall not be operated on the highways of the Commonwealth unless equipped with rear seat lap/shoulder belts of types required to be installed at the time of manufacture by the federal Department of Transportation for each forward-facing rear outboard seating position on a readily removable seat.

For the purposes of this section, forward-facing rear outboard seats are defined as those designated seating positions for passengers in outside front facing seats behind the driver and front passenger seats, except any designated seating position adjacent to a walkway that is located between the seat and the near side of the vehicle and is designed to allow access to a more rearward seating position.

The Superintendent of State Police shall include in the Official Motor Vehicle Inspection Regulations a section which identifies each classification of motor vehicle required to be equipped with any of the devices described in the foregoing provisions of this section.

Such regulations shall also include a listing of the exact devices which are required to be installed in each motor vehicle classification and the model year of each motor vehicle classification on which the standards of the federal Department of Transportation first became applicable.

§ [46.2-1157](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1157). Inspection of motor vehicles required.

A. The owner or operator of any motor vehicle, trailer, or semitrailer registered in Virginia and operated or parked on a highway within the Commonwealth shall submit his vehicle to an inspection of its mechanism and equipment by an official inspection station, designated for that purpose, in accordance with § [46.2-1158](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1158). No owner or operator shall fail to submit a motor vehicle, trailer, or semitrailer operated or parked on the highways in the Commonwealth to such inspection or fail or refuse to correct or have corrected in accordance with the requirements of this title any mechanical defects found by such inspection to exist.

B. The provisions of this section requiring safety inspections of motor vehicles shall also apply to vehicles used for ~~fire fighting~~ *firefighting*; inspections of ~~fire-fighting~~ *firefighting* vehicles shall be conducted pursuant to regulations promulgated by the Superintendent of State Police, taking into consideration the special purpose of such vehicles and the conditions under which they operate.

C. Each day during which such motor vehicle, trailer, or semitrailer is operated or parked on any highway in the Commonwealth after failure to comply with this law shall constitute a separate offense.

*D. Except as otherwise provided, autocycles shall be inspected as motorcycles under this article.*

§ [46.2-1167](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1167). Charges for inspection and reinspection; exemption.

A. Each official safety inspection station may charge no more than:

1. Fifty-one dollars for each inspection of any (i) tractor truck, (ii) truck that has a gross vehicle weight rating of 26,000 pounds or more, or (iii) motor vehicle that is used to transport passengers and has a seating capacity of more than 15 passengers, including the driver, $0.50 of which shall be transmitted to the Department of State Police to support the Department's costs in administering the motor vehicle safety inspection program;

2. Twelve dollars for each inspection of any motorcycle, $10 of which shall be retained by the inspection station and $2 of which shall be transmitted to the Department of State Police who shall retain $0.50 to support the Department's costs in administering the motor vehicle safety inspection program and deposit the remaining $1.50 into the Motorcycle Rider Safety Training Program Fund created pursuant to § [46.2-1191](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1191); ~~and~~

3. *Twelve dollars for each inspection of any autocycle, $10 of which shall be retained by the inspection station and $2 of which shall be transmitted to the Department of State Police to be used to support the Department's costs in administering the motor vehicle safety inspection program; and*

*4.* Sixteen dollars for each inspection of any other vehicle, $0.50 of which shall be transmitted to the Department of State Police to support the Department's costs in administering the motor vehicle safety inspection program.

No such charge shall be mandatory, however, and no such charge shall be made unless the station has previously contracted therefor.

B. Each official safety inspection station may charge $1 for each reinspection of a vehicle rejected by the station, as provided in § [46.2-1158](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1158), if the vehicle is submitted for reinspection within the validity period of the rejection sticker. If a rejected vehicle is not submitted to the same station within the validity period of the rejection sticker or is submitted to another official safety inspection station, an amount no greater than that permitted under subsection A may be charged for the inspection.

§ [46.2-1500](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1500). Definitions.

~~Unless the context otherwise requires, the following words and terms for the purpose of~~ *As used in* this chapter ~~shall have the following meanings~~*, unless the context requires a different meaning*:

"Board" means the Motor Vehicle Dealer Board.

"Certificate of origin" means the document provided by the manufacturer of a new motor vehicle, or its distributor, which is the only valid indication of ownership between the manufacturer, its distributor, its franchised motor vehicle dealers, and the original purchaser not for resale.

"Dealer-operator" means the individual who works at the established place of business of a dealer and who is responsible for and in charge of day-to-day operations of that place of business.

"Demonstrator" means a new motor vehicle having a gross vehicle weight rating of less than 16,000 pounds that (i) has more than 750 miles accumulated on its odometer that has been driven by dealer personnel or by prospective purchasers during the course of selling, displaying, demonstrating, showing, or exhibiting it and (ii) may be sold as a new motor vehicle, provided the dealer complies with the provisions of subsection D of § [46.2-1530](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1530).

"Distributor" means a person who is licensed by the Department of Motor Vehicles under Chapter 19 (§ [46.2-1900](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1900) et seq.) ~~of this title~~ and who sells or distributes new motor vehicles pursuant to a written agreement with the manufacturer, to franchised motor vehicle dealers in the Commonwealth.

"Distributor branch" means a branch office licensed by the Department of Motor Vehicles under Chapter 19 (§ [46.2-1900](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1900) et seq.) ~~of this title~~ and maintained by a distributor for the sale of motor vehicles to motor vehicle dealers or for directing or supervising, in whole or in part, its representatives in the Commonwealth.

"Distributor representative" means a person who is licensed by the Department of Motor Vehicles under Chapter 19 (§ [46.2-1900](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1900) et seq.) ~~of this title~~ and employed by a distributor or by a distributor branch, for the purpose of making or promoting the sale of motor vehicles or for supervising or contacting its dealers, prospective dealers, or representatives in the Commonwealth.

"Factory branch" means a branch office maintained by a person for the sale of motor vehicles to distributors or for the sale of motor vehicles to motor vehicle dealers, or for directing or supervising, in whole or in part, its representatives in the Commonwealth.

"Factory representative" means a person who is licensed by the Department of Motor Vehicles under Chapter 19 (§ [46.2-1900](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1900) et seq.) ~~of this title~~ and employed by a person who manufactures or assembles motor vehicles or by a factory branch for the purpose of making or promoting the sale of its motor vehicles or for supervising or contacting its dealers, prospective dealers, or representatives in the Commonwealth.

"Factory repurchase motor vehicle" means a motor vehicle sold, leased, rented, consigned, or otherwise transferred to a person under an agreement that the motor vehicle will be resold or otherwise retransferred only to the manufacturer or distributor of the motor vehicle, and which is reacquired by the manufacturer or distributor, or its agents.

"Family member" means a person who either (i) is the spouse, child, grandchild, spouse of a child, spouse of a grandchild, brother, sister, or parent of the dealer or owner or (ii) has been employed continuously by the dealer for at least five years.

"Franchise" means a written contract or agreement between two or more persons whereby one person, the franchisee, is granted the right to engage in the business of offering and selling, servicing, or offering, selling, and servicing new motor vehicles of a particular line-make or late model or used motor vehicles of a particular line-make manufactured or distributed by the grantor of the right, the franchisor, and where the operation of the franchisee's business is substantially associated with the franchisor's trademark, trade name, advertising, or other commercial symbol designating the franchisor, the motor vehicle or its manufacturer or distributor. ~~The term shall include~~ *"Franchise" includes* any severable part or parts of a franchise agreement which separately provides for selling and servicing different line-makes of the franchisor.

"Franchised late model or franchised used motor vehicle dealer" means a dealer selling used motor vehicles, including vehicles purchased from the franchisor, under the trademark of a manufacturer or distributor that has a franchise agreement with a manufacturer or distributor.

"Franchised motor vehicle dealer" means a dealer in new motor vehicles that has a franchise agreement with a manufacturer or distributor of new motor vehicles, trailers, or semitrailers to sell new motor vehicles or to sell used motor vehicles under the trademark of a manufacturer or distributor regardless of the age of the motor vehicles, trailers, or semitrailers.

"Fund" means the Motor Vehicle Dealer Board Fund.

"Independent motor vehicle dealer" means a dealer in used motor vehicles.

"Late model motor vehicle" means a motor vehicle of the current model year and the immediately preceding model year.

"Line-make" means the name of the motor vehicle manufacturer or distributor and a brand or name plate marketed by the manufacturer or distributor.

"Manufacturer" means a person who is licensed by the Department of Motor Vehicles under Chapter 19 (§ [46.2-1900](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1900) et seq.) ~~of this title~~ and engaged in the business of constructing or assembling new motor vehicles and, in the case of trucks, also means a person engaged in the business of manufacturing engines, power trains, or rear axles, when such engines, power trains, or rear axles are not warranted by the final manufacturer or assembler of the truck.

"Motor vehicle" means the same as provided in § [46.2-100](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-100), except, for the purposes of this chapter, ~~it shall~~ *"motor vehicle" does* not include (i) trailers and semitrailers; (ii) manufactured homes, sales of which are regulated under Chapter 4.2 (§ [36-85.16](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+36-85.16) et seq.) of Title 36; (iii) motor homes; (iv) motorcycles; (v) *autocycles; (vi)* nonrepairable vehicles, as defined in § [46.2-1600](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1600); ~~(vi)~~ *(vii)* salvage vehicles, as defined in § [46.2-1600](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1600); or ~~(vii)~~ *(viii)* mobile cranes that exceed the size or weight limitations as set forth in § [46.2-1105](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1105), [46.2-1110](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1110), *or* [46.2-1113](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1113)~~,~~ or Article 17 (§ [46.2-1122](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1122) et seq.) of Chapter 10 ~~of this title~~.

"Motor vehicle dealer" or "dealer" means any person who:

1. For commission, money, or other thing of value, buys, sells, exchanges, either outright or on conditional sale, bailment lease, chattel mortgage, or otherwise or arranges or offers or attempts to solicit or negotiate on behalf of others a sale, purchase, or exchange of an interest in new motor vehicles, new and used motor vehicles, or used motor vehicles alone, whether or not the motor vehicles are owned by him; or

2. Is wholly or partly engaged in the business of selling new motor vehicles, new and used motor vehicles, or used motor vehicles only, whether or not the motor vehicles are owned by him; or

3. Offers to sell, sells, displays, or permits the display for sale, of five or more motor vehicles within any 12 consecutive months.

~~The term "motor~~ *"Motor* vehicle dealer" *or "dealer"* does not include:

1. Receivers, trustees, administrators, executors, guardians, conservators or other persons appointed by or acting under judgment or order of any court or their employees when engaged in the specific performance of their duties as employees.

2. Public officers, their deputies, assistants, or employees, while performing their official duties.

3. Persons other than business entities primarily engaged in the leasing or renting of motor vehicles to others when selling or offering such vehicles for sale at retail, disposing of motor vehicles acquired for their own use and actually so used, when the vehicles have been so acquired and used in good faith and not for the purpose of avoiding the provisions of this chapter.

4. Persons dealing solely in the sale and distribution of funeral vehicles, including motor vehicles adapted therefor; however, this exemption shall not exempt any person from the provisions of §§ [46.2-1519](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1519), [46.2-1520](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1520) and [46.2-1548](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1548).

5. Any financial institution chartered or authorized to do business under the laws of the Commonwealth or the United States which may have received title to a motor vehicle in the normal course of its business by reason of a foreclosure, other taking, repossession, or voluntary reconveyance to that institution occurring as a result of any loan secured by a lien on the vehicle.

6. An employee of an organization arranging for the purchase or lease by the organization of vehicles for use in the organization's business.

7. Any person licensed to sell real estate who sells a manufactured home or similar vehicle in conjunction with the sale of the parcel of land on which the manufactured home or similar vehicle is located.

8. Any person who permits the operation of a motor vehicle show or permits the display of motor vehicles for sale by any motor vehicle dealer licensed under this chapter.

9. An insurance company authorized to do business in the Commonwealth that sells or disposes of vehicles under a contract with its insured in the regular course of business.

10. Any publication, broadcast, or other communications media when engaged in the business of advertising, but not otherwise arranging for the sale of vehicles owned by others.

11. Any person dealing solely in the sale or lease of vehicles designed exclusively for off-road use.

12. Any credit union authorized to do business in Virginia, provided the credit union does not receive a commission, money, or other thing of value directly from a motor vehicle dealer.

13. Any person licensed as a manufactured home dealer, broker, manufacturer, or salesperson under Chapter 4.2 (§ [36-85.16](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+36-85.16) et seq.) of Title 36.

14. The State Department of Social Services or local departments of social services.

"Motor vehicle salesperson" or "salesperson" means (i) any person who is hired as an employee by a motor vehicle dealer to sell or exchange motor vehicles and who receives or expects to receive a commission, fee, or any other consideration from the dealer; (ii) any person who supervises salespersons employed by a motor vehicle dealer, whether compensated by salary or by commission; (iii) any person, compensated by salary or commission by a motor vehicle dealer, who negotiates with or induces a customer to enter into a security agreement on behalf of a dealer; or (iv) any person who is licensed as a motor vehicle dealer and who sells or exchanges motor vehicles. For purposes of this section, any person who is an independent contractor as defined by the United States Internal Revenue Code shall be deemed not to be a motor vehicle salesperson.

"Motor vehicle show" means a display of motor vehicles to the general public at a location other than a dealer's location licensed under this chapter where the vehicles are not being offered for sale or exchange during or as part of the display.

"New motor vehicle" means any vehicle that is in the possession of the manufacturer, factory branch, distributor, distributor branch, or motor vehicle dealer and for which an original title has not been issued by the Department of Motor Vehicles of the Commonwealth or by the issuing agency of any other state and has less than 7,500 miles accumulated on its odometer.

"Original license" means a motor vehicle dealer license issued to an applicant who has never been licensed as a motor vehicle dealer in Virginia or whose Virginia motor vehicle dealer license has been expired for more than 30 days.

"Relevant market area" means as follows:

1. In metropolitan localities, the relevant market area shall be a circular area around an existing franchised dealer with a population of 250,000, not to exceed a radius of 10 miles, but in no case less than seven miles.

2. If the population in an area within a radius of 10 miles around an existing franchised dealer is less than 250,000, but the population in an area within a radius of 15 miles around an existing franchised dealer is 150,000 or more, the relevant market area shall be that area within the 15-mile radius.

3. In all other cases the relevant market area shall be an area within a radius of 20 miles around an existing franchised dealer or the area of responsibility defined in the franchise, whichever is greater. In any case where the franchise agreement is silent as to area of responsibility, the relevant market area shall be the greater of an area within a radius of 20 miles around an existing franchised dealer or that area in which the franchisor otherwise requires the franchisee to make significant retail sales or sales efforts.

Notwithstanding the foregoing provision of this section, in the case of dealers in motor vehicles with gross vehicle weight ratings of 26,000 pounds or greater, the relevant market area with respect to the dealer's franchise for all such vehicles shall be a circular area around an existing franchised dealer with a radius of 25 miles, except where the population in such circular area is less than 250,000, in which case the relevant market area shall be a circular area around an existing franchised dealer with a radius of 50 miles.

In determining population for this definition, the most recent census by the U.S. Bureau of the Census or the most recent population update, either from the National Planning Data Corporation or other similar recognized source, shall be accumulated for all census tracts either wholly or partially within the relevant market area.

"Retail installment sale" means every sale of one or more motor vehicles to a buyer for his use and not for resale, in which the price of the vehicle is payable in one or more installments and in which the seller has either retained title to the goods or has taken or retained a security interest in the goods under form of contract designated either as a security agreement, conditional sale, bailment lease, chattel mortgage, or otherwise.

"Sale at retail" or "retail sale" means the act or attempted act of selling, bartering, exchanging, or otherwise disposing of a motor vehicle to a buyer for his personal use and not for resale.

"Sale at wholesale" or "wholesale" means a sale to motor vehicle dealers or wholesalers other than to consumers; a sale to one who intends to resell.

"Used motor vehicle" means any vehicle other than a new motor vehicle as defined in this section.

"Wholesale auction" means an auction of motor vehicles restricted to sales at wholesale.

§ [46.2-1993](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1993). Definitions.

~~Unless the context otherwise requires, the following words and terms for the purpose of~~ *As used in* this chapter ~~shall have the following meanings~~*, unless the context requires a different meaning*:

"All-terrain vehicle" ~~shall have~~ *has* the meaning ascribed *to it* in § [46.2-100](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-100).

*"Autocycle" has the meaning ascribed to it in §* [*46.2-100*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-100)*.*

"Certificate of origin" means the document provided by the manufacturer of a new motorcycle, or its distributor, which is the only valid indication of ownership between the manufacturer, its distributor, its franchised motorcycle dealers, and the original purchaser not for resale.

"Dealer-operator" means the individual who works at the established place of business of a dealer and who is responsible for and in charge of day-to-day operations of that place of business.

"Distributor" means a person who sells or distributes new motorcycles pursuant to a written agreement with the manufacturer, to franchised motorcycle dealers in the Commonwealth.

"Distributor branch" means a branch office maintained by a distributor for the sale of motorcycles to motorcycle dealers or for directing or supervising, in whole or in part, its representatives in the Commonwealth.

"Distributor representative" means a person employed by a distributor or by a distributor branch, for the purpose of making or promoting the sale of motorcycles or for supervising or contacting its dealers, prospective dealers, or representatives in the Commonwealth.

"Factory branch" means a branch office maintained by a person for the sale of motorcycles to distributors or for the sale of motorcycles to motorcycle dealers, or for directing or supervising, in whole or in part, its representatives in the Commonwealth.

"Factory representative" means a person employed by a person who manufactures or assembles motorcycles, or by a factory branch for the purpose of making or promoting the sale of its motorcycles, or for supervising or contacting its dealers, prospective dealers, or representatives in the Commonwealth.

"Factory repurchase motorcycle" means a motorcycle sold, leased, rented, consigned, or otherwise transferred to a person under an agreement that the motorcycle will be resold or otherwise retransferred only to the manufacturer or distributor of the motorcycle, and which is reacquired by the manufacturer or distributor, or its agents.

"Family member" means a person who either (i) is the spouse, child, grandchild, spouse of a child, spouse of a grandchild, brother, sister, or parent of the dealer or owner, or (ii) has been employed continuously by the dealer for at least five years.

"Farm utility vehicle" ~~shall have~~ *has* the meaning ascribed *to it* in § [46.2-100](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-100).

"Franchise" means a written contract or agreement between two or more persons whereby one person, the franchisee, is granted the right to engage in the business of offering and selling, servicing, or offering, selling, and servicing new motorcycles of a particular line-make or late model or factory repurchase motorcycles of a particular line-make manufactured or distributed by the grantor of the right, the franchisor, and where the operation of the franchisee's business is substantially associated with the franchisor's trademark, trade name, advertising, or other commercial symbol designating the franchisor, the motorcycle or its manufacturer or distributor. ~~The term shall include~~ *"Franchise" includes* any severable part or parts of a franchise agreement which separately provides for selling and servicing different line-makes of the franchisor.

"Franchised late model or factory repurchase motorcycle dealer" means a dealer in late model or factory repurchase motorcycles, including a franchised new motorcycle dealer, that has a franchise agreement with a manufacturer or distributor of the line-make of the late model or factory repurchase motorcycles.

"Franchised motorcycle dealer" or "franchised dealer" means a dealer in new motorcycles that has a franchise agreement with a manufacturer or distributor of new motorcycles.

"Independent motorcycle dealer" means a dealer in used motorcycles.

"Late model motorcycle" means a motorcycle of the current model year and the immediately preceding model year.

"Line-make" means the name of the motorcycle manufacturer or distributor and a brand or name plate marketed by the manufacturer or distributor. For the purposes of this chapter, the "line-make" of a motorcycle manufacturer, factory branch, distributor, or distributor branch ~~shall include~~ *includes* every brand of all-terrain vehicle*, autocycle,* and off-road motorcycle manufactured or distributed bearing the name of the motorcycle manufacturer or distributor.

"Manufacturer" means a person engaged in the business of constructing or assembling new motorcycles.

"Motorcycle" means every motor vehicle designed to travel on not more than three wheels in contact with the ground, except any vehicle included within the term "farm vehicle" or "moped" as defined in § [46.2-100](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-100). Except as otherwise provided in this chapter, for the purposes of this chapter*,* "all-terrain vehicles*,*" *"autocycles,"* and "off-road motorcycles" ~~shall be~~ *are* deemed to be "motorcycles."

"Motorcycle dealer" or "dealer" means any person who:

1. For commission, money, or other thing of value, buys, sells, exchanges, either outright or on conditional sale, bailment lease, chattel mortgage, or otherwise or arranges or offers or attempts to solicit or negotiate on behalf of others a sale, purchase, or exchange of an interest in new motorcycles, new and used motorcycles, or used motorcycles alone, whether or not the motorcycles are owned by him;

2. Is wholly or partly engaged in the business of selling new motorcycles, new and used motorcycles, or used motorcycles only, whether or not the motorcycles are owned by him; or

3. Offers to sell, sells, displays, or permits the display for sale, of five or more motorcycles within any 12 consecutive months.

~~The term "motorcycle~~ *"Motorcycle* dealer" *or "dealer"* does not include:

1. Receivers, trustees, administrators, executors, guardians, conservators or other persons appointed by or acting under judgment or order of any court or their employees when engaged in the specific performance of their duties as employees.

2. Public officers, their deputies, assistants, or employees, while performing their official duties.

3. Persons other than business entities primarily engaged in the leasing or renting of motorcycles to others when selling or offering such motorcycles for sale at retail, disposing of motorcycles acquired for their own use and actually so used, when the motorcycles have been so acquired and used in good faith and not for the purpose of avoiding the provisions of this chapter.

4. Any financial institution chartered or authorized to do business under the laws of the Commonwealth or the United States which may have received title to a motorcycle in the normal course of its business by reason of a foreclosure, other taking, repossession, or voluntary reconveyance to that institution occurring as a result of any loan secured by a lien on the motorcycle.

5. An employee of an organization arranging for the purchase or lease by the organization of motorcycles for use in the organization's business.

6. Any person who permits the operation of a motorcycle show or permits the display of motorcycles for sale by any motorcycle dealer licensed under this chapter.

7. An insurance company authorized to do business in the Commonwealth that sells or disposes of motorcycles under a contract with its insured in the regular course of business.

8. Any publication, broadcast, or other communications media when engaged in the business of advertising, but not otherwise arranging for the sale of motorcycles owned by others.

9. Any credit union authorized to do business in Virginia, provided the credit union does not receive a commission, money, or other thing of value directly from a motorcycle dealer.

"Motorcycle salesperson" or "salesperson" means any person who is licensed as and employed as a salesperson by a motorcycle dealer to sell or exchange motorcycles.

"Motorcycle show" means a display of motorcycles to the general public at a location other than a dealer's location licensed under this chapter where the motorcycles are not being offered for sale or exchange during or as part of the display.

"New motorcycle" means any motorcycle which (i) has not been previously sold except in good faith for the purpose of resale, (ii) has not been used as a rental, driver education, or demonstration motorcycle, or for the personal and business transportation of the manufacturer, distributor, dealer, or any of his employees, (iii) has not been used except for limited use necessary in moving or road testing the motorcycle prior to delivery to a customer, (iv) is transferred by a certificate of origin, and (v) has the manufacturer's certification that it conforms to all applicable federal motorcycle safety and emission standards. Notwithstanding provisions (i) and (iii), a motorcycle that has been previously sold but not titled shall be deemed a new motorcycle if it meets the requirements of provisions (ii), (iv), and (v).

"Off-road motorcycle" ~~shall have~~ *has* the meaning ascribed *to it* in § [46.2-100](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-100).

"Original license" means a motorcycle dealer license issued to an applicant who has never been licensed as a motorcycle dealer in Virginia or whose Virginia motorcycle dealer license has been expired for more than 30 days.

"Relevant market area" means:

1. That area within a circle having a radius of 20 miles around an existing franchised dealer location, except as provided in subdivisions 2 and 3.

2. That area within a circle having a radius of 30 miles around an existing franchised dealer location if the population within that circle is less than one million but more than 750,000.

3. If the population within a circle having a radius of 30 miles around an existing franchised dealer location is less than 750,000, "relevant market area" means that area within a circle around such dealer having a radius of 40 miles.

In any case in which the franchise agreement or the manufacturer requires the franchisee to make significant retail sales or marketing efforts in geographic areas beyond the franchisee's relevant market area, then such geographic areas shall be added to the relevant market area of the dealer.

In determining population for this definition, the most recent census by the U.S. Bureau of the Census or the most recent population update, either from the National Planning Data Corporation or other similar recognized source, shall be accumulated for all census tracts either wholly or partially within the relevant market area.

"Retail installment sale" means every sale of one or more motorcycles to a buyer for his use and not for resale, in which the price of the motorcycle is payable in one or more installments and in which the seller has either retained title to the goods or has taken or retained a security interest in the goods under form of contract designated either as a security agreement, conditional sale, bailment lease, chattel mortgage, or otherwise.

"Sale at retail" or "retail sale" means the act or attempted act of selling, bartering, exchanging, or otherwise disposing of a motorcycle to a buyer for his personal use and not for resale.

"Sale at wholesale" or "wholesale" means a sale to motorcycle dealers or wholesalers other than to consumers, or a sale to one who intends to resell.

"Used motorcycle" means any motorcycle other than a new motorcycle as defined in this section.

"Wholesale auction" means an auction of motorcycles restricted to sales at wholesale.

**Vehicle safety inspection approval; armed services grace period.** Increases the grace period for vehicle safety inspection from five business days to 14 calendar days for members of the armed services on active duty. This bill is identical to [SB 138.](http://leg1.state.va.us/cgi-bin/legp504.exe?141+sum+SB138)

**CHAPTER 67**

*An Act to amend and reenact §* [*46.2-1158.1*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1158.1) *of the Code of Virginia, relating to vehicle safety inspection approval; armed services grace period.*

[H 411]

Approved March 3, 2014

Be it enacted by the General Assembly of Virginia:

1. That § [46.2-1158.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1158.1) of the Code of Virginia is amended and reenacted as follows:

§ [46.2-1158.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1158.1). Extension of validity of vehicle safety inspection approval stickers issued for vehicles whose registered owners are persons in the armed services of the United States.

Notwithstanding any contrary provision of law, any vehicle safety inspection approval sticker issued for any vehicle that is principally garaged outside the Commonwealth while its registered owner is a person in the armed services of the United States shall be held not to have expired during the period of the owner's official absence from the Commonwealth in the armed services of the United States, regardless of whether such vehicle is operated in or through the Commonwealth during the owner's official absence from the Commonwealth in the armed services of the United States. Should the armed services member be domiciled in another state of the United States, nothing in this section shall be construed to absolve such person from obtaining a current inspection sticker from his state of domicile, if required by such state. In cases where a vehicle's owner has been officially absent from the Commonwealth because of service in the armed services of the United States but returns to Virginia following such official absence and the vehicle becomes operational in the Commonwealth, the vehicle's owner will have ~~five business~~ *14 calendar* days following such return, Sundays and holidays excepted, to have the vehicle inspected. Furthermore, no penalty shall be imposed on any such owner or operator for operation of a motor vehicle, trailer, or semitrailer after the expiration of a period fixed for the inspection thereof, over the most direct route between the place where such vehicle is kept or garaged and an official inspection station for the purpose of having it inspected pursuant to an appointment with such station.

Motor vehicles owned and operated by persons on active duty with the United States armed forces who are Virginia residents stationed outside the Commonwealth at the time the inspection expires may be operated on the highways of the Commonwealth while persons on active duty are on leave, provided such vehicle displays a valid inspection sticker issued by another state.

For the purposes of this section, "service in the armed services of the United States" includes active duty service with the regular armed forces of the United States or the National Guard or other reserve component.

**Minimum clearance for passing bicycles, etc.** Increases from two to three feet the minimum clearance between a passing vehicle and a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, moped, animal, or animal-drawn vehicle.

**CHAPTER 358**

*An Act to amend and reenact §* [*46.2-839*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-839) *of the Code of Virginia, relating to minimum clearance when passing a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, moped, animal, or animal-drawn vehicle.*

[S 97]

Approved March 27, 2014

Be it enacted by the General Assembly of Virginia:

1. That § [46.2-839](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-839) of the Code of Virginia is amended and reenacted as follows:

§ [46.2-839](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-839). Passing bicycle, electric personal assistive mobility device, electric power-assisted bicycle, moped, animal, or animal-drawn vehicle.

Any driver of any vehicle overtaking a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, moped, animal, or animal-drawn vehicle proceeding in the same direction shall pass at a reasonable speed at least ~~two~~ *three* feet to the left of the overtaken bicycle, electric personal assistive mobility device, electric power-assisted bicycle, moped, animal, or animal-drawn vehicle and shall not again proceed to the right side of the highway until safely clear of such overtaken bicycle, electric personal assistive mobility device, electric power-assisted bicycle, moped, animal, or animal-drawn vehicle.

**DUI; probation; license suspension, etc.** Removes the provision that, unless otherwise modified by the court, a defendant who has been convicted of a fourth or subsequent DUI in 10 years shall remain on probation and under the terms of any suspended sentence for the same period as his operator's license was suspended, not to exceed three years. The bill also amends the provision that allows for administrative suspension of driving privileges for refusal to submit to a test to determine blood alcohol content to provide that the suspension can occur for refusal to submit to a blood test as well as a breath test. In addition, the bill corrects two incorrect cross-references, corrects an omission regarding administrative suspension of licenses for failure to order ignition interlock, and clarifies that VASAP is required for all convictions under § 18.2-266. This bill incorporates [SB 190.](http://leg1.state.va.us/cgi-bin/legp504.exe?141+sum+SB190)

**CHAPTER 707**

*An Act to amend and reenact §§* [*18.2-270*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-270)*,* [*18.2-270.1*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-270.1)*,* [*18.2-271.1*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-271.1)*,* [*46.2-391.01*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-391.01)*, and* [*46.2-391.2*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-391.2) *of the Code of Virginia, relating to driving while intoxicated.*

[S 482]

Approved April 6, 2014

 Be it enacted by the General Assembly of Virginia:

1. That §§ [18.2-270](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-270), [18.2-270.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-270.1), [18.2-271.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-271.1), [46.2-391.01](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-391.01), and [46.2-391.2](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-391.2) of the Code of Virginia are amended and reenacted as follows:

§ [18.2-270](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-270). Penalty for driving while intoxicated; subsequent offense; prior conviction.

A. Except as otherwise provided herein, any person violating any provision of § [18.2-266](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-266) shall be guilty of a Class 1 misdemeanor with a mandatory minimum fine of $250. If the person's blood alcohol level as indicated by the chemical test administered as provided in this article or by any other scientifically reliable chemical test performed on whole blood under circumstances reliably establishing the identity of the person who is the source of the blood and the accuracy of the results (i) was at least 0.15, but not more than 0.20, he shall be confined in jail for an additional mandatory minimum period of five days or, (ii) if the level was more than 0.20, for an additional mandatory minimum period of 10 days.

B. 1. Any person convicted of a second offense committed within less than five years after a prior offense under § [18.2-266](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-266) shall upon conviction of the second offense be punished by a mandatory minimum fine of $500 and by confinement in jail for not less than one month nor more than one year. Twenty days of such confinement shall be a mandatory minimum sentence.

2. Any person convicted of a second offense committed within a period of five to 10 years of a prior offense under § [18.2-266](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-266) shall upon conviction of the second offense be punished by a mandatory minimum fine of $500 and by confinement in jail for not less than one month. Ten days of such confinement shall be a mandatory minimum sentence.

3. Upon conviction of a second offense within 10 years of a prior offense, if the person's blood alcohol level as indicated by the chemical test administered as provided in this article or by any other scientifically reliable chemical test performed on whole blood under circumstances reliably establishing the identity of the person who is the source of the blood and the accuracy of the results (i) was at least 0.15, but not more than 0.20, he shall be confined in jail for an additional mandatory minimum period of 10 days or, (ii) if the level was more than 0.20, for an additional mandatory minimum period of 20 days. In addition, such person shall be fined a mandatory minimum fine of $500.

C. 1. Any person convicted of three offenses of § [18.2-266](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-266) committed within a 10-year period shall upon conviction of the third offense be guilty of a Class 6 felony. The sentence of any person convicted of three offenses of § [18.2-266](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-266) committed within a 10-year period shall include a mandatory minimum sentence of 90 days, unless the three offenses were committed within a five-year period, in which case the sentence shall include a mandatory minimum sentence of confinement for six months. In addition, such person shall be fined a mandatory minimum fine of $1,000.

2. A person who has been convicted of § [18.2-36.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-36.1), [18.2-36.2](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-36.2), [18.2-51.4](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-51.4), [18.2-51.5](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-51.5), or a felony violation of § [18.2-266](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-266) shall upon conviction of a subsequent violation of § [18.2-266](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-266) be guilty of a Class 6 felony. The punishment of any person convicted of such a subsequent violation of § [18.2-266](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-266) shall include a mandatory minimum term of imprisonment of one year and a mandatory minimum fine of $1,000.

3. The punishment of any person convicted of a fourth or subsequent offense of § [18.2-266](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-266) committed within a 10-year period shall, upon conviction, include a mandatory minimum term of imprisonment of one year. In addition, such person shall be fined a mandatory minimum fine of $1,000. ~~Unless otherwise modified by the court, the defendant shall remain on probation and under the terms of any suspended sentence for the same period as his operator's license was suspended, not to exceed three years.~~

4. The vehicle solely owned and operated by the accused during the commission of a felony violation of § [18.2-266](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-266) shall be subject to seizure and forfeiture. After an arrest for a felony violation of § [18.2-266](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-266), the Commonwealth may file an information in accordance with § [19.2-386.34](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-386.34).

D. In addition to the penalty otherwise authorized by this section or § [16.1-278.9](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+16.1-278.9), any person convicted of a violation of § [18.2-266](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-266) committed while transporting a person 17 years of age or younger shall be (i) fined an additional minimum of $500 and not more than $1,000 and (ii) sentenced to a mandatory minimum period of confinement of five days.

E. For the purpose of determining the number of offenses committed by, and the punishment appropriate for, a person under this section, an adult conviction of any person, or finding of guilty in the case of a juvenile, under the following shall be considered a conviction of § [18.2-266](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-266): (i) the provisions of § [18.2-36.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-36.1) or the substantially similar laws of any other state or of the United States, (ii) the provisions of §§ [18.2-51.4](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-51.4), [18.2-266](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-266), former § [18.1-54](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.1-54) (formerly § [18-75](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18-75)), the ordinance of any county, city or town in this Commonwealth or the laws of any other state or of the United States substantially similar to the provisions of § [18.2-51.4](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-51.4), or § [18.2-266](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-266), or (iii) the provisions of subsection A of § [46.2-341.24](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.24) or the substantially similar laws of any other state or of the United States.

F. Mandatory minimum punishments imposed pursuant to this section shall be cumulative, and mandatory minimum terms of confinement shall be served consecutively. However, in no case shall punishment imposed hereunder exceed the applicable statutory maximum Class 1 misdemeanor term of confinement or fine upon conviction of a first or second offense, or Class 6 felony term of confinement or fine upon conviction of a third or subsequent offense.

§ [18.2-270.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-270.1). Ignition interlock systems; penalty.

A. For purposes of this section and § [18.2-270.2](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-270.2):

"Commission" means the Commission on VASAP.

"Department" means the Department of Motor Vehicles.

"Ignition interlock system" means a device that (i) connects a motor vehicle ignition system to an analyzer that measures a driver's blood alcohol content; (ii) prevents a motor vehicle ignition from starting if a driver's blood alcohol content exceeds 0.02 percent; and (iii) is equipped with the ability to perform a rolling retest and to electronically log the blood alcohol content during ignition, attempted ignition and rolling retest.

"Rolling retest" means a test of the vehicle operator's blood alcohol content required at random intervals during operation of the vehicle, which triggers the sounding of the horn and flashing of lights if (i) the test indicates that the operator has a blood alcohol content which exceeds 0.02 percent or (ii) the operator fails to take the test.

B. In addition to any penalty provided by law for a conviction under § [18.2-51.4](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-51.4) or [18.2-266](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-266) or a substantially similar ordinance of any county, city or town, any court of proper jurisdiction shall, as a condition of a restricted license, prohibit an offender from operating a motor vehicle that is not equipped with a functioning, certified ignition interlock system for any period of time not to exceed the period of license suspension and restriction, not less than six consecutive months without alcohol-related violations of the interlock requirements. The court shall, for a conviction under § [18.2-51.4](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-51.4), a second or subsequent offense of § [18.2-266](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-266) or a substantially similar ordinance of any county, city or town, or as a condition of license restoration pursuant to subsection C of § [18.2-271.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-271.1) or § [46.2-391](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-391), require that such a system be installed on each motor vehicle, as defined in § [46.2-100](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-100), owned by or registered to the offender, in whole or in part, for such period of time. Such condition shall be in addition to any purposes for which a restricted license may be issued pursuant to § [18.2-271.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-271.1). The court may order the installation of an ignition interlock system to commence immediately upon conviction. A fee of $20 to cover court and administrative costs related to the ignition interlock system shall be paid by any such offender to the clerk of the court. The court shall require the offender to install an electronic log device with the ignition interlock system on a vehicle designated by the court to measure the blood alcohol content at each attempted ignition and random rolling retest during operation of the vehicle. The offender shall be enrolled in and supervised by an alcohol safety action program pursuant to § [18.2-271.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-271.1) and to conditions established by regulation under § [18.2-270.2](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-270.2) by the Commission during the period for which the court has ordered installation of the ignition interlock system. The offender shall be further required to provide to such program, at least quarterly during the period of court ordered ignition interlock installation, a printout from such electronic log indicating the offender's blood alcohol content during such ignitions, attempted ignitions, and rolling retests, and showing attempts to circumvent or tamper with the equipment.

C. In any case in which the court requires the installation of an ignition interlock system, the court shall order the offender not to operate any motor vehicle that is not equipped with such a system for the period of time that the interlock restriction is in effect. The clerk of the court shall file with the Department of Motor Vehicles a copy of the order, which shall become a part of the offender's operator's license record maintained by the Department. The Department shall issue to the offender for the period during which the interlock restriction is imposed a restricted license which shall appropriately set forth the restrictions required by the court under this subsection and any other restrictions imposed upon the offender's driving privilege, and shall also set forth any exception granted by the court under subsection F.

D. The offender shall be ordered to provide the appropriate ASAP program, within 30 days of the effective date of the order of court, proof of the installation of the ignition interlock system. The Program shall require the offender to have the system monitored and calibrated for proper operation at least every 30 days by an entity approved by the Commission under the provisions of § [18.2-270.2](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-270.2) and to demonstrate proof thereof. The offender shall pay the cost of leasing or buying and monitoring and maintaining the ignition interlock system. Absent good cause shown, the court may revoke the offender's driving privilege for failing to (i) timely install such system or (ii) have the system properly monitored and calibrated.

E. No person shall start or attempt to start a motor vehicle equipped with an ignition interlock system for the purpose of providing an operable motor vehicle to a person who is prohibited under this section from operating a motor vehicle that is not equipped with an ignition interlock system. No person shall tamper with, or in any way attempt to circumvent the operation of, an ignition interlock system that has been installed in the motor vehicle of a person under this section. Except as authorized in subsection ~~G~~ *F*, no person shall knowingly furnish a motor vehicle not equipped with a functioning ignition interlock system to any person prohibited under subsection B from operating any motor vehicle which is not equipped with such system. A violation of this subsection is punishable as a Class 1 misdemeanor.

F. Any person prohibited from operating a motor vehicle under subsection B may, solely in the course of his employment, operate a motor vehicle which is owned or provided by his employer without installation of an ignition interlock system, if the court expressly permits such operation as a condition of a restricted license at the request of the employer, but such person may not operate a school bus, school vehicle, or a commercial motor vehicle as defined in § [46.2-341.4](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.4). This subsection shall not apply if such employer is an entity wholly or partially owned or controlled by the person otherwise prohibited from operating a vehicle without an ignition interlock system.

G. The Commission shall promulgate such regulations and forms as are necessary to implement the procedures outlined in this section.

§ [18.2-271.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-271.1). Probation, education and rehabilitation of person charged or convicted; person convicted under law of another state.

A. Any person convicted of a first or second offense of § [18.2-266](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-266) ~~(i), (ii), (iii), or (iv)~~, or any ordinance of a county, city, or town similar to the provisions thereof, or provisions of subsection A of § [46.2-341.24](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.24), shall be required by court order, as a condition of probation or otherwise, to enter into and successfully complete an alcohol safety action program in the judicial district in which such charge is brought or in any other judicial district upon such terms and conditions as the court may set forth. However, upon motion of a person convicted of any such offense following an assessment of the person conducted by an alcohol safety action program, the court, for good cause, may decline to order participation in such a program if the assessment by the alcohol safety action program indicates that intervention is not appropriate for such person. In no event shall such persons be permitted to enter any such program which is not certified as meeting minimum standards and criteria established by the Commission on the Virginia Alcohol Safety Action Program (VASAP) pursuant to ~~subsection H of~~ this section and to § [18.2-271.2](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-271.2). However, any person charged with a violation of a first or second offense of§ [18.2-266](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-266) ~~(i), (ii), (iii), or (iv)~~, or any ordinance of a county, city, or town similar to the provisions thereof, or provisions of subsection A of § [46.2-341.24](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.24), may, at any time prior to trial, enter into an alcohol safety action program in the judicial district in which such charge is brought or in any other judicial district. Any person who enters into such program prior to trial may pre-qualify with the program to have an ignition interlock system installed on any motor vehicle owned or operated by him. However, no ignition interlock company shall install an ignition interlock system on any such vehicle until a court issues to the person a restricted license with the ignition interlock restriction.

B. The court shall require the person entering such program under the provisions of this section to pay a fee of no less than $250 but no more than $300. A reasonable portion of such fee, as may be determined by the Commission on VASAP, but not to exceed 10 percent, shall be forwarded monthly to be deposited with the State Treasurer for expenditure by the Commission on VASAP, and the balance shall be held in a separate fund for local administration of driver alcohol rehabilitation programs. Upon a positive finding that the defendant is indigent, the court may reduce or waive the fee. In addition to the costs of the proceeding, fees as may reasonably be required of defendants referred for intervention under any such program may be charged.

C. Upon conviction of a violation of § [18.2-266](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-266) or any ordinance of a county, city or town similar to the provisions thereof, or subsection A of § [46.2-341.24](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.24), the court shall impose the sentence authorized by § [18.2-270](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-270) or [46.2-341.28](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.28) and the license revocation as authorized by § [18.2-271](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-271). In addition, if the conviction was for a second offense committed within less than 10 years after a first such offense, the court shall order that restoration of the person's license to drive be conditioned upon the installation of an ignition interlock system on each motor vehicle, as defined in § [46.2-100](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-100), owned by or registered to the person, in whole or in part, for a period of six months beginning at the end of the three year license revocation, unless such a system has already been installed for six months prior to that time pursuant to a restricted license order under subsection E of this section. Upon a finding that a person so convicted is required to participate in the program described herein, the court shall enter the conviction on the warrant, and shall note that the person so convicted has been referred to such program. The court may then proceed to issue an order in accordance with subsection E of this section, if the court finds that the person so convicted is eligible for a restricted license. If the court finds good cause for a person not to participate in such program or subsequently that such person has violated, without good cause, any of the conditions set forth by the court in entering the program, the court shall dispose of the case as if no program had been entered, in which event the revocation provisions of § [46.2-389](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-389) and subsection A of § [46.2-391](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-391) shall be applicable to the conviction. The court shall, upon final disposition of the case, send a copy of its order to the Commissioner of the Department of Motor Vehicles. If such order provides for the issuance of a restricted license, the Commissioner of the Department of Motor Vehicles, upon receipt thereof, shall issue a restricted license. Appeals from any such disposition shall be allowed as provided by law. The time within which an appeal may be taken shall be calculated from the date of the final disposition of the case or any motion for rehearing, whichever is later.

D. Any person who has been convicted in another state of the violation of a law of such state substantially similar to the provisions of § [18.2-266](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-266) or subsection A of § [46.2-341.24](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.24), and whose privilege to operate a motor vehicle in this Commonwealth is subject to revocation under the provisions of § [46.2-389](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-389) and subsection A of § [46.2-391](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-391), may petition the general district court of the county or city in which he resides that he be given probation and assigned to a program as provided in subsection A of this section and that, upon entry into such program, he be issued an order in accordance with subsection E of this section. If the court finds that such person would have qualified therefor if he had been convicted in this Commonwealth of a violation of § [18.2-266](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-266) or subsection A of § [46.2-341.24](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.24), the court may grant the petition and may issue an order in accordance with subsection E of this section as to the period of license suspension or revocation imposed pursuant to § [46.2-389](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-389) or subsection A of § [46.2-391](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-391). Such order shall be conditioned upon the successful completion of a program by the petitioner. If the court subsequently finds that such person has violated any of the conditions set forth by the court, the court shall dispose of the case as if no program had been entered and shall notify the Commissioner, who shall revoke the person's license in accordance with the provisions of § [46.2-389](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-389) or subsection A of § [46.2-391](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-391). A copy of the order granting the petition or subsequently revoking or suspending such person's license to operate a motor vehicle shall be forthwith sent to the Commissioner of the Department of Motor Vehicles.

No period of license suspension or revocation shall be imposed pursuant to this subsection which, when considered together with any period of license suspension or revocation previously imposed for the same offense in any state, results in such person's license being suspended for a period in excess of the maximum periods specified in this subsection.

E. Except as otherwise provided herein, whenever a person enters a certified program pursuant to this section, and such person's license to operate a motor vehicle, engine or train in the Commonwealth has been suspended or revoked, the court may, in its discretion and for good cause shown, provide that such person be issued a restricted permit to operate a motor vehicle for any of the following purposes: (i) travel to and from his place of employment; (ii) travel to and from an alcohol rehabilitation or safety action program; (iii) travel during the hours of such person's employment if the operation of a motor vehicle is a necessary incident of such employment; (iv) travel to and from school if such person is a student, upon proper written verification to the court that such person is enrolled in a continuing program of education; (v) travel for health care services, including medically necessary transportation of an elderly parent or, as designated by the court, any person residing in the person's household with a serious medical problem upon written verification of need by a licensed health professional; (vi) travel necessary to transport a minor child under the care of such person to and from school, day care, and facilities housing medical service providers; (vii) travel to and from court-ordered visitation with a child of such person; (viii) travel to a screening, evaluation and education program entered pursuant to § [18.2-251](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-251) or subsection H of § [18.2-258.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-258.1); (ix) travel to and from court appearances in which he is a subpoenaed witness or a party and appointments with his probation officer and to and from any programs required by the court or as a condition of probation; (x) travel to and from a place of religious worship one day per week at a specified time and place; (xi) travel to and from appointments approved by the Division of Child Support Enforcement of the Department of Social Services as a requirement of participation in a court-ordered intensive case monitoring program for child support for which the participant maintains written proof of the appointment, including written proof of the date and time of the appointment, on his person; (xii) travel to and from jail to serve a sentence when such person has been convicted and sentenced to confinement in jail and pursuant to § [53.1-131.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+53.1-131.1) the time to be served is on weekends or nonconsecutive days; or (xiii) travel to and from the facility that installed or monitors the ignition interlock in the person's vehicle. No restricted license issued pursuant to this subsection shall permit any person to operate a commercial motor vehicle as defined in the Virginia Commercial Driver's License Act (§ [46.2-341.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.1) et seq.). The court shall order the surrender of such person's license to operate a motor vehicle to be disposed of in accordance with the provisions of § [46.2-398](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-398) and shall forward to the Commissioner of the Department of Motor Vehicles a copy of its order entered pursuant to this subsection, which shall specifically enumerate the restrictions imposed and contain such information regarding the person to whom such a permit is issued as is reasonably necessary to identify such person. The court shall also provide a copy of its order to the person so convicted who may operate a motor vehicle on the order until receipt from the Commissioner of the Department of Motor Vehicles of a restricted license, if the order provides for a restricted license for that time period. A copy of such order and, after receipt thereof, the restricted license shall be carried at all times while operating a motor vehicle. Any person who operates a motor vehicle in violation of any restrictions imposed pursuant to this section shall be guilty of a violation of § [18.2-272](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-272). Such restricted license shall be conditioned upon enrollment within 15 days in, and successful completion of, a program as described in subsection A of this section. No restricted license shall be issued during the first four months of a revocation imposed pursuant to subsection B of § [18.2-271](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-271) or subsection A of § [46.2-391](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-391) for a second offense of the type described therein committed within 10 years of a first such offense. No restricted license shall be issued during the first year of a revocation imposed pursuant to subsection B of § [18.2-271](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-271) or subsection A of § [46.2-391](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-391) for a second offense of the type described therein committed within five years of a first such offense. No restricted license shall be issued during any revocation period imposed pursuant to subsection C of § [18.2-271](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-271) or subsection B of § [46.2-391](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-391). Notwithstanding the provisions of § [46.2-411](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-411), the fee charged pursuant to § [46.2-411](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-411) for reinstatement of the driver's license of any person whose privilege or license has been suspended or revoked as a result of a violation of § [18.2-266](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-266), subsection A of § [46.2-341.24](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.24) or of any ordinance of a county, city or town, or of any federal law or the laws of any other state similar to the provisions of § [18.2-266](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-266) or subsection A of § [46.2-341.24](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.24) shall be $105. Forty dollars of such reinstatement fee shall be retained by the Department of Motor Vehicles as provided in § [46.2-411](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-411), $40 shall be transferred to the Commission on VASAP, and $25 shall be transferred to the Commonwealth Neurotrauma Initiative Trust Fund.

F. The court shall have jurisdiction over any person entering such program under any provision of this section until such time as the case has been disposed of by either successful completion of the program, or revocation due to ineligibility or violation of a condition or conditions imposed by the court, whichever shall first occur. Revocation proceedings shall be commenced by notice to show cause why the court should not revoke the privilege afforded by this section. Such notice shall be made by first-class mail to the last known address of such person, and shall direct such person to appear before the court in response thereto on a date contained in such notice, which shall not be less than 10 days from the date of mailing of the notice. Failure to appear in response to such notice shall of itself be grounds for revocation of such privilege. Notice of revocation under this subsection shall be sent forthwith to the Commissioner of the Department of Motor Vehicles.

G. For the purposes of this section, any court which has convicted a person of a violation of § [18.2-266](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-266), subsection A of § [46.2-341.24](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.24) or any ordinance of a county, city or town similar to the provisions of § [18.2-266](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-266) shall have continuing jurisdiction over such person during any period of license revocation related to that conviction, for the limited purposes of (i) referring such person to a certified alcohol safety action program, (ii) providing for a restricted permit for such person in accordance with the provisions of subsection E, and (iii) imposing terms, conditions and limitations for actions taken pursuant to clauses (i) and (ii), whether or not it took either such action at the time of the conviction. This continuing jurisdiction is subject to the limitations of subsection E that provide that no restricted license shall be issued during a revocation imposed pursuant to subsection C of § [18.2-271](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-271) or subsection B of § [46.2-391](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-391) or during the first four months or first year, whichever is applicable, of the revocation imposed pursuant to subsection B of § [18.2-271](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-271) or subsection A of § [46.2-391](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-391). The provisions of this subsection shall apply to a person convicted of a violation of § [18.2-266](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-266), subsection A of § [46.2-341.24](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.24) or any ordinance of a county, city or town similar to the provisions of § [18.2-266](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-266) on, after and at any time prior to July 1, 2003.

H. The State Treasurer, the Commission on VASAP or any city or county is authorized to accept any gifts or bequests of money or property, and any grant, loan, service, payment or property from any source, including the federal government, for the purpose of driver alcohol education. Any such gifts, bequests, grants, loans or payments shall be deposited in the separate fund provided in subsection B.

I. The Commission on VASAP, or any county, city, town, or any combination thereof may establish and, if established, shall operate, in accordance with the standards and criteria required by this subsection, alcohol safety action programs in connection with highway safety. Each such program shall operate under the direction of a local independent policy board chosen in accordance with procedures approved and promulgated by the Commission on VASAP. Local sitting or retired district court judges who regularly hear or heard cases involving driving under the influence and are familiar with their local alcohol safety action programs may serve on such boards. The Commission on VASAP shall establish minimum standards and criteria for the implementation and operation of such programs and shall establish procedures to certify all such programs to ensure that they meet the minimum standards and criteria stipulated by the Commission. The Commission shall also establish criteria for the administration of such programs for public information activities, for accounting procedures, for the auditing requirements of such programs and for the allocation of funds. Funds paid to the Commonwealth hereunder shall be utilized in the discretion of the Commission on VASAP to offset the costs of state programs and local programs run in conjunction with any county, city or town and costs incurred by the Commission. The Commission shall submit an annual report as to actions taken at the close of each calendar year to the Governor and the General Assembly.

J. Notwithstanding any other provisions of this section or of § [18.2-271](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-271), nothing in this section shall permit the court to suspend, reduce, limit, or otherwise modify any disqualification from operating a commercial motor vehicle imposed under the provisions of the Virginia Commercial Driver's License Act (§ [46.2-341.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.1) et seq.).

§ [46.2-391.01](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-391.01). Administrative enforcement of ignition interlock requirements.

If the court, as a condition of license restoration or as a condition of a restricted license under subsection C of § [18.2-271.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-271.1) or § [46.2-391](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-391)*, or when required by §* [*18.2-270.1*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-270.1), fails to prohibit an offender from operating a motor vehiclethat is not equipped with a functioning, certified ignition interlock system ~~upon the offender's conviction of a second or subsequent offense under §~~ [~~18.2-51.4~~](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-51.4) ~~or §~~ [~~18.2-266~~](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-266) ~~or a substantially similar ordinance of any county, city or town~~, the Commissioner shall enforce the requirements relating to installation of such systems in accordance with the provisions of § [18.2-270.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-270.1).

§ [46.2-391.2](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-391.2). Administrative suspension of license or privilege to operate a motor vehicle.

A. If a breath test is taken pursuant to § [18.2-268.2](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-268.2) or any similar ordinance and (i) the results show a blood alcohol content of 0.08 percent or more by weight by volume or 0.08 grams or more per 210 liters of breath, or (ii) the results, for persons under 21 years of age, show a blood alcohol concentration of 0.02 percent or more by weight by volume or 0.02 grams or more per 210 liters of breath or (iii) the person refuses to submit to the breath *or blood* test in violation of § [18.2-268.3](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-268.3) or any similar ordinance, and upon issuance of a petition or summons, or upon issuance of a warrant by the magistrate, for a violation of § [18.2-51.4](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-51.4), [18.2-266](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-266), or [18.2-266.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-266.1), or any similar ordinance, or upon the issuance of a warrant or summons by the magistrate or by the arresting officer at a medical facility for a violation of § [18.2-268.3](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-268.3), or any similar ordinance, the person's license shall be suspended immediately or in the case of (i) an unlicensed person, (ii) a person whose license is otherwise suspended or revoked, or (iii) a person whose driver's license is from a jurisdiction other than the Commonwealth, such person's privilege to operate a motor vehicle in the Commonwealth shall be suspended immediately. The period of suspension of the person's license or privilege to drive shall be seven days, unless the petition, summons or warrant issued charges the person with a second or subsequent offense. If the person is charged with a second offense the suspension shall be for 60 days. If not already expired, the period of suspension shall expire on the day and time of trial of the offense charged on the petition, summons or warrant, except that it shall not so expire during the first seven days of the suspension. If the person is charged with a third or subsequent offense, the suspension shall be until the day and time of trial of the offense charged on the petition, summons or warrant.

A law-enforcement officer, acting on behalf of the Commonwealth, shall serve a notice of suspension personally on the arrested person. When notice is served, the arresting officer shall promptly take possession of any driver's license held by the person and issued by the Commonwealth and shall promptly deliver it to the magistrate. Any driver's license taken into possession under this section shall be forwarded promptly by the magistrate to the clerk of the general district court or, as appropriate, the court with jurisdiction over juveniles of the jurisdiction in which the arrest was made together with any petition, summons or warrant, the results of the breath test, if any, and the report required by subsection B. A copy of the notice of suspension shall be forwarded forthwith to both (a) the general district court or, as appropriate, the court with jurisdiction over juveniles of the jurisdiction in which the arrest was made and (b) the Commissioner. Transmission of this information may be made by electronic means.

The clerk shall promptly return the suspended license to the person at the expiration of the suspension. Whenever a suspended license is to be returned under this section or § [46.2-391.4](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-391.4), the person may elect to have the license returned in person at the clerk's office or by mail to the address on the person's license or to such other address as he may request.

B. Promptly after arrest and service of the notice of suspension, the arresting officer shall forward to the magistrate a sworn report of the arrest that shall include (i) information which adequately identifies the person arrested and (ii) a statement setting forth the arresting officer's grounds for belief that the person violated § [18.2-51.4](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-51.4), [18.2-266](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-266), or [18.2-266.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-266.1), or a similar ordinance or refused to submit to a breath *or blood* test in violation of § [18.2-268.3](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-268.3) or a similar ordinance. The report required by this subsection shall be submitted on forms supplied by the Supreme Court.

C. Any person whose license or privilege to operate a motor vehicle has been suspended under subsection A may, during the period of the suspension, request the general district court or, as appropriate, the court with jurisdiction over juveniles of the jurisdiction in which the arrest was made to review that suspension. The court shall review the suspension within the same time period as the court hears an appeal from an order denying bail or fixing terms of bail or terms of recognizance, giving this matter precedence over all other matters on its docket. If the person proves to the court by a preponderance of the evidence that the arresting officer did not have probable cause for the arrest, that the magistrate did not have probable cause to issue the warrant, or that there was not probable cause for issuance of the petition, the court shall rescind the suspension, or that portion of it that exceeds seven days if there was not probable cause to charge a second offense or 60 days if there was not probable cause to charge a third or subsequent offense, and the clerk of the court shall forthwith, or at the expiration of the reduced suspension time, (i) return the suspended license, if any, to the person unless the license has been otherwise suspended or revoked, (ii) deliver to the person a notice that the suspension under § [46.2-391.2](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-391.2) has been rescinded or reduced, and (iii) forward to the Commissioner a copy of the notice that the suspension under § [46.2-391.2](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-391.2) has been rescinded or reduced. Otherwise, the court shall affirm the suspension. If the person requesting the review fails to appear without just cause, his right to review shall be waived.

The court's findings are without prejudice to the person contesting the suspension or to any other potential party as to any proceedings, civil or criminal, and shall not be evidence in any proceedings, civil or criminal.

D. If a person whose license or privilege to operate a motor vehicle is suspended under subsection A is convicted under § [18.2-36.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-36.1), [18.2-51.4](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-51.4), [18.2-266](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-266), or [18.2-266.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-266.1), or any similar ordinance during the suspension imposed by subsection A, and if the court decides to issue the person a restricted permit under subsection E of § [18.2-271.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-271.1), such restricted permit shall not be issued to the person before the expiration of the first seven days of the suspension imposed under subsection A.

**Natural gas vehicles; weight limit exception.** Allows vehicles fueled, wholly or partially, by natural gas to weigh up to 2,000 pounds more than the applicable weight limit on non-Interstate highways. The bill requires the operator of the vehicle to be able to demonstrate that the vehicle uses natural gas.

**CHAPTER 64**

*An Act to amend the Code of Virginia by adding a section numbered* [*46.2-1129.2*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1129.2)*, relating to natural gas vehicles; weight limit exception*.

[H 341]

Approved March 3, 2014

 Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered [46.2-1129.2](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1129.2) as follows:

*§* [*46.2-1129.2*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1129.2)*. Further extension of weight limits for vehicles fueled by natural gas.*

*Any motor vehicle that is fueled, wholly or partially, by natural gas shall be allowed up to an additional 2,000 pounds total in gross, single axle, tandem axle, or bridge formula weight limits.*

*To be eligible for this exception, the operator of the vehicle must be able to demonstrate that the vehicle is a natural gas vehicle, a bi-fuel vehicle using natural gas, or a vehicle that has been converted to a natural gas vehicle. No such allowance shall authorize any extension of the limitations provided in §* [*46.2-1127*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1127) *for Interstate highways.*

**Commercial driver's licenses, etc.; compliance with federal requirements.** Amends several sections relating to commercial driver's licenses to comply with new Federal Motor Carrier Safety Administration requirements relating to commercial motor vehicles and prohibited use of hand held mobile telephones in commercial vehicles. The bill also requires distracted driving to be included as a part of the driver's license knowledge examination to comply with MAP-21(Moving Ahead for Progress in the 21st Century, P.L. 112-141). In addition, the bill provides that DMV may continue to disclose personal information from crash reports, but only if otherwise authorized by law in order to comply with federal law.

**CHAPTER 803**

*An Act to amend and reenact §§* [*46.2-341.4*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.4)*,* [*46.2-341.8*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.8)*,* [*46.2-341.10*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.10)*,* [*46.2-341.12*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.12)*,* [*46.2-341.14*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.14)*,* [*46.2-341.14:1*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.14C1)*,* [*46.2-341.14:2*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.14C2)*,* [*46.2-341.14:5*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.14C5)*,* [*46.2-341.14:6*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.14C6)*,* [*46.2-341.16*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.16)*,* [*46.2-341.20*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.20)*,* [*46.2-341.20:2*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.20C2)*,* [*46.2-341.20:4*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.20C4)*,* [*46.2-341.20:5*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.20C5)*,* [*46.2-348*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-348)*,* [*46.2-379*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-379)*, and* [*46.2-1078.1*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1078.1) *of the Code of Virginia and to amend the Code of Virginia by adding sections numbered* [*46.2-341.14:01*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.14C01) *and* [*46.2-341.20:6*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.20C6)*, relating to commercial driver's licenses, driver's license examinations, and disclosure of crash reports by Department of Motor Vehicles.*

[S 565]

Approved April 23, 2014

Be it enacted by the General Assembly of Virginia:

1. That §§ [46.2-341.4](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.4), [46.2-341.8](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.8), [46.2-341.10](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.10), [46.2-341.12](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.12), [46.2-341.14](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.14), [46.2-341.14:1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.14C1), [46.2-341.14:2](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.14C2), [46.2-341.14:5](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.14C5), [46.2-341.14:6](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.14C6), [46.2-341.16](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.16), [46.2-341.20](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.20), [46.2-341.20:2](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.20C2), [46.2-341.20:4](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.20C4), [46.2-341.20:5](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.20C5), [46.2-348](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-348), [46.2-379](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-379), and [46.2-1078.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1078.1) of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered [46.2-341.14:01](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.14C01) and [46.2-341.20:6](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.20C6) as follows:

§ [46.2-341.4](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.4). Definitions.

The following definitions shall apply to this article, unless a different meaning is clearly required by the context:

"Air brake" means~~, for the purposes of the skills test and the restriction,~~ any braking system operating fully or partially on the air brake principle.

*"Applicant" means an individual who applies to obtain, transfer, upgrade, or renew a commercial driver's license or to obtain or renew a commercial driver's instruction permit.*

"Automatic transmission" means, for the purposes of the skills test and the restriction, any transmission other than a manual transmission.

"CDLIS driver record" means the electronic record of the individual commercial driver's status and history stored by the State of Record as part of the Commercial Driver's License Information System (CDLIS).

"Commercial driver's instruction permit" means a permit issued to an individual in accordance with the provisions of this article, or if issued by another state, a permit issued in accordance with the standards contained in the Federal Motor Carrier Safety Regulations, which, when carried with a valid driver's license issued by the same state or jurisdiction, authorizes the individual to operate a class of commercial motor vehicle when accompanied by a holder of a valid commercial driver's license for purposes of behind-the-wheel training. When issued to a commercial driver's license holder, a commercial driver's instruction permit serves as authorization for accompanied behind-the-wheel training in a commercial motor vehicle for which the holder's current commercial driver's license is not valid. For purposes of this article "Commercial driver's instruction permit" shall have the same meaning as "Commercial learner's permit (CLP)" in 49 C.F.R § 383.5 of the Federal Motor Carrier Safety regulations.

"Commercial driver's license" means any driver's license issued to a person in accordance with the provisions of this article, or if the license is issued by another state, any license issued to a person in accordance with the federal Commercial Motor Vehicle Safety Act, which authorizes such person to drive a commercial motor vehicle of the class and type and with the restrictions indicated on the license.

"Commercial driver's license information system" (CDLIS) means the CDLIS established by the Federal Motor Carrier Safety Administration pursuant to § 12007 of the Commercial Motor Vehicle Safety Act of 1986.

"Commercial motor vehicle" means, except for those vehicles specifically excluded in this definition, every motor vehicle, vehicle or combination of vehicles used to transport passengers or property which either: (i) has a gross vehicle weight rating of 26,001 or more pounds; or (ii) has a gross combination weight rating of 26,001 or more pounds inclusive of a towed vehicle with a gross vehicle weight rating of more than 10,000 pounds; or (iii) is designed to transport 16 or more passengers including the driver; or (iv) is of any size and is used in the transportation of hazardous materials as defined in this section. Every such motor vehicle or combination of vehicles shall be considered a commercial motor vehicle whether or not it is used in a commercial or profit-making activity.

The following shall be excluded from the definition of commercial motor vehicle: any vehicle when used by an individual solely for his own personal purposes, such as personal recreational activities; or any vehicle which (i) is controlled and operated by a farmer, whether or not it is owned by the farmer, and which is used exclusively for farm use, as defined in § [46.2-698](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-698), (ii) is used to transport either agricultural products, farm machinery or farm supplies to or from a farm, (iii) is not used in the operation of a common or contract motor carrier, and (iv) is used within 150 miles of the farmer's farm; or any vehicle operated for military purposes by (a) active duty military personnel, (b) members of the military reserves, (c) members of the national guard on active duty, including personnel on full-time national guard duty, personnel on part-time national guard training, and national guard military technicians (civilians who are required to wear military uniforms), but not U.S. Reserve technicians, and (d) active duty U.S. Coast Guard personnel; or emergency equipment operated by a member of a firefighting, rescue, or emergency entity in the performance of his official duties.

"Commercial Motor Vehicle Safety Act" means the federal Commercial Motor Vehicle Safety Act of 1986, Title XII of Public Law [99-570](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+99-570), as amended.

"Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction, an unvacated forfeiture of bond, bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court costs in lieu of trial, a violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended or probated, or, for the purposes of alcohol or drug-related offenses involving the operation of a motor vehicle, a civil or an administrative determination of a violation. For the purposes of this definition, an administrative determination shall include an unvacated certification or finding by an administrative or authorized law-enforcement official that a person has violated a provision of law.

"Disqualification" means a prohibition against driving, operating or being in physical control of a commercial motor vehicle for a specified period of time, imposed by a court or a magistrate, or by an authorized administrative or law-enforcement official or body.

"Domicile" means a person's true, fixed and permanent home and principal residence, to which he intends to return whenever he is absent.

"Employee" means a payroll employee or person employed under lease or contract, or a person who has applied for employment and whose employment is contingent upon obtaining a commercial driver's license.

"Employer" means a person who owns or leases commercial motor vehicles and assigns employees to drive such vehicles.

"Endorsement" means an authorization to an individual's commercial driver's license or commercial driver's instruction permit required to permit the individual to operate certain types of commercial motor vehicles.

"FMCSA" means the Federal Motor Carrier Safety Administration.

"Full air brake ~~restriction~~" means~~, for the purposes of the skills test and restriction, air over hydraulic brakes, including~~ any braking system operating ~~partially~~ *fully* on the air brake ~~and partially on the hydraulic brake~~ *principle*.

"Gross combination weight rating" means the value specified by the manufacturers of an articulated vehicle or combination of vehicles as the maximum loaded weight of such vehicles. In the absence of such a value specified by the manufacturer, for law-enforcement purposes, the gross combination weight rating shall be the greater of (i) the gross vehicle weight rating of the power units of the combination vehicle plus the total weight of the towed units, including any loads thereon, or (ii) the gross weight at which the articulated vehicle or combination of vehicles is registered in its state of registration; however, the registered gross weight shall not be applicable for determining the classification of an articulated vehicle or combination of vehicles for purposes of skills testing pursuant to § [46.2-341.14](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.14) or [46.2-341.16](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.16).

"Gross vehicle weight rating" means the value specified by the manufacturer of the vehicle as the maximum loaded weight of a single vehicle. In the absence of such a value specified by the manufacturer, for law-enforcement purposes, the gross vehicle weight rating shall be the greater of (i) the actual gross weight of the vehicle, including any load thereon; or (ii) the gross weight at which the vehicle is registered in its state of registration; however, the registered gross weight of the vehicle shall not be applicable for determining the classification of a vehicle for purposes of skills testing pursuant to § [46.2-341.14](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.14) or [46.2-341.16](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.16).

"Hazardous materials" means materials designated to be hazardous in accordance with § 103 of the federal Hazardous Materials Transportation Act, as amended, (49 U.S.C. § 5101 et seq.) and which require placarding when transported by motor vehicle as provided in the federal Hazardous Materials Regulations (49 C.F.R. Part 172, Subpart F); it also includes any quantity of any material listed as a select agent or toxin in federal Public Health Service Regulations at 42 C.F.R. Part 73.

"Manual transmission" (also known as a stick shift, stick, straight drive, or standard transmission) means a transmission utilizing a driver-operated clutch that is activated by a pedal or lever and a gear-shift mechanism operated by either hand or foot.

"Non-commercial driver's license" means any other type of motor vehicle license, such as an automobile driver's license, a chauffeur's license, or a motorcycle license.

"Out-of-service order" or "out-of-service declaration" means an order by a judicial officer pursuant to § [46.2-341.26:2](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.26C2) or [46.2-341.26:3](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.26C3) or an order or declaration by an authorized law-enforcement officer under § [46.2-1001](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1001) or regulations promulgated pursuant to § [52-8.4](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+52-8.4) relating to Motor Carrier Safety, and including similar actions by authorized judicial officers or enforcement officers acting pursuant to similar laws of other states, the United States, the Canadian Provinces, Canada, Mexico, and localities within them, and also including actions by federal or other jurisdictions' officers pursuant to federal Motor Carrier Safety Regulations, that a driver, a commercial motor vehicle, or a motor carrier is out of service. Such order or declaration as to a driver means that the driver is prohibited from operating a commercial motor vehicle for the duration of the out-of-service period. Such order or declaration as to a vehicle means that such vehicle cannot be operated until the hazardous condition that resulted in the order or declaration has been removed and the vehicle has been cleared for further operation. Such order or declaration as to a motor carrier means that no vehicle may be operated for or on behalf of such carrier until the out-of-service order or declaration has been lifted. For purposes of this article, the provisions of the federal Motor Carrier Safety Regulations (49 C.F.R. Parts 390 through 397), including such regulations or any substantially similar regulations as may have been adopted by any state of the United States, the Provinces of Canada, Canada, Mexico, or any locality shall be considered laws similar to the Virginia laws referenced herein.

"Person" means a natural person, firm, partnership, association, corporation, or a governmental entity including a school board.

"Restriction" means a prohibition on a commercial driver's license or commercial driver's instruction permit that prohibits the holder from operating certain commercial motor vehicles.

"Seasonal restricted commercial driver's license" means a commercial driver's license issued, under the authority of the waiver promulgated by the federal Department of Transportation (49 C.F.R. § 383.3) by Virginia or any other jurisdiction, to an individual who has not passed the knowledge or skills tests required of other commercial driver's license holders. This license authorizes operation of a commercial motor vehicle only on a seasonal basis, stated on the license, by a seasonal employee of a farm service business, within 150 miles of the place of business or the farm currently being served.

"State" means one of the 50 states of the United States or the District of Columbia.

"Tank vehicle" means any commercial motor vehicle that is designed to transport any liquid or gaseous materials within a tank or tanks having an individual rated capacity of more than 119 gallons and an aggregate rated capacity of 1,000 gallons or more that is either permanently or temporarily attached to the vehicle or the chassis. Such vehicles include, but are not limited to, cargo tanks and portable tanks, as defined in 49 C.F.R. Part 171. However, this definition does not include portable tanks having a rated capacity under 1,000 gallons as provided in 49 C.F.R. Part 383. A commercial motor vehicle transporting an empty storage container tank, not designed for transportation, with a rated capacity of 1,000 gallons or more that is temporarily attached to a flatbed trailer is not considered a tank vehicle.

"Third party examiner" means an individual who is an employee of a third party tester and who is certified by the Department to administer ~~the skills test~~ *tests* required for a commercial driver's license.

"Third party tester" means a person (including, but not limited to, another state, a motor carrier, a private institution, *the military,* or a department, agency, or instrumentality of a local government) certified by the Department to employ third party examiners to administer a ~~skills~~ test program for testing commercial driver's license applicants in accordance with this article.

"VAMCSR" means the Virginia Motor Carrier Safety Regulations ~~(19 VAC~~ [~~30-20-10~~](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+30-20-10) ~~et seq.)~~ *(19VAC*[*30-20*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+30-20)*)* adopted by the Department of State Police pursuant to § [52-8.4](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+52-8.4).

§ [46.2-341.8](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.8). Nonresidents and new residents.

Any person who is not domiciled in the Commonwealth, who has been duly issued a commercial driver's license or commercial driver's instruction permit by his state of domicile, who has such license or permit in his immediate possession, whose privilege or license to drive any motor vehicle is not suspended, revoked, or cancelled, and who has not been disqualified from driving a commercial motor vehicle, shall be permitted without further examination or licensure by the Commonwealth, to drive a commercial motor vehicle in the Commonwealth.

Within 30 days after becoming domiciled in this Commonwealth, any person who has been issued a commercial driver's license ~~or commercial driver's instruction permit~~ by another state and who intends to drive a commercial motor vehicle shall apply to the Department for a Virginia commercial driver's license ~~or commercial driver's instruction permit~~. If the Commissioner determines that such applicant is otherwise eligible for a commercial driver's license ~~or commercial driver's instruction permit~~, the Department will issue him a Virginia commercial driver's license ~~or commercial driver's instruction permit~~ with the same classification and endorsements as his commercial driver's license ~~or commercial driver's instruction permit~~ from another state, without requiring him to take the knowledge or skills test required for such commercial driver's license ~~or commercial driver's instruction permit~~ in accordance with § [46.2-330](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-330). ~~The Commissioner may establish, by regulation, the criteria by which the test requirements for a commercial driver's license may be waived for any such applicant.~~ *However, any such applicant seeking to transfer his commercial driver's license and to retain a hazardous materials endorsement shall have, within the two-year period preceding his application for a Virginia commercial driver's license, either (i) passed the required test for such endorsement specified in 49 C.F.R. § 383.121 or (ii) successfully completed a hazardous materials test or training that is given by a third party and that is deemed to substantially cover the same knowledge base as described in 49 C.F.R. § 383.121.*

§ [46.2-341.10](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.10). Special provisions relating to commercial driver's instruction permit.

A. The Department, upon receiving an application on forms prescribed by the Commissioner and upon the applicant's satisfactory completion of the vision and knowledge tests required for the class and type of commercial motor vehicle to be driven by the applicant may, in its discretion, issue to such applicant a commercial driver's instruction permit. Such permit shall ~~expire one year after issuance and~~ *be valid for no more than 180 days from the date of issuance. The Department may renew the commercial driver's instruction permit for an additional 180 days without requiring the commercial driver's instruction permit holder to retake the general and endorsement knowledge tests. No additional renewals are permitted. A commercial driver's instruction permit* shall entitle the applicant to drive a commercial motor vehicle of the class and type designated on the permit, but only when accompanied by a person licensed to drive the class and type of commercial motor vehicle driven by the applicant. The person accompanying the permit holder shall occupy the seat closest to the driver's seat for the purpose of giving instruction to the permit holder in driving the commercial motor vehicle.

B. No person shall be issued a commercial driver's instruction permit unless he possesses a valid Virginia driver's license or has satisfied all the requirements necessary to obtain such a license.

C. A commercial driver's instruction permit holder with a passenger (P) endorsement (i) must have taken and passed the P endorsement knowledge test and (ii) is prohibited from operating a commercial motor vehicle carrying passengers, other than federal or state auditors and inspectors, test examiners, other trainees, and the commercial driver's license holder accompanying the commercial driver's instruction permit holder. The P endorsement must be class specific.

D. A commercial driver's instruction permit holder with a school bus (S) endorsement (i) must have taken and passed the S endorsement knowledge test and (ii) is prohibited from operating a school bus with passengers other than federal or state auditors and inspectors, test examiners, other trainees, and the commercial driver's license holder accompanying the commercial driver's instruction permit holder. No person shall be issued a commercial driver's instruction permit to drive school buses or to drive any commercial vehicle to transport children to or from activities sponsored by a school or by a child day care facility licensed, regulated, or approved by the Virginia Department of Social Services during any period in which he is a person for whom registration with the Sex Offender and Crimes Against Minors Registry is required pursuant to Chapter 9 (§ [9.1-900](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+9.1-900) et seq.) of Title 9.1.

E. A commercial driver's instruction permit holder with a tank vehicle (N) endorsement (i) must have taken and passed the N endorsement knowledge test and (ii) may only operate an empty tank vehicle and is prohibited from operating any tank vehicle that previously contained hazardous materials that has not been purged of any residue.

F. The issuance of a commercial driver's instruction permit is a precondition to the initial issuance of a commercial driver's license and to the upgrade of a commercial driver's license if the upgrade requires a skills test. The commercial driver's instruction permit holder is not eligible to take the commercial driver's license skills test until he has held the permit for the required period of time specified in § [46.2-324.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-324.1).

G. Any instruction permit holder who operates a commercial motor vehicle without being accompanied by a licensed driver as provided in this section is guilty of a Class 2 misdemeanor.

H. The Department shall charge a fee of ~~three dollars~~ *$3* for each instruction permit issued under the provisions of this section.

§ [46.2-341.12](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.12). Application for commercial driver's license or commercial driver's instruction permit.

A. Every application to the Department for a commercial driver's license or commercial driver's instruction permit shall be made upon a form approved and furnished by the Department, and the applicant shall write his usual signature in ink in the space provided. The applicant shall provide the following information:

1. Full legal name;

2. Current mailing and residential addresses;

3. Physical description including sex, height, weight and eye and hair color;

4. Year, month and date of birth;

5. Social Security number; and

6. Any other information required on the application form.

The applicant's Social Security number shall be provided to the Commercial Driver's License Information System as required by 49 C.F.R. § 383.153.

B. Every applicant for a commercial driver's license or commercial driver's instruction permit shall also submit to the Department the following:

1. A consent to release driving record information;

2. Certifications that:

a. He either meets the federal qualification requirements of 49 C.F.R. ~~Part~~ *Parts* *383 and* 391, or he is exempt from or is not subject to such federal requirements;

b. He either meets the state qualification requirements established pursuant to § [52-8.4](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+52-8.4), or he is exempt from or is not subject to such requirements;

c. The motor vehicle in which the applicant takes the skills test is representative of the class and, if applicable, the type of motor vehicle for which the applicant seeks to be licensed;

d. He is not subject to any disqualification, suspension, revocation or cancellation of his driving privileges;

e. He does not have more than one driver's license;

3. Other certifications required by the Department;

4. Any evidence required by the Department to establish proof of identity, legal presence, residency, and social security number; and

5. A statement indicating whether (i) the applicant has previously been licensed to drive any type of motor vehicle during the previous 10 years and, if so, all states that licensed the applicant and the dates he was licensed, and (ii) whether or not he has ever been disqualified, or his license suspended, revoked or cancelled and, if so, the date of and reason therefor.

C. Every application for a commercial driver's license shall include a photograph of the applicant supplied under arrangements made therefor by the Department in accordance with § [46.2-323](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-323).

D. The Department shall disqualify any commercial driver for a period of one year when the records of the Department clearly show to the satisfaction of the Commissioner that such person has made a material false statement on any application or certification made for a commercial driver's license or commercial driver's instruction permit. The Department shall take such action within 30 days after discovering such falsification.

E. The Department shall review the driving record of any person who applies for a Virginia commercial driver's license or commercial driver's instruction permit, for the renewal or reinstatement of such license or permit or for an additional commercial classification or endorsement, including the driving record from all jurisdictions where, during the previous 10 years, the applicant was licensed to drive any type of motor vehicle. Such review shall include checking the photograph on record whenever the applicant or holder appears in person to renew, upgrade, transfer, reinstate, or obtain a duplicate commercial driver's license or *to renew, upgrade, reinstate, or obtain a duplicate* commercial driver's instruction permit. If appropriate, the Department shall incorporate information from such other jurisdictions' records into the applicant's Virginia driving record, and shall make a notation on the applicant's driving record confirming that such review has been completed and the date it was completed. The Department's review shall include research through the Commercial Driver License Information System established pursuant to the Commercial Motor Vehicle Safety Act and the National Driver Register Problem Driver Pointer System in addition to the driver record maintained by the applicant's previous jurisdictions of licensure. This research shall be completed prior to the issuance, renewal, *transfer,* or reinstatement of a commercial driver's license or additional commercial classification or endorsement.

The Department shall verify the name, date of birth, and Social Security number provided by the applicant with the information on file with the Social Security Administration for initial issuance of a commercial driver's instruction permit, transfer of a commercial driver's license from another state or for drivers renewing a commercial driver's license for the first time after July 8, 2011, who have not previously had their Social Security number information verified. The Department shall make a notation in the driver's record confirming that the necessary verification has been completed and noting the date it was done.

F. On and after January 30, 2012, every new applicant for a commercial driver's license or commercial driver's instruction permit, including any person applying for a commercial driver's license or permit after revocation of his driving privileges, who certifies that he will operate a commercial motor vehicle in non-excepted interstate or intrastate commerce shall provide the Department with an original or certified copy of a medical examiner's certificate prepared by a medical examiner as defined in 49 C.F.R. ~~Part~~ *§* 390.5. *Upon receipt of an appropriate medical examiner's certificate, the Department shall post a certification status of "certified" on the record of the driver on the Commercial Driver's License Information System.* Any new applicant for a commercial driver's license *or commercial driver's instruction permit* who fails to comply with the requirements of this subsection shall be denied the issuance of a commercial driver's license *or commercial driver's instruction permit* by the Department.

G. On and after January 30, 2012, but no later than January 30, 2014, every existing holder of a commercial driver's license or commercial driver's instruction permit who certifies that he will operate a commercial motor vehicle in non-excepted interstate or intrastate commerce shall provide the Department with an original or certified copy of a medical examiner's certificate prepared by a medical examiner as defined in 49 C.F.R. ~~Part~~ *§* 390.5. *Upon receipt of an appropriate medical examiner's certificate, the Department shall post a certification status of "certified" and any other necessary information on the record of the driver on the Commercial Driver's License Information System.* If an existing holder of a commercial driver's license fails to provide the Department with a medical certificate as required by this subsection, the Department shall post a certification status of "noncertified" on the record of the driver on the Commercial Driver's License Information System and initiate a downgrade of his commercial driver's license as defined in 49 C.F.R. ~~Part~~ *§* 383.5.

H. Any person who provides a medical certificate to the Department pursuant to the requirements of subsections F and G shall keep the medical certificate information current and shall notify the Department of any change in the status of the medical certificate. If the Department determines that the medical certificate is no longer valid, the Department shall initiate a downgrade of the driver's commercial driver's license as defined in 49 C.F.R. ~~Part~~ *§* 383.5.

I. If the Department receives notice that the holder of a commercial driver's license has been issued a medical variance as defined in 49 C.F.R. ~~Part~~ *§* 390.5, the Department shall indicate the existence of such medical variance on the commercial driver's license document of the driver and on the record of the driver on the Commercial Driver's License Information System using the restriction code "V."

J. Any holder of a commercial driver's license who has been issued a medical variance shall keep the medical variance information current and shall notify the Department of any change in the status of the medical variance. If the Department determines that the medical variance is no longer valid, the Department shall initiate a downgrade of the driver's commercial driver's license as defined in 49 C.F.R. ~~Part~~ *§* 383.5.

K. Any applicant applying for a hazardous materials endorsement must comply with Transportation Security Administration requirements in 49 C.F.R. Part 1572. A lawful permanent resident of the United States requesting a hazardous materials endorsement must additionally provide his U.S. Citizenship and Immigration Services (USCIS) alien registration number.

§ [46.2-341.14](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.14). Testing requirements for commercial driver's license; behind-the-wheel and knowledge examinations.

A. The Department shall conduct an examination of every applicant for a commercial driver's license, which examination shall comply with the minimum federal standards established pursuant to the federal Commercial Motor Vehicle Safety Act. The examination shall be designed to test the vision, knowledge, and skills required for the safe operation of the class and type of commercial motor vehicle for which the applicant seeks a license.

B. An applicant's skills test shall be conducted in a vehicle that is representative of or meets the description of the class of vehicle for which the applicant seeks to be licensed. In addition, applicants who seek to be licensed to drive vehicles with air brakes, passenger-carrying vehicles, or school buses must take the skills test in a vehicle that is representative of such vehicle type. Such vehicle shall be furnished by the applicant and shall be properly licensed, inspected and insured.

C. Prior to April 1, 1992, the Commissioner may waive the skills test for applicants licensed at the time they apply for a commercial driver's license if:

1. The applicant has not, and certifies that he has not, at any time during the two years immediately preceding the date of application:

a. Had more than one driver's license, except during the ten-day period beginning on the date such person is issued a driver's license, or unless, prior to December 31, 1989, such applicant was required to have more than one license by a state law enacted before June 1, 1986;

b. Had any driver's license or driving privilege suspended, revoked or canceled;

c. Had any convictions involving any kind of motor vehicle for the offenses listed in § [46.2-341.18](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.18), [46.2-341.19](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.19), or [46.2-341.20](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.20); and

d. Been convicted of a violation of state or local laws relating to motor vehicle traffic control, other than a parking violation, which violation arose in connection with any reportable traffic accident; and

2. The applicant certifies and provides evidence satisfactory to the Commissioner that he is regularly employed in a job requiring the operation of a commercial motor vehicle, and either:

a. Has previously taken and successfully completed a skills test which was administered by a state with a classified licensing and testing system and that test was behind the wheel in a vehicle representative of the class and, if applicable, the type of commercial motor vehicle for which the applicant seeks to be licensed; or

b. Has operated, for at least two years immediately preceding the application date, a vehicle representative of the class and, if applicable, the type of commercial motor vehicle for which the applicant seeks to be licensed.

D. The Commissioner may, in his discretion, designate such persons as he deems fit, including private or governmental entities, to administer the *knowledge and* skills tests required of applicants for a commercial driver's license. Any person so designated shall comply with all statutes and regulations with respect to the administration of such ~~skills~~ tests.

The Commissioner shall require all state ~~knowledge~~ and ~~skills~~ *third party* test examiners to successfully complete a formal commercial driver's license test examiner training course and examination before certifying them to administer commercial driver's license knowledge and skills tests. ~~State~~ *All state and third party* test examiners shall complete a refresher training course and examination every four years to maintain their commercial driver's license test examiner certification. The refresher training course shall comply with 49 C.F.R. § 384.228. At least once every two years, the Department shall conduct covert and overt monitoring of examinations performed by state *and third party* commercial driver's license ~~skills~~ test examiners.

*The Commissioner shall require a nationwide criminal background check of all test examiners at the time of hiring or prior to certifying them to administer commercial driver's license testing. The Commissioner shall complete a nationwide criminal background check for any state or third party test examiners who are current examiners and who have not had a nationwide criminal background check.*

*The Commissioner shall revoke the certification to administer commercial driver's license tests for any test examiner who (i) does not successfully complete the required refresher training every four years or (ii) does not pass the required nationwide criminal background check. Criteria for not passing the criminal background check include but are not limited to having a felony conviction within the past 10 years or any conviction involving fraudulent activities.*

E. Every applicant for a commercial driver's license who is required by the Commissioner to take a vision test shall either (i) appear before a license examiner of the Department of Motor Vehicles to demonstrate his visual acuity and horizontal field of vision; or (ii) submit with his application a copy of the vision examination report which was used as the basis for such examination made within 90 days of the application date by an ophthalmologist or optometrist. The Commissioner may, by regulation, determine whether any other visual tests will satisfy the requirements of this title for commercial drivers.

F. No person who fails the behind-the-wheel examination for a commercial driver's license administered by the Department three times shall be permitted to take such examination a fourth time until he successfully completes, subsequent to the third examination failure, the in-vehicle component of driver instruction at a driver training school licensed under Chapter 17 (§ [46.2-1700](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1700) et seq.) or a comparable course approved by the Department or the Department of Education. In addition, no person who fails the general knowledge examination for a commercial driver's license administered by the Department three times shall be permitted to take such examination a fourth time until he successfully completes, subsequent to the third examination failure, the knowledge component of driver instruction at a driver training school licensed under Chapter 17 (§ [46.2-1700](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1700) et seq.) or a comparable course approved by the Department or the Department of Education.

The provisions of this subsection shall not apply to persons placed under medical control pursuant to § [46.2-322](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-322).

G. Knowledge tests may be administered in written form, verbally, or in automated format and can be administered in a foreign language, provided no interpreter is used in administering the test.

H. Interpreters are prohibited during the administration of the skills tests. Applicants must be able to understand and respond to verbal commands and instructions in English by a skills test examiner. Neither the applicant nor the examiner may communicate in a language other than English during the skills test.

*§* [*46.2-341.14:01*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.14C01)*. Military third party testers and military third party examiners; substitute for driving skills tests for drivers with military commercial motor vehicle experience.*

*A. Pursuant to §* [*46.2-341.14*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.14)*, the Commissioner shall permit military bases that have entered into an agreement with the Department to serve as third party testers in administering state knowledge and skills tests for issuing commercial driver's licenses. Military third party testers and military third party examiners shall comply with the requirements set forth in §§* [*46.2-341.14:1*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.14C1) *through* [*46.2-341.14:9*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.14C9) *with respect to knowledge and skills tests.*

*B. Pursuant to 49 C.F.R. § 383.77, the Commissioner may waive the driving skills test as specified in 49 C.F.R. § 383.113 for a commercial motor vehicle driver with military commercial motor vehicle experience who is currently licensed at the time of his application for a commercial driver's license and substitute an applicant's driving record in combination with certain driving experience for the skills test.*

*C. To obtain a skills test waiver, the following conditions and limitations must be met:*

*1. An applicant must certify that, during the two-year period immediately prior to applying for a commercial driver's license, he:*

*a. Has not had more than one license except for a military license;*

*b. Has not had any license suspended, revoked, canceled, or disqualified;*

*c. Has not had any convictions for any type of motor vehicle for the disqualifying offenses contained in this article;*

*d. Has not had more than one conviction for any type of motor vehicle for serious traffic violations contained in this article; and*

*e. Has not had any conviction for a violation of military, state, or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with any traffic crash and has no record of a crash in which he was at fault; and*

*2. An applicant must provide evidence and certify that he:*

*a. Is regularly employed or was regularly employed within the last 90 days or any other period authorized by the FMCSA in a military position requiring operation of a commercial motor vehicle;*

*b. Was exempted from the commercial driver's license requirements in 49 C.F.R. § 383.3(c); and*

*c. Was operating a vehicle representative of the commercial motor vehicle the driver applicant operates, or expects to operate, for at least the two years immediately preceding discharge from the military.*

§ [46.2-341.14:1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.14C1). Requirements for third party testers.

A. Pursuant to § [46.2-341.14](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.14), third party testers will be authorized to issue skills test certificates, which will be accepted by the Department as evidence of satisfaction of the skills test component of the commercial driver's license examination. Authority to issue skills test certificates will be granted only to third party testers certified by the Department.

B. To qualify for certification, a third party tester shall:

1. Make application to and enter into an agreement with the Department as provided in § [46.2-341.14:3](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.14C3);

2. Maintain a place of business in Virginia;

3. Have at least one certified third party examiner in his employ;

4. Ensure that all third party examiners in his employ are certified and comply with the requirements of §§ [46.2-341.14:2](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.14C2) and [46.2-341.14:7](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.14C7);

5. Permit the Department and the FMCSA of the U.S. Department of Transportation to ~~examine~~ *conduct random examinations, inspections, and audits of its* records*, facilities, and operations* that relate to the third party testing program ~~and to audit his testing program~~ *without prior notice*;

6. Maintain at the principal place of business a copy of the state certificate authorizing the third party tester to administer a commercial driver's license ~~skills~~ testing program and current third party agreement;

7. Maintain at a Virginia location, for a minimum of two years after a skills test is conducted, a record of each driver for whom the third party tester conducts a skills test, whether the driver passes or fails the test. Each such record shall include:

a. The complete name of the driver;

b. The driver's Social Security number or other driver's license number and the name of the state or jurisdiction that issued the license held by the driver at the time of the test;

c. The date the driver took the skills test;

d. The test score sheet or sheets showing the results of the skills test and a copy of the skills test certificate, if issued;

e. The name and certification number of the third party examiner conducting the skills test; and

f. Evidence of the driver's employment with the third party tester at the time the test was taken. If the third party tester is a school board that tests drivers who are trained but not employed by the school board, evidence that (i) the driver was employed by a school board at the time of the test and (ii) the third party tester trained the driver in accordance with the Virginia School Bus Driver Training Curriculum Guide;

8. Maintain at a Virginia location a record of each third party examiner in the employ of the third party tester. Each record shall include:

a. Name and Social Security number;

b. Evidence of the third party examiner's certification by the Department;

c. A copy of the third party examiner's current *training and* driving record, which must be updated annually;

d. Evidence that the third party examiner is an employee of the third party tester; and

e. If the third party tester is a school board, a copy of the third party examiner's certification of instruction issued by the Virginia Department of Education;

9. Retain the records required in subdivision 8 for at least two years after the third party examiner leaves the employ of the third party tester;

10. Ensure that skills tests are conducted, and that skills test certificates are issued in accordance with the requirements of §§ [46.2-341.14:8](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.14C8) and [46.2-341.14:9](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.14C9) and the instructions provided by the Department; ~~and~~

11. Maintain compliance with all applicable provisions of this article and the third party tester agreement executed pursuant to § [46.2-341.14:3](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.14C3)*; and*

*12. Maintain a copy of the third party tester's road test route or routes approved by the Department*.

C. In addition to the requirements listed in subsection B, all third party testers who are not governmental entities shall:

1. Be engaged in a business involving the use of commercial motor vehicles, which business has been in operation in Virginia for a minimum of one year;

2. Employ at least 75 Virginia-licensed drivers of commercial motor vehicles, during the 12-month period preceding the application, including part-time and seasonal drivers. This requirement may be waived by the Department pursuant to § [46.2-341.14:10](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.14C10);

3. If subject to the FMCSA regulations and rated by the U.S. Department of Transportation, maintain a rating of "satisfactory"; and

4. Comply with the Virginia Motor Carrier Safety Regulations.

§ [46.2-341.14:2](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.14C2). Requirements for third party examiners.

A. Third party examiners may be certified to conduct skills tests on behalf of only one third party tester at any given time. If a third party examiner leaves the employ of a third party tester*,* he must be recertified in order to conduct skills tests on behalf of a new third party tester.

B. To qualify for certification as a third party examiner, an individual must:

1. Make application to the Department as provided in § [46.2-341.14:3](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.14C3) *and pass the required nationwide criminal background check*;

2. Be an employee of the third party tester;

3. Possess a valid Virginia commercial driver's license with the classification and endorsements required for operation of the class and type of commercial motor vehicle used in skills tests conducted by the examiner;

4. Satisfactorily complete any third party examiner training course required by the Department;

5. Within three years prior to application*,* have had no driver's license suspensions, revocations, or disqualifications;

6. At the time of application*,* have no more than six demerit points on his driving record and not be on probation under the Virginia Driver Improvement Program;

7. Within three years prior to application, have had no conviction for any offense listed in § [46.2-341.18](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.18) or [46.2-341.19](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.19), whether or not such offense was committed in a commercial motor vehicle;

8. If the examiner is employed by a school board, be certified by the Virginia Department of Education as a school bus training instructor;

9. Conduct skills tests on behalf of the third party tester in accordance with this article and in accordance with current instructions provided by the Department; and

10. Successfully complete a training course and examination every four years to maintain the commercial driver's license test examiner certification.

§ [46.2-341.14:5](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.14C5). Terminating certification of third party tester or examiner.

A. Any third party tester or examiner may relinquish certification upon 30 days' notice to the Department. Relinquishment of certification by a third party tester or examiner shall not release such tester or examiner from any responsibility or liability that arises from his activities as a third party tester or examiner.

B. The Department reserves the right to cancel the third party testing program established by this article, in its entirety.

C. The Department shall revoke the skills testing certification of any examiner:

1. Who does not conduct skills test examinations of at least 10 different applicants per calendar year. However, examiners who do not meet the 10-test minimum must either take a refresher commercial driver's license training that complies with 49 C.F.R. § 384.228 or have a Department examiner ride along to observe the third party examiner successfully administer at least one skills test; or

2. Who does not successfully complete the required refresher training every four years pursuant to 49 C.F.R. § 384.228.

D. The Department may cancel the certification of an individual third party tester or examiner upon the following grounds:

1. Failure to comply with or satisfy any of the provisions of this article, federal standards for the commercial driver's license testing program, the Department's instructions, or the third party tester agreement;

2. Falsification of any record or information relating to the third party testing program; ~~or~~

3. Commission of any act that compromises the integrity of the third party testing program*; or*

*4. Failure to pass the required nationwide criminal background check. Criteria for not passing the criminal background check include but are not limited to having a felony conviction within the past 10 years or any conviction involving fraudulent activities*.

E. If the Department determines that grounds for cancellation exist for failure to comply with or satisfy any of the requirements of this chapter or the third party tester agreement, the Department may postpone cancellation and allow the third party tester or examiner 30 days to correct the deficiency.

§ [46.2-341.14:6](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.14C6). Onsite inspections and audits.

A. Each applicant for certification as a third party tester shall permit the Department *or FMCSA* to conduct random examinations ~~and to inspect~~*, inspections,* and ~~audit~~ *audits of* its operations, facilities, and records as they relate to its third party testing program, for the purpose of determining whether the applicant is qualified for certification. Each person who has been certified as a third party tester shall permit the Department to periodically inspect and audit his third party testing program to determine whether it remains in compliance with certification requirements.

B. The Department *or FMCSA* will perform its random examinations, inspections, and audits of third party testers during regular business hours with or without prior notice to the third party tester.

C. Inspections and audits of third party testers will occur at a minimum once every two years and include, at a minimum, an examination of:

1. Records relating to the third party testing program;

2. Evidence of compliance with the FMCSA regulations and Virginia Motor Carrier Safety Regulations;

3. Skills testing procedures, practices, and operations;

4. Vehicles used for testing;

5. Qualifications of third party examiners;

6. Effectiveness of the skills test program by either (i) testing a sample of drivers who have been issued skills test certificates by the third party tester to compare pass/fail results, (ii) having Department employees covertly take the skills tests from a third party examiner, or (iii) having Department employees co-score along with the third party examiner during commercial driver's license applicant's skills tests to compare pass/fail results;

7. A comparison of the commercial driver's license skills test results of applicants who are issued commercial driver's licenses with the commercial driver's license scoring sheets that are maintained in the third party testers' files; and

8. Any other aspect of the third party tester's operation that the Department determines is necessary to verify that the third party tester meets or continues to meet the requirements for certification.

D. The Department will prepare a written report of the results of each inspection and audit of third party testers. A copy of the report will be provided to the third party tester.

§ [46.2-341.16](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.16). Vehicle classifications, restrictions, and endorsements.

A. A commercial driver's license or commercial driver's instruction permit shall authorize the licensee or permit holder to operate only the classes and types of commercial motor vehicles designated thereon. The classes of commercial motor vehicles for which such license may be issued are:

1. Class A-Combination heavy vehicle. - Any combination of vehicles with a gross combination weight rating of 26,001 or more pounds, provided the gross vehicle weight rating of the vehicles being towed is in excess of 10,000 pounds;

2. Class B-Heavy straight vehicle or other combination. - Any single motor vehicle with a gross vehicle weight rating of 26,001 or more pounds, or any such vehicle towing a vehicle with a gross vehicle weight rating that is not in excess of 10,000 pounds; and

3. Class C-Small vehicle. - Any vehicle that does not fit the definition of a Class A or Class B vehicle and is either (i) designed to transport 16 or more passengers including the driver or (ii) is used in the transportation of hazardous materials.

B. Commercial driver's licenses shall be issued with endorsements authorizing the driver to operate the types of vehicles identified as follows:

1. Type T-Vehicles with double or triple trailers;

2. Type P-Vehicles carrying passengers;

3. Type N-Vehicles with cargo tanks;

4. Type H-Vehicles required to be placarded for hazardous materials;

5. Type S-School buses carrying 16 or more passengers, including the driver;

6. Type X-combination of tank vehicle and hazardous materials endorsements for commercial driver's licenses issued on or after July 1, 2014; and

7. At the discretion of the Department, any additional codes for groupings of endorsements with an explanation of such code appearing on the front or back of the license.

C. Commercial driver's licenses shall be issued with restrictions limiting the driver to the types of vehicles identified as follows:

1. L for no air brake equipped commercial motor vehicles for licenses issued on or after July 1, 2014*. An applicant is restricted from operating a commercial motor vehicle with any type of air brake if he does not take or fails the air brake component of the knowledge test or performs the skills test in a vehicle not equipped with air brakes*;

2. Z for no full air brake equipped commercial motor vehicles*. If an applicant performs the skills test in a vehicle equipped with air over hydraulic brakes, the applicant is restricted from operating a commercial motor vehicle equipped with any braking system operating fully on the air brake principle*;

3. E for no manual transmission equipped commercial motor vehicles for commercial driver's licenses issued on or after July 1, 2014;

4. O for no tractor-trailer commercial motor vehicles;

5. M for no class A passenger vehicles;

6. N for no class A and B passenger vehicles;

7. K for vehicles not equipped with air brakes for commercial driver's licenses issued before July 1, 2014*. An applicant is restricted from operating a commercial motor vehicle with any type of air brakes if he does not take or fails the air brake component of the knowledge test or performs the skills test in a vehicle not equipped with air brakes*;

8. K for intrastate only for commercial driver's licenses issued on or after July 1, 2014;

9. V for medical variance; and

10. At the discretion of the Department, any additional codes for groupings of restrictions with an explanation of such code appearing on the front or back of the license.

D. Commercial driver's instruction permits shall be issued with endorsements authorizing the driver to operate the types of vehicles identified as follows:

1. Type P-Vehicles carrying passengers as provided in § [46.2-341.10](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.10);

2. Type N-Vehicles with cargo tanks as provided in § [46.2-341.10](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.10); and

3. Type S-School buses carrying 16 or more passengers, including the driver as provided in § [46.2-341.10](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.10).

E. Commercial driver's instruction permits shall be issued with restrictions limiting the driver to the types of vehicles identified as follows:

1. P for no passengers in commercial motor vehicles bus;

2. X for no cargo in commercial motor vehicles tank vehicle;

3. L for no air brake equipped commercial motor vehicles for commercial driver's instruction permits issued on or after July 1, 2014*. An applicant is restricted from operating a commercial motor vehicle with any type of air brake if he does not take or fails the air brake component of the knowledge test*;

4. M for no class A passenger vehicles;

5. N for no class A and B passenger vehicles;

6. K for vehicles not equipped with air brakes for commercial driver's instruction permits issued before July 1, 2014*. An applicant is restricted from operating a commercial motor vehicle with any type of air brake if he does not take or fails the air brake component of the knowledge test*;

7. K for intrastate only for commercial driver's instruction permits issued on or after July 1, 2014;

8. V for medical variance; and

9. Any additional jurisdictional restrictions that apply to the commercial driver's instruction permit.

F. Persons authorized to drive Class A vehicles are also authorized to drive Classes B and C vehicles, provided such persons possess the requisite endorsements for the type of vehicle driven.

G. Persons authorized to drive Class B vehicles are also authorized to drive Class C vehicles, provided such persons possess the requisite endorsements for the type of vehicle driven.

H. Any licensee who seeks to add a classification or endorsement to his commercial driver's license must submit the application forms, certifications and other updated information required by the Department and shall take and successfully complete the tests required for such classification or endorsement.

I. If any endorsement to a commercial driver's license is canceled by the Department and the licensee does not appear in person at the Department to have such endorsement removed from the license, then the Department may cancel the commercial driver's license of the licensee.

§ [46.2-341.20](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.20). Disqualification for multiple serious traffic violations.

A. For the purposes of this section, the following offenses, if committed in a commercial motor vehicle, are serious traffic violations:

1. Driving at a speed 15 or more miles per hour in excess of the posted speed limits;

2. Reckless driving;

3. A violation of a state law or local ordinance relating to motor vehicle traffic control arising in connection with a fatal traffic accident;

4. Improper or erratic traffic lane change;

5. Following the vehicle ahead too closely;

6. Driving a commercial motor vehicle without obtaining a commercial driver's license *or commercial driver's instruction permit*;

7. Driving a commercial motor vehicle without a commercial driver's license *or commercial driver's instruction permit* in the driver's immediate possession;

8. Driving a commercial motor vehicle without the proper class of commercial driver's license and/or endorsements for the specific vehicle group being operated or for the passengers or type of cargo being transported; ~~and~~

9. A violation of a state law, including §§ [46.2-341.20:5](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.20C5) and [46.2-919.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-919.1) or a local ordinance relating to motor vehicle traffic control prohibiting texting while driving*; and*

*10. A violation of a state law, including §§* [*46.2-341.20:5*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.20C5) *and* [*46.2-919.1*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-919.1)*, or a local ordinance relating to motor vehicle traffic control restricting or prohibiting the use of a handheld mobile telephone while driving a commercial motor vehicle*.

For the purposes of this section, parking, vehicle weight, and vehicle defect violations shall not be considered traffic violations.

B. Beginning September 30, 2005, the following offenses shall be treated as serious traffic violations if committed while operating a noncommercial motor vehicle, but only if (i) the person convicted of the offense was, at the time of the offense, the holder of a commercial driver's license *or commercial driver's instruction permit*; (ii) the offense was committed on or after September 30, 2005; and (iii) the conviction, by itself or in conjunction with other convictions that satisfy the requirements of this section, resulted in the revocation, cancellation, or suspension of such person's driver's license or privilege to drive.

1. Driving at a speed 15 or more miles per hour in excess of the posted speed limits;

2. Reckless driving;

3. A violation of a state law or local ordinance relating to motor vehicle traffic control arising in connection with a fatal traffic accident;

4. Improper or erratic traffic lane change; or

5. Following the vehicle ahead too closely.

C. The Department shall disqualify for the following periods of time, any person whose record as maintained by the Department shows that he has committed, within any three-year period, the requisite number of serious traffic violations:

1. A 60-day disqualification period for any person convicted of two serious traffic violations; or

2. A 120-day disqualification period for any person convicted of three serious traffic violations.

D. Any disqualification period imposed pursuant to this section shall run consecutively, and not concurrently, with any other disqualification period imposed hereunder.

§ [46.2-341.20:2](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.20C2). Employer penalty; railroad/highway grade crossing violations; out-of-service order violation.

Any employer who knowingly allows, permits, authorizes, or requires an employee to operate a commercial motor vehicle in violation of any law or regulation pertaining to railroad/highway grade crossings, or in violation of an out-of-service order, shall be subject to a civil penalty ~~of not less than $3,000 nor more than $15,000~~ for each violation *pursuant to 49 C.F.R. Part 383*, which shall be imposed by the Commissioner upon receipt of notification from federal or state motor carrier officials that an employer may have violated this provision, and upon notice to the employer of the charge and a hearing conducted as provided under the Administrative Process Act (§ [2.2-4000](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+2.2-4000) et seq.), to determine whether such employer has violated this provision. Civil penalties collected under this section shall be deposited into the Transportation Trust Fund.

§ [46.2-341.20:4](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.20C4). Disqualification of driver convicted of fraud related to the testing and issuance of a commercial driver's instruction permit or commercial driver's license.

A person who has been convicted of fraud pursuant to § [46.2-348](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-348) related to the issuance of a commercial driver's instruction permit or commercial driver's license shall be disqualified for a period of one year. The application of a person so convicted who seeks to renew, transfer, or upgrade the fraudulently obtained ~~commercial driver's instruction permit or~~ commercial driver's license *or seeks to renew or upgrade the fraudulently obtained commercial driver's instruction permit* must also, at a minimum, be disqualified. Any disqualification must be recorded in the person's driving record. The person may not reapply for a new commercial driver's license for at least one year.

If ~~a~~ *the* Department receives credible information that a commercial driver's instruction permit holder or commercial driver's license holder is suspected, but has not been convicted, of fraud related to the issuance of his commercial driver's instruction permit or commercial driver's license, the Department shall require the driver to retake the skills test or knowledge test, or both. Within 30 days of receiving notification from the Department that re-testing is necessary, the affected commercial driver's instruction permit holder or commercial driver's license holder must make an appointment or otherwise schedule to take the next available test. If the commercial driver's instruction permit holder or commercial driver's license holder fails to make an appointment within 30 days, the Department shall disqualify his commercial driver's instruction permit or commercial driver's license. If the driver fails either the knowledge or skills test or does not take the test, the Department shall disqualify his commercial driver's instruction permit or commercial driver's license. Once a commercial driver's instruction permit holder's or commercial driver's license holder's commercial driver's instruction permit or commercial driver's license has been disqualified, he must reapply for a commercial driver's instruction permit or commercial driver's license under Department procedures applicable to all commercial driver's instruction permit and commercial driver's license applicants.

§ [46.2-341.20:5](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.20C5). Prohibition on texting and use of handheld mobile telephone; penalties.

A. No person driving a commercial motor vehicle shall text *or use a handheld mobile telephone* while driving such vehicle. A driver who violates this section is subject to a civil penalty not to exceed $2,750. Civil penalties collected under this section shall be deposited into the Transportation Trust Fund. *Pursuant to 49 C.F.R. § 386.81, the determination of the actual civil penalties assessed is based on consideration of information available at the time the claim is made concerning the nature and gravity of the violation and, with respect to the violator, the degree of culpability, history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice and public safety may require.*

B. Notwithstanding the definition of commercial motor vehicle in § [46.2-341.4](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.4), this section shall apply to any driver who drives a vehicle designed or used to transport between nine and 15 passengers, including the driver, not for direct compensation.

C. The provisions of this section shall not apply to drivers who are texting *or using a handheld mobile telephone* when necessary to communicate with law-enforcement officials or other emergency services.

D. The following words and phrases when used in this section only shall have the meanings respectively ascribed to them in this section except in those instances where the context clearly indicates a different meaning:

"Driving" means operating a commercial motor vehicle on a highway, including while temporarily stationary because of traffic, a traffic control device, or other momentary delays. Driving does not include operating a commercial motor vehicle when the driver has moved the vehicle to the side of or off a highway and has halted in a location where the vehicle can safely remain stationary.

*"Mobile telephone" means a mobile communication device that falls under or uses any commercial mobile radio service, as defined in regulations of the Federal Communications Commission, 47 C.F.R. § 20.3. "Mobile telephone" does not include two-way or citizens band radio services.*

"Texting" means manually entering alphanumeric text into, or reading text from, an electronic device. This action includes, but is not limited to, short message service, emailing, instant messaging, a command or request to access a website, pressing more than a single button to initiate or terminate a voice communication using a mobile telephone, or engaging in any other form of electronic text retrieval or entry for present or future communication. "Texting" does not include inputting, selecting, or reading information on a global positioning system or navigation system; pressing a single button to initiate or terminate a voice communication using a telephone; or using a device capable of performing multiple functions *(e.g., fleet management systems, dispatching devices, smartphones, citizens band radios, music players, etc.)* for a purpose that is not otherwise prohibited in this section.

*"Use a handheld mobile telephone" means using at least one hand to hold a mobile telephone to conduct a voice communication; dialing or answering a mobile telephone by pressing more than a single button; or reaching for a mobile telephone in a manner that requires a driver to maneuver so that he is no longer in a seated driving position, restrained by a seat belt that is installed in accordance with 49 C.F.R. § 393.93 and adjusted in accordance with the vehicle manufacturer's instructions.*

*§* [*46.2-341.20:6*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.20C6)*. Prohibition on requiring use of handheld mobile telephone or texting; motor carrier penalty.*

*No motor carrier shall allow or require its drivers to use a handheld mobile telephone or to text while driving a commercial motor vehicle. Motor carriers violating this section are subject to a civil penalty not to exceed $11,000. Civil penalties collected under this section shall be deposited into the Transportation Trust Fund. Pursuant to 49 C.F.R. § 386.81, the determination of the actual civil penalties assessed is based on consideration of information available at the time the claim is made concerning the nature and gravity of the violation and, with respect to the violator, the degree of culpability, history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice and public safety may require. "Driving," "mobile telephone," "texting," and "use a handheld mobile telephone" have the same meanings as assigned to them in §* [*46.2-341.20:5*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.20C5)*.*

§ [46.2-348](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-348). Fraud or false statements in applications for license; penalties.

Any person who uses a false or fictitious name or gives a false or fictitious address in any application for a driver's license or escort vehicle driver certificate, or any renewal or duplicate thereof, or knowingly makes a false statement or conceals a material fact or otherwise commits a fraud during the driver's license examination*, including for a commercial driver's license or commercial driver's instruction permit,* or in his application is guilty of a Class 2 misdemeanor. However, where the license is used, or the fact concealed, or fraud is done, with the intent to purchase a firearm or use as proof of residency under § [9.1-903](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+9.1-903), a violation of this section shall be punishable as a Class 4 felony.

§ [46.2-379](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-379). Use of crash reports made by investigating officers.

All ~~accident~~ *crash* reports made by investigating officers shall be for the confidential use of the Department and of other state agencies for accident prevention purposes and shall not be used as evidence in any trial, civil or criminal, arising out of any accident. ~~The~~ *If otherwise authorized by law, the* Department ~~shall~~ *may* disclose from the reports, on request of any person, the date, time, and location of the accident, and the names and addresses of the drivers, the owners of the vehicles involved, the injured persons, the witnesses, and one investigating officer.

§ [46.2-1078.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1078.1). Use of handheld personal communications devices in certain motor vehicles; exceptions; penalty.

A. It is unlawful for any person to operate a moving motor vehicle on the highways in the Commonwealth while using any handheld personal communications device to:

1. Manually enter multiple letters or text in the device as a means of communicating with another person; or

2. Read any email or text message transmitted to the device or stored within the device, provided that this prohibition shall not apply to any name or number stored within the device nor to any caller identification information.

B. The provisions of this section shall not apply to:

1. The operator of any emergency vehicle while he is engaged in the performance of his official duties;

2. An operator who is lawfully parked or stopped;

3. The use of factory-installed or aftermarket global positioning systems (GPS) or wireless communications devices used to transmit or receive data as part of a digital dispatch system; or

4. Any person using a handheld personal communications device to report an emergency.

C. A violation of this section is a traffic infraction punishable, for a first offense, by a fine of $125 and, for a second or subsequent offense, by a fine of $250.

For the purposes of this section, "emergency vehicle" means:

1. Any law-enforcement vehicle operated by or under the direction of a federal, state, or local law-enforcement officer;

2. Any regional detention center vehicle operated by or under the direction of a correctional officer responding to an emergency call or operating in an emergency situation;

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

4. Any ambulance, rescue, or life-saving vehicle designed or used for the principal purpose of supplying resuscitation or emergency relief where human life is endangered;

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

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

7. Any vehicle authorized to be equipped with alternating, blinking, or flashing red or red and white secondary warning lights pursuant to § [46.2-1029.2](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1029.2).

*D. Distracted driving shall be included as a part of the driver's license knowledge examination.*

**Overweight permits for truck cranes.** Allows the DMV Commissioner and cities and towns to authorize overweight permits for truck cranes. This bill is identical to [SB 402.](http://leg1.state.va.us/cgi-bin/legp504.exe?141+sum+SB402)

**CHAPTER 68**

*An Act to amend the Code of Virginia by adding in Article 18 of Chapter 10 of Title 46.2 a section numbered* [*46.2-1149.6*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1149.6)*, relating to weight limits for truck cranes.*

[H 415]

Approved March 3, 2014

 Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 18 of Chapter 10 of Title 46.2 a section numbered [46.2-1149.6](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1149.6) as follows:

*§* [*46.2-1149.6*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1149.6)*. Permits for truck cranes.*

*The Commissioner and local authorities of cities and towns, in their respective jurisdictions, may, upon written application made by an owner or operator and subject to the requirements of §* [*46.2-1139*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1139)*, issue permits authorizing the operation over the highways of truck cranes that exceed the maximum weight specified in this title. Truck cranes that have been mounted with counterweights and other manufactured equipment that enable a single person to assemble and operate the truck crane shall be considered irreducible, and no application for a permit under this section shall be denied because of the applicant's refusal to remove such counterweights or other manufactured equipment.*

**TRAFFIC – SUMMARY ONLY**

SB205 - § 46.2-324.1 - **Licensure and examination for persons age 19 or older.** Allows persons age 19 or over the option of taking the behind-the-wheel examination at a driver training school as long as they complete the current requirements already in place for persons under 19. The bill would also allow students who are not minors to take driver's education and their behind-the-wheel examination with their school or with a driver training school. Current law allows persons age 19 or over (i) to obtain a learner's permit and hold such permit for 60 days and then take a behind-the-wheel examination administered by the DMV or (ii) to take driver's education and then take a behind-the-wheel examination administered by the DMV. The bill retains the requirements that those seeking a commercial driver's license or on medical review take their behind-the-wheel examination administered by the DMV and that persons who fail the behind-the-wheel test three times at DMV must return to DMV to take the test after completing requirements at a driver training school.

HB996 - § 46.2-334 - **Driver's licenses; applicants less than 19 years old.** Changes the requirements for driver's license applicants who are less than 19 years old but have been licensed in other U.S. states, U.S. territories, Canadian provinces, or Canadian territories.

HB1164 - § 46.2-870 - **Maximum speed limits.** Permits the increase of the maximum speed limit on U.S. Route 23 and U.S. Alternate Route 58 to 60 miles per hour subsequent to a traffic study.

SB376 - § 46.2-920 - **Emergency vehicles of the Virginia National Guard.** Provides that, for the purposes of exemptions granted to emergency vehicles in certain situations, the term "emergency vehicle" shall include any Virginia National Guard Civil Support Team vehicle when responding to an emergency. The bill additionally permits such vehicles to be equipped with flashing, blinking, or alternating red or red and white combination warning lights.

HB123 - § 46.2-1025 - **Amber warning lights; petroleum and propane transport vehicles.** Allows amber warning lights on petroleum and propane transport vehicles to be lit when the vehicle is parked or delivering petroleum or propane products.

HB166 - § 46.2-1205 - **Salvage vehicles.** Enhances and clarifies certain requirements and practices relating to the licensing and activities of vehicle demolishers, rebuilders, salvage dealers, salvage pools, and vehicle removal operators, including: (i) requiring that vehicle records be kept at and license and business hours be displayed at the licensed place of business; (ii) expanding the authorization of DMV to deny, suspend, or revoke licenses for certain violations; (iii) codifying a 30-day grace period for license renewals; and (iv) authorizing DMV to impose civil penalties for violations where a conviction is not sought.

HB488 - § 46.2-916.2 - **Golf carts and utility vehicles.** Adds the Town of Clifton to the list of towns without their own police departments that may permit operation of golf carts and utility vehicles on their highways.

HB509 - § 46.2-1149.6 - **Permits for operation of specialized construction equipment.** Authorizes the Commissioner of Highways to issue permits for operation of specialized construction equipment on and across structures maintained by VDOT.

HB1144 - § 46.2-1307.1 - **Law enforcement of private roads in Greene County.** Provides that the governing body of Greene County may designate private roads in residential developments with 25 or more lots as highways for law-enforcement purposes.

HB856 - § 10.1-1426 - **Hazardous waste permit.** Removes the requirement that a permit is required from the Department of Environmental Quality to transport hazardous waste. The federal government currently regulates the transporting of hazardous waste.

HB255 - § 15.2-968.1 - **"Photo-red" traffic light enforcement systems.** Requires that all "photo-red" systems have yellow light signal lengths of at least three seconds.

HB795 - § 3.2-5512 - **Transportation of waste kitchen grease; decal.** Requires certain persons transporting waste kitchen grease to conspicuously display a decal issued by the Commissioner on the outside of any vehicle used for such purpose. Current law requires the person to display his name and registration number on the vehicle in letters not less than three inches high. This bill is identical to [SB 614.](http://leg1.state.va.us/cgi-bin/legp504.exe?141+sum+SB614)

HB771 - § 16.1-69.48.1 - **Mature driver crash prevention.** Provides for a course in mature driver motor vehicle crash prevention and provides that such course is an option for the court in adjudicating defendants. The bill also lowers the age at which drivers are required to appear before the DMV for renewal from 80 to 75 and requires that licenses issued to persons age 75 or older be valid for no more than five years. The bill contains a delayed effective date.

SB367 - § 46.2-342 - **Driver's license and special identification card designations; persons with intellectual disabilities or autism spectrum disorder.** Permits the Department of Motor Vehicles, upon the request of the applicant and presentation of a signed statement by a licensed physician confirming the applicant's condition, to designate an intellectual disability or autism spectrum disorder on the applicant's driver's license and to designate hearing or speech impairment, insulin-dependent diabetes, or an intellectual disability or autism spectrum disorder on the applicant's special identification card. Current law allows the designation of a hearing or speech impairment or a condition of insulin-dependent diabetes on a person's driver's license.

HB311 – Title 33.1 - **Revision of Title 33.1.**  Creates proposed Title 33.2 (Highways and Other Surface Transportation Systems) as a revision of existing Title 33.1 (Highways, Bridges and Ferries), as well as portions of Titles 15.2 (Counties, Cities and Towns), 56 (Public Service Companies), and 58.1 (Taxation). Proposed Title 33.2 consists of 32 chapters divided into four subtitles: Subtitle I (General Provisions and Transportation Entities); Subtitle II (Modes of Transportation: Highways, Bridges, Ferries, Rail, and Public Transportation); Subtitle III (Transportation Funding and Development); and Subtitle IV (Local and Regional Transportation). This bill organizes the laws in a more logical manner, removes obsolete and duplicative provisions, and improves the structure and clarity of statutes pertaining to highways, bridges, ferries, rail and public transportation, transportation funding, and local and regional transportation. This bill has a delayed effective date of October 1, 2014. This bill is a recommendation of the Virginia Code Commission.

HB176 - § 46.2-116 - **Tow truck drivers; violent crimes.** Creates an exception to current law prohibiting the registration as a tow truck driver of any person convicted of a violent crime. The bill grandfathers those that already held a tow truck driver authorization under the former Board of Towing and Recovery Operators and who have not committed a subsequent violent crime. The bill contains an emergency clause. This bill is identical to [SB 8](http://leg1.state.va.us/cgi-bin/legp504.exe?141+sum+SB8).

**CRIMINAL – FULL TEXT**

**Accessories after the fact to certain homicides.** Provides that an accessory after the fact to a homicide offense that is punishable by death or as a Class 2 felony is guilty of a Class 6 felony. Currently, accessories after the fact to any felony are guilty of a Class 1 misdemeanor.

**CHAPTER 668**

*An Act to amend and reenact §* [*18.2-19*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-19) *of the Code of Virginia, relating to accessories after the fact to certain homicides.*

[H 976]

Approved April 6, 2014

 Be it enacted by the General Assembly of Virginia:

1. That § [18.2-19](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-19) of the Code of Virginia is amended and reenacted as follows:

§ [18.2-19](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-19). How accessories after the fact punished; certain exceptions.

~~In the case of every felony, every~~ *Every* accessory after the fact ~~shall be~~ *is* guilty of *(i) a Class 6 felony in the case of a homicide offense that is punishable by death or as a Class 2 felony or (ii)* a Class 1 misdemeanor~~; provided, however~~ *in the case of any other felony. However*, no person in the relation of husband or wife, parent or grandparent, child or grandchild, brother or sister, by consanguinity or affinity, or servant to the offender, who, after the commission of a felony, shall aid or assist a principal felon or accessory before the fact to avoid or escape from prosecution or punishment, shall be deemed an accessory after the fact.

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](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+30-19.1C4), the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 806 of the Acts of Assembly of 2013 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § [30-19.1:4](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+30-19.1C4), the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

**Sexual battery by touching a person's intimate parts; penalty.** Provides that a person is guilty of sexual battery (punishable as a Class 1 misdemeanor) if he sexually abuses within a two-year period more than one complaining witness or one complaining witness on more than one occasion intentionally and without the consent of the complaining witness.

**CHAPTER 656**

*An Act to amend and reenact §* [*18.2-67.4*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-67.4) *of the Code of Virginia, relating to sexual battery by touching a person's intimate parts; penalty.*

[H 567]

Approved April 6, 2014

 Be it enacted by the General Assembly of Virginia:

1. That § [18.2-67.4](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-67.4) of the Code of Virginia is amended and reenacted as follows:

§ [18.2-67.4](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-67.4). Sexual battery.

1. An accused is guilty of sexual battery if he sexually abuses, as defined in § [18.2-67.10](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-67.10), (i) the complaining witness against the will of the complaining witness, by force, threat, intimidation, or ruse, (ii) *within a two-year period, more than one complaining witness or one complaining witness on more than one occasion intentionally and without the consent of the complaining witness, (iii)* an inmate who has been committed to jail or convicted and sentenced to confinement in a state or local correctional facility or regional jail, and the accused is an employee or contractual employee of, or a volunteer with, the state or local correctional facility or regional jail; is in a position of authority over the inmate; and knows that the inmate is under the jurisdiction of the state or local correctional facility or regional jail, or ~~(iii)~~ *(iv)* a probationer, parolee, or a pretrial defendant or posttrial offender under the jurisdiction of the Department of Corrections, a local community-based probation services agency, a pretrial services agency, a local or regional jail for the purposes of imprisonment, a work program or any other parole/probationary or pretrial services or agency and the accused is an employee or contractual employee of, or a volunteer with, the Department of Corrections, a local community-based probation services agency, a pretrial services agency or a local or regional jail; is in a position of authority over an offender; and knows that the offender is under the jurisdiction of the Department of Corrections, a local community-based probation services agency, a pretrial services agency or a local or regional jail.

**Certain sex crimes.** Adds the words "anal intercourse, cunnilingus, fellatio, and anilingus" to numerous Code sections criminalizing certain conduct to clarify the behaviors that are prohibited. The bill also clarifies the sex crimes that are prohibited by the crimes against nature statute. The bill also increases from $10 to $15 the additional fee placed upon each felony or misdemeanor conviction assessed as court costs and deposited into the state treasury and credited to the Internet Crimes Against Children Fund.  The bill states that an emergency exists and it is in force from its passage.

**CHAPTER 794**

*An Act to amend and reenact §§* [*17.1-275.12*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+17.1-275.12)*,* [*18.2-67.5:1*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-67.5C1)*,* [*18.2-346*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-346)*,* [*18.2-348*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-348)*,* [*18.2-356*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-356)*,* [*18.2-359*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-359)*,* [*18.2-361*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-361)*,* [*18.2-368*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-368)*,* [*18.2-370*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-370)*,* [*18.2-370.1*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-370.1)*,* [*18.2-371*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-371)*, and* [*18.2-374.3*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-374.3) *of the Code of Virginia, relating to sodomy; penalties.*

[S 14]

Approved April 23, 2014

 Be it enacted by the General Assembly of Virginia:

1. That §§ [17.1-275.12](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+17.1-275.12), [18.2-67.5:1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-67.5C1), [18.2-346](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-346), [18.2-348](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-348), [18.2-356](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-356), [18.2-359](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-359), [18.2-361](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-361), [18.2-368](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-368), [18.2-370](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-370), [18.2-370.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-370.1), [18.2-371](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-371), and [18.2-374.3](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-374.3) of the Code of Virginia are amended and reenacted as follows:

§ [17.1-275.12](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+17.1-275.12). Additional fee for Internet Crimes Against Children Fund.

In addition to the fees provided for by §§ [16.1-69.48:1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+16.1-69.48C1), [16.1-69.48:1.01](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+16.1-69.48C1.01), [17.1-275.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+17.1-275.1), [17.1-275.2](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+17.1-275.2), [17.1-275.3](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+17.1-275.3), [17.1-275.4](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+17.1-275.4), [17.1-275.5](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+17.1-275.5), [17.1-275.7](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+17.1-275.7), [17.1-275.8](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+17.1-275.8), [17.1-275.9](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+17.1-275.9), [17.1-275.10](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+17.1-275.10), and [17.1-275.11](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+17.1-275.11), a fee of ~~$10~~ *$15* upon each felony or misdemeanor conviction shall be assessed as court costs. All fees collected pursuant to this section shall be deposited into the state treasury and credited to the Internet Crimes Against Children Fund.

There is hereby established in the state treasury the Internet Crimes Against Children Fund. Such fund shall consist of all fees collected under this section, moneys appropriated directly to the Fund, and any other grants or gifts made to the Fund. Moneys in the Fund shall be disbursed in the following manner: to the Virginia State Police, 33.3333 percent of the total annual deposits to support the Northern Virginia Internet Crimes Against Children program; to the Department of Criminal Justice Services, 33.3333 percent of the total annual deposits to support the Southern Virginia Internet Crimes Against Children program; to the Department of Criminal Justice Services, 27.7777 percent of the total annual deposits to support grants and training and equipment for local law-enforcement agencies' use in investigating and prosecuting Internet crimes against children; and to the Department of Social Services, 5.5555 percent of the total annual deposits to support the Virginia Child Protection Accountability System established under § [63.2-1530](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+63.2-1530).

§ [18.2-67.5:1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-67.5C1). Punishment upon conviction of third misdemeanor offense.

When a person is convicted of sexual battery in violation of § [18.2-67.4](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-67.4), attempted sexual battery in violation of subsection C of § [18.2-67.5](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-67.5), a violation of § [18.2-371](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-371) involving consensual intercourse*, anal intercourse, cunnilingus, fellatio, or anilingus* with a child, indecent exposure of himself or procuring another to expose himself in violation of § [18.2-387](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-387), or a violation of § [18.2-130](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-130), and it is alleged in the warrant, information*,* or indictment on which the person is convicted and found by the court or jury trying the case that the person has previously been convicted within the ~~ten-year~~ *10-year* period immediately preceding the offense charged of two or more of the offenses specified in this section, each such offense occurring on a different date, he ~~shall be~~ *is* guilty of a Class 6 felony.

§ [18.2-346](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-346). Prostitution; commercial sexual conduct; commercial exploitation of a minor; penalties.

A. Any person who, for money or its equivalent, (i) commits adultery, fornication, or any act in violation of § [18.2-361](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-361)*, performs cunnilingus, fellatio, or anilingus upon or by another person, or engages in anal intercourse* or (ii) offers to commit adultery, fornication, or any act in violation of § [18.2-361](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-361)*, perform cunnilingus, fellatio, or anilingus upon or by another person, or engage in anal intercourse* and thereafter does any substantial act in furtherance thereof is guilty of prostitution, which is punishable as a Class 1 misdemeanor.

B. Any person who offers money or its equivalent to another for the purpose of engaging in sexual acts as enumerated in subsection A and thereafter does any substantial act in furtherance thereof is guilty of solicitation of prostitution, which is punishable as a Class 1 misdemeanor. However, any person who solicits prostitution from a minor (i) 16 years of age or older is guilty of a Class 6 felony or (ii) younger than 16 years of age is guilty of a Class 5 felony.

§ [18.2-348](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-348). Aiding prostitution or illicit sexual intercourse, etc.

It ~~shall be~~ *is* unlawful for any person or any officer, employee*,* or agent of any firm, association*,* or corporation, with knowledge of, or good reason to believe, the immoral purpose of such visit, to take or transport or assist in taking or transporting, or offer to take or transport on foot or in any way, any person to a place, whether within or without any building or structure, used or to be used for the purpose of lewdness, assignation*,* or prostitution within ~~this~~ *the* Commonwealth~~;~~*,* or *to* procure or assist in procuring for the purpose of illicit sexual intercourse, *anal intercourse, cunnilingus, fellatio, or anilingus* or any act violative of § [18.2-361](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-361), or to give any information or direction to any person with intent to enable such person to commit an act of prostitution.

§ [18.2-356](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-356). Receiving money for procuring person.

Any person who receives any money or other valuable thing for or on account of (i) procuring for or placing in a house of prostitution or elsewhere any person for the purpose of causing such person to engage in unlawful sexual intercourse*, anal intercourse, cunnilingus, fellatio, or anilingus* or any act in violation of § [18.2-361](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-361) or (ii) causing any person to engage in forced labor or services, concubinage, prostitution, or the manufacture of any obscene material or child pornography ~~shall be~~ *is* guilty of a Class 4 felony.

§ [18.2-359](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-359). Venue for criminal sexual assault or where any person transported for criminal sexual assault, attempted criminal sexual assault, or purposes of unlawful sexual intercourse, crimes against nature, and indecent liberties with children; venue for such crimes when coupled with a violent felony.

A. Any person transporting or attempting to transport through or across ~~this~~ *the* Commonwealth~~,~~ any person for the purposes of unlawful sexual intercourse*, anal intercourse, cunnilingus, fellatio, or anilingus* or prostitution, or for the purpose of committing any crime specified in § [18.2-361](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-361) or [18.2-370](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-370), or for the purposes of committing or attempting to commit criminal sexual assault under Article 7 (§ [18.2-61](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-61) et seq.) of Chapter 4, may be presented, indicted, tried, and convicted in any county or city in which any part of such transportation occurred.

B. Venue for the trial of any person charged with committing or attempting to commit any crime specified in § [18.2-361](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-361) or [18.2-370](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-370) or sexual assault under Article 7 (§ [18.2-61](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-61) et seq.) of Chapter 4 may be had in the county or city in which such crime is alleged to have occurred or, with the concurrence of the attorney for the Commonwealth in the county or city in which the crime is alleged to have occurred, in any county or city through which the victim was transported by the defendant prior to the commission of such offense.

C. Venue for the trial of any person charged with committing or attempting to commit criminal sexual assault under Article 7 (§ [18.2-61](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-61) et seq.) of Chapter 4 against a person under 18 years of age may be had in the county or city in which such crime is alleged to have occurred or, when the county or city where the offense is alleged to have occurred cannot be determined, then in the county or city where the person under 18 years of age resided at the time of the offense.

D. Venue for the trial of any person charged with committing or attempting to commit (i) any crime specified in § [18.2-361](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-361) or [18.2-370](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-370) or criminal sexual assault under Article 7 (§ [18.2-61](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-61) et seq.) of Chapter 4 and (ii) any violent felony as defined in § [17.1-805](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+17.1-805) or any act of violence as defined in § [19.2-297.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-297.1) arising out of the same incident, occurrence, or transaction may be had in the county or city in which any such crime is alleged to have occurred or, with the concurrence of the attorney for the Commonwealth in the county or city in which the crime is alleged to have occurred, in any county or city through which the victim was transported by the defendant in the commission of such offense.

§ [18.2-361](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-361). Crimes against nature; penalty.

A. If any person carnally knows in any manner any brute animal~~, or carnally knows any male or female person by the anus or by or with the mouth,~~ or voluntarily submits to such carnal knowledge, he ~~or she shall be~~ *is* guilty of a Class 6 felony~~, except as provided in subsection B~~.

B. Any person who performs or causes to be performed cunnilingus, fellatio, anilingus*,* or anal intercourse upon or by his daughter or granddaughter, son or grandson, brother or sister, or father or mother is guilty of a Class 5 felony. However, if a parent or grandparent commits any such act with his child or grandchild and such child or grandchild is at least 13 but less than 18 years of age at the time of the offense, such parent or grandparent is guilty of a Class 3 felony.

C. For the purposes of this section, parent includes step-parent, grandparent includes step-grandparent, child includes step-child*,* and grandchild includes step-grandchild.

§ [18.2-368](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-368). Placing or leaving wife for prostitution; penalty.

Any person who, by force, fraud, intimidation*,* or threats, places or leaves~~,~~ or procures any other person to place or leave his wife in a bawdy place for the purpose of prostitution or unlawful sexual intercourse, ~~shall be~~ *anal intercourse, cunnilingus, fellatio, or anilingus is* guilty of pandering, punishable as a Class 4 felony.

§ [18.2-370](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-370). Taking indecent liberties with children; penalties.

A. Any person 18 years of age or over, who, with lascivious intent, knowingly and intentionally commits any of the following acts with any child under the age of 15 years is guilty of a Class 5 felony:

(1) Expose his or her sexual or genital parts to any child to whom such person is not legally married or propose that any such child expose his or her sexual or genital parts to such person; or

(2) [Repealed.]

(3) Propose that any such child feel or fondle his own sexual or genital parts or the sexual or genital parts of such person or propose that such person feel or fondle the sexual or genital parts of any such child; or

(4) Propose to such child the performance of an act of sexual intercourse*, anal intercourse, cunnilingus, fellatio, or anilingus* or any act constituting an offense under § [18.2-361](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-361); or

(5) Entice, allure, persuade, or invite any such child to enter any vehicle, room, house, or other place, for any of the purposes set forth in the preceding subdivisions of this ~~section~~ *subsection*.

B. Any person 18 years of age or over who, with lascivious intent, knowingly and intentionally receives money, property, or any other remuneration for allowing, encouraging, or enticing any person under the age of 18 years to perform in or be a subject of sexually explicit visual material as defined in § [18.2-374.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-374.1) or who knowingly encourages such person to perform in or be a subject of sexually explicit material~~; shall be~~ *is* guilty of a Class 5 felony.

C. Any person who is convicted of a second or subsequent violation of this section ~~shall be~~ *is* guilty of a Class 4 felony~~;~~*,* provided that (i) the offenses were not part of a common act, transaction or scheme; (ii) the accused was at liberty as defined in § [53.1-151](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+53.1-151) between each conviction; and (iii) it is admitted, or found by the jury or judge before whom the person is tried, that the accused was previously convicted of a violation of this section.

D. Any parent, step-parent, grandparent, or step-grandparent who commits a violation of either this section or clause (v) or (vi) of subsection A of § [18.2-370.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-370.1) (i) upon his child, step-child, grandchild, or step-grandchild who is at least 15 but less than 18 years of age is guilty of a Class 5 felony or (ii) upon his child, step-child, grandchild, or step-grandchild less than 15 years of age is guilty of a Class 4 felony.

§ [18.2-370.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-370.1). Taking indecent liberties with child by person in custodial or supervisory relationship; penalties.

A. Any person 18 years of age or older who, except as provided in § [18.2-370](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-370), maintains a custodial or supervisory relationship over a child under the age of 18 and is not legally married to such child and such child is not emancipated who, with lascivious intent, knowingly and intentionally (i) proposes that any such child feel or fondle the sexual or genital parts of such person or that such person feel or handle the sexual or genital parts of the child; or (ii) proposes to such child the performance of an act of sexual intercourse*, anal intercourse, cunnilingus, fellatio, or anilingus* or any act constituting an offense under § [18.2-361](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-361); or (iii) exposes his or her sexual or genital parts to such child; or (iv) proposes that any such child expose his or her sexual or genital parts to such person; or (v) proposes to the child that the child engage in sexual intercourse, sodomy or fondling of sexual or genital parts with another person; or (vi) sexually abuses the child as defined in *subdivision 6 of* § [18.2-67.10](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-67.10) ~~(6), shall be~~ *is* guilty of a Class 6 felony.

B. Any person who is convicted of a second or subsequent violation of this section ~~shall be~~ *is* guilty of a Class 5 felony~~;~~*,* provided that (i) the offenses were not part of a common act, transaction or scheme; (ii) the accused was at liberty as defined in § [53.1-151](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+53.1-151) between each conviction; and (iii) it is admitted, or found by the jury or judge before whom the person is tried, that the accused was previously convicted of a violation of this section.

§ [18.2-371](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-371). Causing or encouraging acts rendering children delinquent, abused, etc.; penalty; abandoned infant.

Any person 18 years of age or older, including the parent of any child, who (i) willfully contributes to, encourages, or causes any act, omission, or condition ~~which~~ *that* renders a child delinquent, in need of services, in need of supervision, or abused or neglected as defined in § [16.1-228](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+16.1-228)~~,~~ or (ii) engages in consensual sexual intercourse *or anal intercourse* with *or performs cunnilingus, fellatio, or anilingus upon or by* a child 15 or older not his spouse, child, or grandchild~~, shall be~~ *is* guilty of a Class 1 misdemeanor. This section shall not be construed as repealing, modifying, or in any way affecting §§ [18.2-18](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-18), [18.2-19](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-19), [18.2-61](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-61), [18.2-63](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-63), and [18.2-347](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-347).

If the prosecution under this section is based solely on the accused parent having left the child at a hospital or rescue squad, it shall be an affirmative defense to prosecution of a parent under this section that such parent safely delivered the child to a hospital that provides 24-hour emergency services or to an attended rescue squad that employs emergency medical technicians, within the first 14 days of the child's life. In order for the affirmative defense to apply, the child shall be delivered in a manner reasonably calculated to ensure the child's safety.

§ [18.2-374.3](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-374.3). Use of communications systems to facilitate certain offenses involving children.

A. As used in subsections C, D, and E*,* "use a communications system" means making personal contact or direct contact through any agent or agency, any print medium, the United States mail, any common carrier or communication common carrier, any electronic communications system, the Internet, or any telecommunications, wire, computer network, or radio communications system.

B. It ~~shall be~~ *is* unlawful for any person to use a communications system, including but not limited to computers or computer networks or bulletin boards, or any other electronic means for the purposes of procuring or promoting the use of a minor for any activity in violation of § [18.2-370](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-370) or [18.2-374.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-374.1). A violation of this subsection is a Class 6 felony.

C. It ~~shall be~~ *is* unlawful for any person 18 years of age or older to use a communications system, including but not limited to computers or computer networks or bulletin boards, or any other electronic means, for the purposes of soliciting, with lascivious intent, any person he knows or has reason to believe is a child younger than 15 years of age to knowingly and intentionally:

1. Expose his sexual or genital parts to any child to whom he is not legally married or propose that any such child expose his sexual or genital parts to such person;

2. Propose that any such child feel or fondle his own sexual or genital parts or the sexual or genital parts of such person or propose that such person feel or fondle the sexual or genital parts of any such child;

3. Propose to such child the performance of an act of sexual intercourse*, anal intercourse, cunnilingus, fellatio, or anilingus* or any act constituting an offense under § [18.2-361](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-361); or

4. Entice, allure, persuade, or invite any such child to enter any vehicle, room, house, or other place, for any purposes set forth in the preceding subdivisions.

Any person who violates this subsection is guilty of a Class 5 felony. However, if the person is at least seven years older than the child he knows or has reason to believe is less than 15 years of age, the person shall be punished by a term of imprisonment of not less than five years nor more than 30 years in a state correctional facility, five years of which shall be mandatory minimum term of imprisonment. Any person who commits a second or subsequent violation of this subsection when the person is at least seven years older than the child he knows or has reason to believe is less than 15 years of age shall be punished by a term of imprisonment of not less than 10 years nor more than 40 years, 10 years of which shall be a mandatory minimum term of imprisonment.

D. Any person who uses a communications system, including but not limited to computers or computer networks or bulletin boards, or any other electronic means, for the purposes of soliciting, with lascivious intent, any child he knows or has reason to believe is at least 15 years of age but younger than 18 years of age to knowingly and intentionally commit any of the activities listed in subsection C if the person is at least seven years older than the child is guilty of a Class 5 felony. Any person who commits a second or subsequent violation of this subsection shall be punished 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.

E. Any person 18 years of age or older who uses a communications system, including but not limited to computers or computer networks or bulletin boards, or any other electronic means, for the purposes of soliciting any person he knows or has reason to believe is a child younger than 18 years of age for (i) any activity in violation of § [18.2-355](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-355) or [18.2-361](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-361), (ii) any activity in violation of § [18.2-374.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-374.1), or (iii) a violation of § [18.2-374.1:1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-374.1C1) is guilty of a Class 5 felony.

2. That an emergency exists and this act is in force from its passage.

3. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § [30-19.1:4](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+30-19.1C4), the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 806 of the Acts of Assembly of 2013 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § [30-19.1:4](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+30-19.1C4), the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

**Administrative subpoena for electronic communication service or remote computing service records; abduction and prostitution offenses.** Adds certain abduction and prostitution offenses to the list of crimes for which attorneys for the Commonwealth have the authority to issue administrative subpoenas to obtain records and other information from electronic communication service and remote computing service providers if relevant to a legitimate law-enforcement investigation.

**CHAPTER 166**

*An Act to amend and reenact §*[*19.2-10.2*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-10.2) *of the Code of Virginia, relating to administrative subpoena for electronic communication service or remote computing service records; abduction and prostitution offenses.*

[H 485]

Approved March 5, 2014

 Be it enacted by the General Assembly of Virginia:

1. That § [19.2-10.2](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-10.2) of the Code of Virginia is amended and reenacted as follows:

§ [19.2-10.2](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-10.2). Administrative subpoena issued for record from provider of electronic communication service or remote computing service.

A. A provider of electronic communication service or remote computing service that is transacting or has transacted any business in the Commonwealth shall disclose a record or other information pertaining to a subscriber to or customer of such service, excluding the contents of electronic communications as required by § [19.2-70.3](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-70.3), to an attorney for the Commonwealth pursuant to an administrative subpoena issued under this section.

1. In order to obtain such records or other information, the attorney for the Commonwealth shall certify on the face of the subpoena that there is reason to believe that the records or other information being sought are relevant to a legitimate law-enforcement investigation concerning violations of §§[*18.2-47*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-47)*,* [*18.2-48*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-48)*,* [*18.2-49*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-49)*,* [*18.2-346*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-346)*,* [*18.2-347*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-347)*,* [*18.2-348*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-348)*,* [*18.2-349*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-349)*,* [*18.2-355*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-355)*,* [*18.2-356*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-356)*,* [*18.2-357*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-357)*,* [18.2-374.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-374.1), *and* [18.2-374.1:1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-374.1C1), former § [18.2-374.1:2](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-374.1C2), and § [18.2-374.3](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-374.3).

2. On a motion made promptly by the electronic communication service or remote computing service provider, a court of competent jurisdiction may quash or modify the administrative subpoena if the records or other information requested are unusually voluminous in nature or if compliance with the subpoena would otherwise cause an undue burden on the service provider.

B. All records or other information received by an attorney for the Commonwealth pursuant to an administrative subpoena issued under this section shall be used only for a reasonable length of time not to exceed 30 days and only for a legitimate law-enforcement purpose. Upon completion of the investigation the records or other information held by the attorney for the Commonwealth shall be destroyed if no prosecution is initiated.

C. No cause of action shall lie in any court against an electronic communication service or remote computing service provider, its officers, employees, agents, or other specified persons for providing information, facilities, or assistance in accordance with the terms of an administrative subpoena issued under this section.

D. Records or other information pertaining to a subscriber to or customer of such service means name, address, local and long distance telephone connection records, or records of session times and durations, length of service, including start date, and types of service utilized, telephone or instrument number or other subscriber number or identity, including any temporarily assigned network address, and means and source of payment for such service.

E. Nothing in this section shall require the disclosure of information in violation of any federal law.

**Unlawful dissemination or sale of images of another; penalty.** Provides that a person is guilty of a Class 1 misdemeanor if he, with the intent to coerce, harass, or intimidate the depicted person, maliciously disseminates or sells any videographic or still image created by any means whatsoever that depicts another person who is totally nude or in a state of undress so as to expose the genitals, pubic area, buttocks, or female breasts, where such person knows or has reason to know that he is not licensed or authorized to do so. The bill also amends the crime of creating an image of a nonconsenting person by substituting the term "videographic or still image created by any means whatsoever" for the current term "videotape, photograph, or film." This bill incorporates [HB 49.](http://leg1.state.va.us/cgi-bin/legp504.exe?141+sum+HB49)

**CHAPTER 399**

*An Act to amend and reenact §* [*18.2-386.1*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-386.1) *of the Code of Virginia and to amend the Code of Virginia by adding a section numbered* [*18.2-386.2*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-386.2)*, relating to unlawful dissemination or sale of images of another; penalty.*

[H 326]

Approved March 31, 2014

 Be it enacted by the General Assembly of Virginia:

1. That § [18.2-386.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-386.1) of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered [18.2-386.2](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-386.2) as follows:

§ [18.2-386.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-386.1). Unlawful creation of image of another; penalty.

A. It shall be unlawful for any person to knowingly and intentionally ~~videotape, photograph, or film any nonconsenting person or~~ create any videographic or still image ~~record~~ by any means whatsoever of ~~the~~ *any* nonconsenting person if (i) that person is totally nude, clad in undergarments, or in a state of undress so as to expose the genitals, pubic area, buttocks or female breast in a restroom, dressing room, locker room, hotel room, motel room, tanning bed, tanning booth, bedroom or other location; or (ii) the ~~videotape, photograph, film or~~ videographic or still image ~~record~~ is created by placing the lens or image-gathering component of the recording device in a position directly beneath or between a person's legs for the purpose of capturing an image of the person's intimate parts or undergarments covering those intimate parts when the intimate parts or undergarments would not otherwise be visible to the general public; and when the circumstances set forth in clause (i) or (ii) are otherwise such that the person being ~~videotaped, photographed, filmed or otherwise~~ recorded would have a reasonable expectation of privacy.

B. The provisions of this section shall not apply to ~~filming, videotaping or photographing or other~~ *any videographic or* still image ~~or videographic recording~~ *created by any means whatsoever* by (i) law-enforcement officers pursuant to a criminal investigation which is otherwise lawful or (ii) correctional officials and local or regional jail officials for security purposes or for investigations of alleged misconduct involving a person committed to the Department of Corrections or to a local or regional jail, or to any sound recording of an oral conversation made as a result of any videotaping or filming pursuant to Chapter 6 (§ [19.2-61](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-61) et seq.) of Title 19.2.

C. A violation of subsection A shall be punishable as a Class 1 misdemeanor.

D. A violation of subsection A involving a nonconsenting person under the age of 18 shall be punishable as a Class 6 felony.

E. Where it is alleged in the warrant, information, or indictment on which the person is convicted and found by the court or jury trying the case that the person has previously been convicted within the 10-year period immediately preceding the offense charged of two or more of the offenses specified in this section, each such offense occurring on a different date, and when such offenses were not part of a common act, transaction, or scheme, and such person has been at liberty as defined in § [53.1-151](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+53.1-151) between each conviction, he shall be guilty of a Class 6 felony.

*§* [*18.2-386.2*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-386.2)*. Unlawful dissemination or sale of images of another; penalty.*

*A. Any person who, with the intent to coerce, harass, or intimidate, maliciously disseminates or sells any videographic or still image created by any means whatsoever that depicts another person who is totally nude, or in a state of undress so as to expose the genitals, pubic area, buttocks, or female breast, where such person knows or has reason to know that he is not licensed or authorized to disseminate or sell such videographic or still image is guilty of a Class 1 misdemeanor. However, if a person uses services of an Internet service provider, an electronic mail service provider, or any other information service, system, or access software provider that provides or enables computer access by multiple users to a computer server in committing acts prohibited under this section, such provider shall not be held responsible for violating this section for content provided by another person.*

*B. Venue for a prosecution under this section may lie in the jurisdiction where the unlawful act occurs or where any videographic or still image created by any means whatsoever is produced, reproduced, found, stored, received, or possessed in violation of this section.*

*C. The provisions of this section shall not preclude prosecution under any other statute.*

**Assault and battery against a family or household member.** Adds unlawful wounding in violation of § 18.2-51 and strangulation in violation of § 18.2-51.6 to the list of offenses that, if a person has been previously convicted of two such offenses within a 20-year period and such offenses occurred on different dates, enhance the penalty of assault and battery against a family or household member from a Class 1 misdemeanor to a Class 6 felony.

**CHAPTER 660**

*An Act to amend and reenact §* [*18.2-57.2*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-57.2) *of the Code of Virginia, relating to assault and battery against a family or household member.*

[H 708]

Approved April 6, 2014

 Be it enacted by the General Assembly of Virginia:

1. That § [18.2-57.2](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-57.2) of the Code of Virginia is amended and reenacted as follows:

§ [18.2-57.2](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-57.2). Assault and battery against a family or household member; penalty.

A. Any person who commits an assault and battery against a family or household member is guilty of a Class 1 misdemeanor.

B. Upon a conviction for assault and battery against a family or household member, where it is alleged in the warrant, petition, information, or indictment on which a person is convicted, that such person has been previously convicted of two offenses against a family or household member of (i) assault and battery against a family or household member in violation of this section, (ii) malicious wounding *or unlawful wounding* in violation of § [18.2-51](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-51), (iii) aggravated malicious wounding in violation of § [18.2-51.2](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-51.2), (iv) malicious bodily injury by means of a substance in violation of § [18.2-52](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-52), ~~or~~ (v) *strangulation in violation of §* [*18.2-51.6*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-51.6)*, or (vi)* an offense under the law of any other jurisdiction which has the same elements of any of the above offenses, in any combination, all of which occurred within a period of 20 years, and each of which occurred on a different date, such person is guilty of a Class 6 felony.

C. Whenever a warrant for a violation of this section is issued, the magistrate shall issue an emergency protective order as authorized by § [16.1-253.4](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+16.1-253.4), except if the defendant is a minor, an emergency protective order shall not be required.

D. The definition of "family or household member" in § [16.1-228](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+16.1-228) applies to this section.

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](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+30-19.1C4), the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 806 of the Acts of Assembly of 2013 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § [30-19.1:4](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+30-19.1C4), the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

**Purchase, etc., of tobacco products by minors; nicotine vapor products and alternative nicotine products.** Adds nicotine vapor products and alternative nicotine products to the list of tobacco products that cannot be sold to or purchased or possessed by a minor. The bill defines a nicotine vapor product as a noncombustible product containing nicotine that employs a heating element, power source, electronic circuit, or other means that can be used to produce vapor from nicotine in a solution or other form. The bill defines an alternative nicotine product as any noncombustible product containing nicotine that is intended for human consumption. This bill incorporates [HB 26](http://leg1.state.va.us/cgi-bin/legp504.exe?141+sum+HB26) and is identical to [SB 96.](http://leg1.state.va.us/cgi-bin/legp504.exe?141+sum+SB96)

**CHAPTER 394**

*An Act to amend and reenact §* [*18.2-371.2*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-371.2) *of the Code of Virginia, relating to purchase, etc., of tobacco products by minors; nicotine vapor products and alternative nicotine products; penalty.*

[H 218]

Approved March 31, 2014

 Be it enacted by the General Assembly of Virginia:

1. That § [18.2-371.2](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-371.2) of the Code of Virginia is amended and reenacted as follows:

§ [18.2-371.2](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-371.2). Prohibiting purchase or possession of tobacco products, nicotine vapor products, and alternative nicotine products by minors or sale of tobacco products, nicotine vapor products, and alternative nicotine products to minors.

A. No person shall sell to, distribute to, purchase for*,* or knowingly permit the purchase by any person less than 18 years of age, knowing or having reason to believe that such person is less than 18 years of age, any tobacco product, ~~including but not limited to cigarettes, cigars, bidis, and wrappings~~ *nicotine vapor product, or alternative nicotine product*.

Tobacco products may be sold from a vending machine only if the machine is (i) posted with a notice, in a conspicuous manner and place, indicating that the purchase or possession of tobacco products by minors is unlawful and (ii) located in a place which is not open to the general public and is not generally accessible to minors. An establishment which prohibits the presence of minors unless accompanied by an adult is not open to the general public.

B. No person less than 18 years of age shall attempt to purchase, purchase*,* or possess any tobacco product, ~~including but not limited to cigarettes, cigars, bidis, and wrappings~~ *nicotine vapor product, or alternative nicotine product*. The provisions of this subsection shall not be applicable to the possession of tobacco products, ~~including wrappings,~~ *nicotine vapor products, or alternative nicotine products* by a person less than 18 years of age making a delivery of tobacco products, ~~including wrappings,~~ *nicotine vapor products, or alternative nicotine products* in pursuance of his employment. This subsection shall not apply to purchase, attempt to purchase*,* or possession by a law-enforcement officer or his agent when the same is necessary in the performance of his duties.

C. No person shall sell a tobacco product, ~~including but not limited to cigarettes, cigars, bidis, and wrappings,~~ *nicotine vapor product, or alternative nicotine product* to any individual who does not demonstrate, by producing a driver's license or similar photo identification issued by a government agency, that the individual is at least 18 years of age. Such identification is not required from an individual whom the person has reason to believe is at least 18 years of age or who the person knows is at least 18 years of age. Proof that the person demanded, was shown, and reasonably relied upon a photo identification stating that the individual was at least 18 years of age shall be a defense to any action brought under this subsection. In determining whether a person had reason to believe an individual is at least 18 years of age, the trier of fact may consider, but is not limited to, proof of the general appearance, facial characteristics, behavior*,* and manner of the individual.

This subsection shall not apply to mail order *or Internet* sales*, provided that the person offering the tobacco product, nicotine vapor product, or alternative nicotine product for sale through mail order or the Internet (i) prior to the sale of the tobacco product, nicotine vapor product, or alternative nicotine product verifies that the purchaser is at least 18 years of age through a commercially available database that is regularly used by businesses or governmental entities for the purpose of age and identity verification and (ii) uses a method of mailing, shipping, or delivery that requires the purchaser's signature before the tobacco product, nicotine vapor product, or alternative nicotine product will be released to the purchaser*.

D. A violation of subsection A or C by an individual or by a separate retail establishment that involves a *nicotine vapor product, alternative nicotine product, or* tobacco product other than a bidi ~~shall be~~ *is* punishable by a civil penalty not to exceed $100 for a first violation, a civil penalty not to exceed $200 for a second violation, and a civil penalty not to exceed $500 for a third or subsequent violation.

A violation of subsection A or C by an individual or by a separate retail establishment that involves the sale, distribution*,* or purchase of a bidi ~~shall be~~ *is* punishable by a civil penalty in the amount of $500 for a first violation, a civil penalty in the amount of $1,000 for a second violation, and a civil penalty in the amount of $2,500 for a third or subsequent violation. Where a defendant retail establishment offers proof that it has trained its employees concerning the requirements of this section, the court shall suspend all of the penalties imposed hereunder. However, where the court finds that a retail establishment has failed to so train its employees, the court may impose a civil penalty not to exceed $1,000 in lieu of any penalties imposed hereunder for a violation of subsection A or C involving a *nicotine vapor product, alternative nicotine product, or* tobacco product other than a bidi.

A violation of subsection B ~~shall be~~ *is* punishable by a civil penalty not to exceed $100 for a first violation and a civil penalty not to exceed $250 for a second or subsequent violation. A court may, as an alternative to the civil penalty, and upon motion of the defendant, prescribe the performance of up to 20 hours of community service for a first violation of subsection B and up to 40 hours of community service for a second or subsequent violation. If the defendant fails or refuses to complete the community service as prescribed, the court may impose the civil penalty. Upon a violation of subsection B, the judge may enter an order pursuant to subdivision A 9 of § [16.1-278.8](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+16.1-278.8).

Any attorney for the Commonwealth of the county or city in which an alleged violation occurred may bring an action to recover the civil penalty, which shall be paid into the state treasury. Any law-enforcement officer may issue a summons for a violation of subsection A, B, or C.

E. 1. Cigarettes shall be sold only in sealed packages provided by the manufacturer, with the required health warning. The proprietor of every retail establishment ~~which~~ *that* offers for sale any tobacco product, ~~including but not limited to cigarettes, cigars, and bidis,~~ *nicotine vapor product, or alternative nicotine product* shall post in a conspicuous manner and place a sign or signs indicating that the sale of tobacco products, ~~including wrappings,~~ *nicotine vapor products, or alternative nicotine products* to any person under 18 years of age is prohibited by law. Any attorney for the county, city*,* or town in which an alleged violation of this subsection occurred may enforce this subsection by civil action to recover a civil penalty not to exceed $50. The civil penalty shall be paid into the local treasury. No filing fee or other fee or cost shall be charged to the county, city*,* or town which instituted the action.

2. For the purpose of compliance with regulations of the Substance Abuse and Mental Health Services Administration published at 61 Federal Register 1492, the Department of Agriculture and Consumer Services may promulgate regulations which allow the Department to undertake the activities necessary to comply with such regulations.

3. Any attorney for the county, city*,* or town in which an alleged violation of this subsection occurred may enforce this subsection by civil action to recover a civil penalty not to exceed $100. The civil penalty shall be paid into the local treasury. No filing fee or other fee or cost shall be charged to the county, city*,* or town which instituted the action.

F. Nothing in this section shall be construed to create a private cause of action.

G. Agents of the Virginia Alcoholic Beverage Control Board designated pursuant to § [4.1-105](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+4.1-105) may issue a summons for any violation of this section.

H. As used in this section:

*"Alternative nicotine product" means any noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. "Alternative nicotine product" does not include any nicotine vapor product, tobacco product, or product regulated as a drug or device by the U.S. Food and Drug Administration (FDA) under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.*

"Bidi" means a product containing tobacco that is wrapped in temburni leaf (diospyros melanoxylon) or tendu leaf (diospyros exculpra), or any other product that is offered to, or purchased by, consumers as a bidi or beedie~~; and~~*.*

*"Nicotine vapor product" means any noncombustible product containing nicotine that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form. "Nicotine vapor product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Nicotine vapor product" does not include any product regulated by the FDA under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.*

*"Tobacco product" means any product made of tobacco and includes cigarettes, cigars, smokeless tobacco, pipe tobacco, bidis, and wrappings. "Tobacco product" does not include any nicotine vapor product, alternative nicotine product, or product that is regulated by the FDA under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.*

"Wrappings" includes papers made or sold for covering or rolling tobacco or other materials for smoking in a manner similar to a cigarette or cigar.

**Drugs and paraphernalia forfeited to law enforcement.** Provides that seized drugs and drug paraphernalia, the lawful possession of which is not established or the title to which cannot be ascertained, may be forfeited to a law-enforcement agency for training purposes pursuant to a court order. Current law limits such forfeiture to the Department of Forensic Science for research and training purposes. Limitations are placed on the amount of drugs that a law-enforcement agency may retain and monthly inventories must be submitted to the chief law-enforcement officer in writing. Drugs must be destroyed within 12 months of being obtained and time, place, and manner of destruction must be certified to the court. This bill incorporates [HB 481](http://leg1.state.va.us/cgi-bin/legp504.exe?141+sum+HB481) and is identical to [SB 349.](http://leg1.state.va.us/cgi-bin/legp504.exe?141+sum+SB349)

**CHAPTER 99**

*An Act to amend and reenact §* [*19.2-386.23*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-386.23) *of the Code of Virginia, relating to forfeiture of seized drugs and paraphernalia for training purposes.*

[H 186]

Approved March 3, 2014

 Be it enacted by the General Assembly of Virginia:

1. That § [19.2-386.23](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-386.23) of the Code of Virginia is amended and reenacted as follows:

§ [19.2-386.23](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-386.23). Disposal of seized controlled substances, marijuana, synthetic cannabinoids, and paraphernalia.

A. All controlled substances, imitation controlled substances, marijuana, synthetic cannabinoids as defined in § [18.2-248.1:1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-248.1C1), or paraphernalia, the lawful possession of which is not established or the title to which cannot be ascertained, which have come into the custody of a peace officer or have been seized in connection with violations of Chapter 7 (§ [18.2-247](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-247) et seq.) of Title 18.2, shall be forfeited and disposed of as follows:

1. Upon written application by *(i)* the Department of Forensic Science*, (ii) the Department of State Police, or (iii) any police department or sheriff's office in a locality,* the court may order the forfeiture of any such substance or paraphernalia to the Department *of Forensic Science, the Department of State Police, or to such police department or sheriff's office* for research and training purposes and for destruction pursuant to regulations of the United States Department of Justice Drug Enforcement Administration and of the Board of Pharmacy once these purposes have been fulfilled.

2. In the event no application is made under subdivision 1 of this subsection, the court shall order the destruction of all such substances or paraphernalia, which order shall state the existence and nature of the substance or paraphernalia, the quantity thereof, the location where seized, the person or persons from whom the substance or paraphernalia was seized, if known, and the manner whereby such item shall be destroyed. However, the court may order that paraphernalia identified in subdivision 5 of § [18.2-265.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-265.1) not be destroyed and that it be given to a person or entity that makes a showing to the court of sufficient need for the property and an ability to put the property to a lawful and publicly beneficial use. A return under oath, reporting the time, place and manner of destruction shall be made to the court and to the Board of Pharmacy by the officer to whom the order is directed. A copy of the order and affidavit shall be made a part of the record of any criminal prosecution in which the substance or paraphernalia was used as evidence and shall, thereafter, be prima facie evidence of its contents. In the event a law-enforcement agency recovers, seizes, finds, is given or otherwise comes into possession of any such substances or paraphernalia that are not evidence in a trial in the Commonwealth, the chief law-enforcement officer of the agency or his designee may, with the written consent of the appropriate attorney for the Commonwealth, order destruction of same; provided that~~,~~ a statement under oath, reporting a description of the substances and paraphernalia destroyed~~,~~ and the time, place and manner of destruction*,* is made to the chief law-enforcement officer and to the Board of Pharmacy by the officer to whom the order is directed.

B. No such substance or paraphernalia used or to be used in a criminal prosecution under Chapter 7 (§ [18.2-247](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-247) et seq.) of Title 18.2 shall be disposed of as provided by this section until all rights of appeal have been exhausted, except as provided in § [19.2-386.24](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-386.24).

*C. The amount of any specific controlled substance, or imitation controlled substance, retained by any law-enforcement agency pursuant to a court order issued under this section shall not exceed five pounds, or 25 pounds in the case of marijuana or synthetic cannabinoids as defined in §* [*18.2-248.1:1*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-248.1C1)*. Any written application to the court for controlled substances, imitation controlled substances, marijuana, or synthetic cannabinoids, as defined in §* [*18.2-248.1:1*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-248.1C1)*, shall certify that the amount requested shall not result in the requesting agency's exceeding the limits allowed by this subsection.*

*D. A law-enforcement agency that retains any controlled substance, imitation controlled substance, marijuana, or synthetic cannabinoids, as defined in §* [*18.2-248.1:1*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-248.1C1)*, pursuant to a court order issued under this section shall (i) be required to conduct an inventory of such substance on a monthly basis, which shall include a description and weight of the substance, and (ii) destroy such substance within 12 months of obtaining it through a court order for use in training. A written report outlining the details of the inventory shall be made to the chief law-enforcement officer of the agency within 10 days of the completion of the inventory, and the agency shall detail the substances that were used for training pursuant to a court order in the immediately preceding fiscal year. Destruction of such substance shall be certified to the court along with a statement prepared under oath, reporting a description of the substance destroyed, and the time, place, and manner of destruction.*

**Wearing masks; exceptions; penalty.** Provides that a person over the age of 16 who wears a mask, hood, or other device that hides or covers a substantial portion of the face with the intent to conceal his identity, subject to certain exceptions, is guilty of a Class 6 felony. Currently, the Code is silent as to the intent of the wearer.

**CHAPTER 167**

*An Act to amend and reenact §* [*18.2-422*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-422) *of the Code of Virginia, relating to wearing masks; exceptions.*

[H 542]

Approved March 5, 2014

 Be it enacted by the General Assembly of Virginia:

1. That § [18.2-422](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-422) of the Code of Virginia is amended and reenacted as follows:

§ [18.2-422](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-422). Prohibition of wearing of masks in certain places; exceptions.

It shall be unlawful for any person over ~~sixteen~~ *16* years of age ~~while wearing~~ *to, with the intent to conceal his identity, wear* any mask, hood or other device whereby a substantial portion of the face is hidden or covered so as to conceal the identity of the wearer, to be or appear in any public place, or upon any private property in this Commonwealth without first having obtained from the owner or tenant thereof consent to do so in writing. However, the provisions of this section shall not apply to persons (i) wearing traditional holiday costumes; (ii) engaged in professions, trades, employment or other activities and wearing protective masks which are deemed necessary for the physical safety of the wearer or other persons; (iii) engaged in any bona fide theatrical production or masquerade ball; or (iv) wearing a mask, hood or other device for bona fide medical reasons upon (a) the advice of a licensed physician or osteopath and carrying on his person an affidavit from the physician or osteopath specifying the medical necessity for wearing the device and the date on which the wearing of the device will no longer be necessary and providing a brief description of the device, or (b) the declaration of a disaster or state of emergency by the Governor in response to a public health emergency where the emergency declaration expressly waives this section, defines the mask appropriate for the emergency, and provides for the duration of the waiver. The violation of any provisions of this section ~~shall constitute~~ *is* a Class 6 felony.

**Incest; definitions of parent, etc.; penalty.** Provides that for the purposes of the crime of incest, parent includes stepparent, grandparent includes step-grandparent, child includes stepchild, and grandchild includes step-grandchild.

**CHAPTER 542**

*An Act to amend and reenact §* [*18.2-366*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-366) *of the Code of Virginia, relating to incest; definition of parent, etc.; penalty.*

[S 476]

Approved April 3, 2014

 Be it enacted by the General Assembly of Virginia:

1. That § [18.2-366](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-366) of the Code of Virginia is amended and reenacted as follows:

§ [18.2-366](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-366). Adultery and fornication by persons forbidden to marry; incest.

A. Any person who commits adultery or fornication with any person whom he or she is forbidden by law to marry shall be guilty of a Class 1 misdemeanor except as provided by subsection B.

B. Any person who commits adultery or fornication with his daughter or granddaughter, or with her son or grandson, or her father or his mother, shall be guilty of a Class 5 felony. However, if a parent or grandparent commits adultery or fornication with his or her child or grandchild, and such child or grandchild is at least thirteen years of age but less than eighteen years of age at the time of the offense, such parent or grandparent shall be guilty of a Class 3 felony.

*C. For the purposes of this section, parent includes step-parent, grandparent includes step-grandparent, child includes a step-child, and grandchild includes a step-grandchild.*

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](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+30-19.1C4), the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 806 of the Acts of Assembly of 2013 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § [30-19.1:4](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+30-19.1C4), the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

**CRIMINAL – SUMMARY ONLY**

SB331 - § 63.2-1505 - **Investigation of cases involving alleged sexual abuse of a child; qualifications of investigator.** Prohibits any individual who has not previously participated in investigations of alleged abuse or neglect of a child from participating in investigations of cases of alleged sexual abuse of a child unless he has completed a training program for investigation of cases involving alleged sexual abuse of a child or is directly supervised by a person who has completed such training. The bill also prohibits individuals who have not completed training for investigation of cases involving alleged sexual abuse of a child from making dispositional findings in such cases.

HB709 - § 63.2-1505 - **Child abuse and neglect investigations; time for determination.** Provides for an extension of the time period during which a local department of social services must determine if a report of child abuse or neglect is founded from 60 to 90 days in cases in which the investigation is being conducted in cooperation with a law-enforcement agency and both parties agree that circumstances so warrant.

HB403 - § 18.2-67.7:1 - **Prior sex offenses admissible in evidence; sex crimes against child.** Provides that in a criminal case in which the defendant is accused of a felony sexual offense involving a child victim, evidence of the defendant's conviction of another sexual offense or offenses is admissible and may be considered for its bearing on any matter to which it is relevant. This rule of evidence is to be applied in conjunction with the Virginia Rules of Evidence.

HB56 - § 19.2-192 - **Multi-jurisdiction grand juries.** Makes a number of changes to the laws governing multi-jurisdiction grand juries, including (i) providing that the grand jury's subpoena power must be executed through special counsel and that such subpoenas must be returnable for a specific meeting of the grand jury; (ii) allowing for the designation of specialized personnel for investigative purposes, known as sworn investigators, who may participate in grand jury proceedings at the request of special counsel or the grand jury; (iii) providing that copies of tapes, notes, and transcriptions of grand jury proceedings will be maintained by the clerk of the circuit court in whose jurisdiction the multi-jurisdiction grand jury sits; and (iv) providing that the testimony of a witness before the grand jury may serve as the basis for a charge of perjury. The bill also expands who must keep secret what occurred during a grand jury proceeding to include attorneys for the Commonwealth, special counsel, and sworn investigators.

HB661 - § 19.2-8 - **Limitation of prosecutions; falsifying patient records.** Increases from one year to three years the statute of limitations on prosecutions for the misdemeanor of falsifying patient records with the intent to defraud.

HB575 - § 54.1-3450 - **Schedule III and Schedule IV drugs.** Adds lorcaserin to the list of Schedule IV drugs and adds perampanel to the list of Schedule III drugs.

HB1249 and SB294 - § 54.1-2522.1 - **Prescription Monitoring Program; prescriber requirements.** Requires prescribers to be registered with the Prescription Monitoring Program by the Department of Health Professions upon filing an application for licensure or renewal of a license, if the prescriber has not already registered. The bill requires prescribers to request information from the Director of the Department of Health Professions to determine what, if any, other covered substances are currently being prescribed to any patient for whom the prescriber is initiating a new course of treatment that includes the prescribing of benzodiazepine or an opiate, when such course of treatment is anticipated to last more than 90 consecutive days and for which a treatment agreement is entered into, except when the prescriber's course of treatment arises from pain management relating to dialysis or cancer treatment. The bill also authorizes the Secretary of Health and Human Resources to identify and publish a list of benzodiazepines or opiates that have a low potential for abuse by human patients, the prescription of which shall not require the prescriber to request and obtain information from the Prescription Monitoring Program. This bill has a delayed effective date of July 1, 2015. This bill is identical to [SB 294.](http://leg1.state.va.us/cgi-bin/legp504.exe?141+sum+SB294)

HB505 and SB213 - § 18.2-265.19 - **Dextromethorphan Distribution Act; penalty.** Provides that no pharmacy or retail distributor may knowingly or intentionally sell or distribute a product containing dextromethorphan (a cough suppressant found in many over-the-counter medications) to a minor and that no minor may knowingly and intentionally purchase such product. A violation is punishable by a $25 civil penalty. Additionally, a pharmacy or retail distributor shall not sell or distribute a product containing dextromethorphan unless the purchaser presents a government-issued photo-ID showing proof of age or the purchaser appears to be at least 25 years old. Upon a first violation, the pharmacy or retail distributor shall receive a notice of noncompliance, and any subsequent violation is punishable by a $25 civil penalty. The bill also provides that a person who distributes or possesses with the intent to distribute unfinished dextromethorphan is guilty of a Class 1 misdemeanor. The bill has a delayed effective date of January 1, 2015, and is identical to [SB 213.](http://leg1.state.va.us/cgi-bin/legp504.exe?141+sum+SB213)

HB376 - § 29.1-525 - **Spotlighting of deer; exemption from restrictions.** Allows the employment of lights by localities for the observation of deer (spotlighting) for certain activities authorized by the Department of Game and Inland Fisheries.

HB1237 and SB154 - § 29.1-521 - **Hunting on Sundays.** Allows hunting on Sundays under certain circumstances. A person may hunt waterfowl, subject to restrictions imposed by the Director of the Department of Game and Inland Fisheries, and a landowner and his immediate family or a person with written permission from the landowner may hunt or kill any wild bird or wild animal, including nuisance species, on the landowner's property. However, the aforementioned hunting activities cannot occur within 200 yards of a house of worship. The bill prohibits the hunting of deer or bear with a gun, firearm, or other weapon with the aid or assistance of dogs on Sunday. This bill is identical to [SB 154.](http://leg1.state.va.us/cgi-bin/legp504.exe?141+sum+SB154)

HB99 - § 58.1-3 - **Unlawful dissemination or publication of tax information.** Changes the unlawful dissemination or publication of tax information from a Class 2 to a Class 1 misdemeanor.

HB171 - § 16.1-309.1 - **Crime victim rights; offenses by juveniles.** Expands the list of offenses for which a victim of a delinquent act committed by a juvenile may request that the victim be informed of the charge brought, the findings of the court, and the disposition of the case to include violations of assault and battery, stalking, violation of a protective order, sexual battery, or attempted sexual battery that would be misdemeanors if committed by an adult. The bill also provides that the definition of "victim" for purposes of the Crime Victim and Witness Rights Act includes victims of certain delinquent acts.

HB478 - § 16.1-340 - **Emergency custody orders; duration; notification.** Extends the time that a person may be held pursuant to an emergency custody order from four hours with a possible two-hour extension to eight hours. The bill also provides that a representative of the law-enforcement agency that takes the person into emergency custody or executes an emergency custody order must notify the local community services board as soon as practicable after the person is taken into custody or the order is executed. The bill also requires that a person who is the subject of an emergency custody order or temporary detention order be given a written summary of the procedures and statutory protections associated with such custody or detention. Finally, the bill directs the Governor's Mental Health Task Force to study issues associated with law enforcement's involvement in the admission process and make recommendations designed to reduce the burden on law-enforcement resources. This bill incorporates [HB 242,](http://leg1.state.va.us/cgi-bin/legp504.exe?141+sum+HB242) [HB 294,](http://leg1.state.va.us/cgi-bin/legp504.exe?141+sum+HB294) [HB 583,](http://leg1.state.va.us/cgi-bin/legp504.exe?141+sum+HB583) and [HB 621.](http://leg1.state.va.us/cgi-bin/legp504.exe?141+sum+HB621)

HB335 and SB151 - § 16.1-279.1 - **Family abuse protective orders; motor vehicles.** Modifies the provision specifying that the court may grant the petitioner temporary exclusive possession or use of a motor vehicle owned by the petitioner or jointly owned by the parties to provide that the court may direct a respondent to maintain insurance, registration, and taxes on a motor vehicle and enjoin the respondent from terminating such insurance, registration, and taxes. This bill is identical to [SB 151.](http://leg1.state.va.us/cgi-bin/legp504.exe?141+sum+SB151)

HB405 and SB332 - § 63.2-1503 - **Suspected abuse or neglect of a child; reports to law enforcement.** Requires the local department of social services to notify the local attorney for the Commonwealth and the local law-enforcement agency of all complaints of suspected child abuse and neglect involving certain injuries or criminal acts immediately upon receipt of the complaint, but in no case more than two hours from receipt of the complaint. The bill also requires the local department to complete a written report on a form provided by the Board of Social Services for such purpose for each case in which a local law-enforcement agency is notified of a case of suspected child abuse or neglect. This bill is identical to [SB 332.](http://leg1.state.va.us/cgi-bin/legp504.exe?141+sum+SB332)

HB285 and SB71 - § 16.1-253.4 - **Emergency protective orders; arrests for certain offenses.** Includes special conservators of the peace who have met the certification requirements for a law-enforcement officer in the definition of a law-enforcement officer for the purposes of obtaining an emergency protective order and for making arrests for assault and battery against a household member, stalking, and violation of a protective order. This bill is identical to [SB 71](http://leg1.state.va.us/cgi-bin/legp504.exe?141+sum+SB71).

[SB366 - § 19.2-215.1 -](http://leg1.state.va.us/cgi-bin/legp504.exe?141+sum+SB71) **[Multijurisdiction grand juries.](http://leg1.state.va.us/cgi-bin/legp504.exe?141+sum+SB71)** [Adds the cigarette trafficking offenses to the list of crimes that a multijurisdiction grand jury may investigate.](http://leg1.state.va.us/cgi-bin/legp504.exe?141+sum+SB71)

[HB853 - § 19.2-215.1 -](http://leg1.state.va.us/cgi-bin/legp504.exe?141+sum+SB71) **[Administration and enforcement of cigarette laws.](http://leg1.state.va.us/cgi-bin/legp504.exe?141+sum+SB71)** [Modifies several provisions relating to the administration and enforcement of Virginia's cigarette laws by providing that (i) violations of cigarette tax laws may be investigated by a multijurisdiction grand jury; (ii) counterfeit or unstamped cigarettes or cigarettes in the possession of an unauthorized holder may be assigned by court order for use by a law-enforcement undercover operation; (iii) a person convicted of possessing unstamped cigarettes would be ineligible to be an authorized holder of cigarettes; (iv) members of federal, state, and local law enforcement would be exempt from cigarette taxes when the cigarettes are used in the performance of investigatory duties; (v) manufacturers and distributors of cigarettes would be allowed to ship or deliver unstamped cigarettes to a law-enforcement agency for use in the performance of its duties; and (vi) where a sealed pack is labeled as containing cigarettes, such labeling would constitute prima facie evidence that the pack is a pack of cigarettes. The bill also substantially increases the civil penalties for possession with intent to distribute tax-paid contraband cigarettes by a person other than an authorized holder. Penalties are graduated based on the number of offenses and the amount that is currently the maximum fine is the minimum fine under the bill.](http://leg1.state.va.us/cgi-bin/legp504.exe?141+sum+SB71)

SB285 and HB898 - § 58.1-1021.04:3 - **Civil penalty; untaxed tobacco products.** Creates a civil penalty for the import, transport, possession, or resale of untaxed tobacco products and delineates the respective penalty for first, second, and third or subsequent offenses. The bill also specifies a civil penalty for willful intent to defraud the Commonwealth of taxes levied on tobacco products. This bill is identical to [HB 898.](http://leg1.state.va.us/cgi-bin/legp504.exe?141+sum+HB898)

SB364 - § 58.1-1000 - **Cigarette taxes; ineligibility to be authorized holder.** Provides that persons who have been convicted of selling, purchasing, or possessing, etc., unstamped cigarettes for the purpose of evading taxes and persons convicted of possession with intent to distribute tax-paid, contraband cigarettes are not eligible to be authorized holders of cigarettes.

SB365 - § 19.2-386.21 - **Forfeiture of counterfeit and contraband cigarettes; use by law enforcement.** Provides that counterfeit and contraband cigarettes that have been forfeited to law enforcement do not have to be destroyed, but may be used by law enforcement for the conduct of undercover operations. The bill also allows law-enforcement agencies to possess for investigative purposes cigarettes without tax stamps.

SB478 - § 58.1-1017.1 - **Illegal distribution of tax-paid contraband cigarettes.** Substantially increases the civil penalties for possession with intent to distribute tax-paid contraband cigarettes by a person other than an authorized holder. Penalties are graduated based on the number of offenses and the amount that is currently the maximum fine is the minimum fine under the bill.

SB489 - § 58.1-1017.1 - **Possession with intent to distribute tax-paid, contraband cigarettes; authorized holder.** Clarifies that it is not necessary to prove that the perpetrator is not an authorized holder in order for such perpetrator to be guilty of the crime of possession with intent to distribute tax-paid contraband cigarettes.

SB352 - § 58.1-1017.2 - **Sealed pack labeled as cigarettes; prima facie evidence.** Provides that where a sealed pack is labeled as containing cigarettes, such labeling shall be prima facie evidence that the contents of the pack are cigarettes.

HB484 - § 22.1-79.5 - **Electronic cigarettes in public elementary and secondary schools.** Requires each school board to (i) develop and implement a policy to prohibit the use of electronic cigarettes on a school bus, on school property, or at a school-sponsored activity and (ii) include in its code of student conduct a prohibition against possessing electronic cigarettes on a school bus, on school property, or at a school-sponsored activity. The bill requires school boards to update their policies and codes of student conduct by July 1, 2015.

HB660 - § 19.2-386.35 - **Seizure and forfeiture of property used in connection with the commission of certain crimes.** Provides that property used in connection with certain crimes associated with human trafficking is subject to forfeiture to the Commonwealth. The bill requires a conviction before property can be forfeited and any seized property will be released if there is no conviction.

HB851 and SB570 - § 18.2-57 - **Assault and battery; school employees; penalty.** Provides that a battery against any full-time or part-time employee of a public or private elementary school who is engaged in the performance of his duties is punishable as a Class 1 misdemeanor and the punishment shall include a sentence of 15 days in jail, two days of which shall be a mandatory minimum sentence. Currently, only a battery against a teacher, principal, assistant principal, or guidance counselor is subject to this enhanced penalty for battery. This bill is identical to [SB 570.](http://leg1.state.va.us/cgi-bin/legp504.exe?141+sum+SB570)

HB885 - § 19.2-368.5 - **Criminal Injuries Compensation Fund.** Allows the Fund to extend the time for filing a claim if the attorney for the Commonwealth submits written notice that the crime is being investigated as a result of newly discovered evidence. This provision applies to crimes committed on or after July 1, 1977, because under current law, the only claims that can be accepted are those for crimes that occurred on or after that date, and does not apply to crimes committed on or after July 1, 2001, because legislation that became effective on July 1, 2001, allowed the Virginia Workers' Compensation Commission, which administers the Fund, to extend the time for filing for good cause shown. The bill raises from $2,000 to $3,000 the maximum amount of an emergency award, from $1,000 to $2,000 the maximum moving expenses, and from $2,500 to $3,500 the maximum reimbursement for mental health counseling for relatives of homicide victims. The bill also requires the Virginia State Crime Commission to convene a stakeholder workgroup to support an efficient and comprehensive streamlining of current federal and state sexual and domestic violence victim service agency funding.

HB1112 and SB594 - § 2.2-406 - **Cannabimimetic agents; controlled substance analogs; regulation by Board of Pharmacy; penalties.** Substitutes the term "cannabimimetic agents" for the term "synthetic cannabinoids" to describe certain substances that are unlawful to possess, sell, give, distribute, or manufacture. The bill authorizes the Board of Pharmacy to place controlled substance analogs (a substance that has a chemical structure substantially similar to that of a controlled substance in Schedule I or II and that has or is intended to have the same or a greater stimulant, depressant, or hallucinogenic effect on the central nervous system) into the list of controlled substances found in Schedule I or II via an expedited regulatory process. A substance added via this process is removed from such list after 18 months unless a general law is enacted adding the substance to such list. Such controlled substance analogs are subject to the same penalties as those for the actual drug. The bill also repeals the specific criminal penalties for possession, etc., of synthetic cannabinoids and places cannabimimetic agents on the list of controlled substances in Schedule I, where they will be subject to the same penalties as those for other Schedule I controlled substances with the exception of simple possession, which will be penalized as a Class 1 misdemeanor instead of as a Class 5 felony. This bill is identical to [SB 594.](http://leg1.state.va.us/cgi-bin/legp504.exe?141+sum+SB594)

HB829 - § 58.1-1814 - **Automated sales suppression device; penalties.** Makes it a Class 1 misdemeanor to willfully utilize any device or software to falsify the electronic records of cash registers or manipulate transaction records that affect any state or local tax liability. The bill provides that any violation shall result in a civil penalty of $20,000.

SB31 - § 18.2-248 - **Methamphetamine cleanup; certification.** Requires the Board of Health, in consultation with the Department of Environmental Quality and other entities, to establish a program certifying that a building that was previously a methamphetamine manufacturing site is at or below the post-cleanup target. Current law requires the convicted person to pay cleanup costs.

**FIREARMS – FULL TEXT**

**Reckless handling of firearms; penalty.** Provides that any person who recklessly handles a firearm and through such reckless handling causes the serious bodily injury of another person resulting in permanent and significant physical impairment is guilty of a Class 6 felony. This bill is identical to [SB 65.](http://leg1.state.va.us/cgi-bin/legp504.exe?141+sum+SB65)

**CHAPTER 579**

*An Act to amend and reenact §* [*18.2-56.1*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-56.1) *of the Code of Virginia, relating to reckless handling of firearms; penalty.*

[H 810]

Approved April 4, 2014

 Be it enacted by the General Assembly of Virginia:

1. That § [18.2-56.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-56.1) of the Code of Virginia is amended and reenacted as follows:

§ [18.2-56.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-56.1). Reckless handling of firearms; reckless handling while hunting.

A. It shall be unlawful for any person to handle recklessly any firearm so as to endanger the life, limb or property of any person. Any person violating this section shall be guilty of a Class 1 misdemeanor.

*A1. Any person who handles any firearm in a manner so gross, wanton, and culpable as to show a reckless disregard for human life and causes the serious bodily injury of another person resulting in permanent and significant physical impairment is guilty of a Class 6 felony.*

B. If this section is violated while the person is engaged in hunting, trapping or pursuing game, the trial judge may, in addition to the penalty imposed by the jury or the court trying the case without a jury, revoke such person's hunting or trapping license and privileges to hunt or trap while possessing a firearm for a period of one to five years.

C. Upon a revocation pursuant to subsection B hereof, the clerk of the court in which the case is tried pursuant to this section shall forthwith send to the Department of Game and Inland Fisheries (i) such person's revoked hunting or trapping license or notice that such person's privilege to hunt or trap while in possession of a firearm has been revoked and (ii) a notice of the length of revocation imposed. The Department shall keep a list which shall be furnished upon request to any law-enforcement officer, the attorney for the Commonwealth or court in this Commonwealth, and such list shall contain the names and addresses of all persons whose license or privilege to hunt or trap while in possession of a firearm has been revoked and the court which took such action.

D. If any person whose license to hunt and trap, or whose privilege to hunt and trap while in possession of a firearm, has been revoked pursuant to this section, thereafter hunts or traps while in possession of a firearm, he shall be guilty of a Class 1 misdemeanor, and, in addition to any penalty imposed by the jury or the court trying the case without a jury, the trial judge may revoke such person's hunting or trapping license and privileges to hunt or trap while in possession of a firearm for a period of one year to life. The clerk of the court shall notify the Department of Game and Inland Fisheries as is provided in subsection C herein.

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](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+30-19.1C4), the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 806 of the Acts of Assembly of 2013 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § [30-19.1:4](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+30-19.1C4), the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

**FIREARMS – SUMMARY ONLY**

SB377 - § 18.2-308.2:4 - **Firearm transfers to dealers; penalty.** Establishes a process to be administered by the Department of State Police so that firearm dealers can find out whether a firearm that is being transferred to the dealer by a person other than a dealer, importer, or manufacturer can be lawfully transferred. The bill has an effective date of January 1, 2015.

HB1169 and SB279 **-** § 18.2-308 - **Concealed handgun permit; retired member of enforcement division of DMV; exception.** Provides an exception for a concealed handgun permit for a qualifying retired member of the enforcement division of the Department of Motor Vehicles. This bill is identical to [SB 279.](http://leg1.state.va.us/cgi-bin/legp504.exe?141+sum+SB279)

HB127 - § 29.1-519 - **Use of muzzleloading pistols.** Allows persons to hunt big game with muzzleloading pistols of a caliber of .45 or greater where and in those seasons when the use of muzzleloading rifles is permitted. The bill authorizes the Board of Game and Inland Fisheries to adopt regulations that specify the types of muzzleloading pistols and projectiles and propellants that can be used. The bill contains technical amendments.

HB857 - § 29.1-530.1 - **Hunting with a muzzle-loading rifle; blaze orange clothing.** Requires muzzleloader deer hunters during the special season for hunting deer with a muzzle-loading rifle, in those counties and cities designated by the Department of Game and Inland Fisheries, to wear blaze orange until they arrive at a stationary location.

**MISCELLANEOUS – FULL TEXT**

**Magistrates and district court judges; territorial jurisdiction; search warrants.** Authorizes magistrates and district court judges to exercise powers regarding search warrants throughout the Commonwealth. This bill is identical to [SB 485.](http://leg1.state.va.us/cgi-bin/legp504.exe?141+sum+SB485)

**CHAPTER 310**

*An Act to amend and reenact §§* [*16.1-69.25*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+16.1-69.25) *and* [*19.2-44*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-44) *of the Code of Virginia, relating to magistrates; district court judges; territorial jurisdiction.*

[H 138]

Approved March 27, 2014

 Be it enacted by the General Assembly of Virginia:

1. That §§ [16.1-69.25](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+16.1-69.25) and [19.2-44](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-44) of the Code of Virginia are amended and reenacted as follows:

§ [16.1-69.25](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+16.1-69.25). Judge may issue warrants, summons, and subpoenas.

Except as otherwise provided by general law, a judge of a district court may, within the scope of his general jurisdiction ~~within the area which his court serves~~, issue warrants, summons, and subpoenas, including subpoenas duces tecum or other process, in civil, traffic and criminal cases, to be returned before his court, and may also issue fugitive warrants and conduct proceedings thereon in accordance with the provisions of §§ [19.2-99](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-99) through [19.2-104](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-104).

§ [19.2-44](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-44). Territorial jurisdiction.

A magistrate shall be authorized to exercise the powers conferred *on magistrates* by this title only in the magisterial region or regions for which he is appointed*, except that a magistrate may issue search warrants in accordance with the provisions of Chapter 5 (§* [*19.2-52*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-52) *et seq.) throughout the Commonwealth*. ~~However, a~~ *A* magistrate may exercise ~~these~~ *all* powers *conferred on magistrates by this title* throughout the Commonwealth when so authorized by the Executive Secretary upon a determination that such assistance is necessary.

**Inventory of physical evidence recovery kits.** Requires all local and state law-enforcement agencies to report an inventory of all physical evidence recovery kits in their custody that may contain biological evidence that were collected but not submitted to the Department of Forensic Science for analysis prior to July 1, 2014. The Department shall establish the form of and timeline for such inventory, receive the reports from the law-enforcement agencies, and report the results of the inventory to the General Assembly by July 1, 2015. The bill does not become effective unless an appropriation effectuating the purposes of the bill is included in the general appropriation act passed in 2014 by the General Assembly that becomes law.

**CHAPTER 642**

*An Act to require law-enforcement agencies to report an inventory of physical evidence recovery kits to the Department of Forensic Science.*

[S 658]

Approved April 4, 2014

 Be it enacted by the General Assembly of Virginia:

**1.** *§ 1. All local and state law-enforcement agencies shall report an inventory of all physical evidence recovery kits in their custody that may contain biological evidence that were collected but not submitted to the Department of Forensic Science for analysis prior to July 1, 2014. The Department shall establish the form of and timeline for such inventory. The Department shall receive the reports from such law-enforcement agencies and report the results of such inventory to the General Assembly on or before July 1, 2015.*

2. That the provisions of this act shall not become effective unless an appropriation effectuating the purposes of this act is included in a general appropriation act passed in 2014 by the General Assembly that becomes law.

**Certificates of analysis admitted into evidence; electronic signature.** Allows the Department of Forensic Science to electronically scan a blood withdrawal certificate into the Department's Laboratory Information Management System and to electronically transmit it and the certificate of analysis to the clerk of court. The bill also allows a certificate of analysis for drugs or alcohol use to be signed electronically.

**CHAPTER 328**

*An Act to amend and reenact §§* [*18.2-268.7*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-268.7)*,* [*19.2-187*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-187)*, and* [*46.2-341.26:7*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.26C7) *of the Code of Virginia, relating to certificates of analysis admitted into evidence.*

[H 518]

Approved March 27, 2014

Be it enacted by the General Assembly of Virginia:

1. That §§ [18.2-268.7](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-268.7), [19.2-187](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-187), and [46.2-341.26:7](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.26C7) of the Code of Virginia are amended and reenacted as follows:

§ [18.2-268.7](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-268.7). Transmission of blood test samples; use as evidence.

A. Upon receipt of a blood sample forwarded to the Department for analysis pursuant to § [18.2-268.6](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-268.6), the Department shall have it examined for its alcohol or drug or both alcohol and drug content and the Director shall execute a certificate of analysis indicating the name of the accused; the date, time and by whom the blood sample was received and examined; a statement that the seal on the vial had not been broken or otherwise tampered with; a statement that the container and vial were provided or approved by the Department and that the vial was one to which the completed withdrawal certificate was attached; and a statement of the sample's alcohol or drug or both alcohol and drug content. The Director shall remove the withdrawal certificate from the vial~~,~~ *and either (i)* attach it to the certificate of analysis and state in the certificate of analysis that it was so removed and attached *or (ii) electronically scan it into the Department's Laboratory Information Management System and place the original withdrawal certificate in its case-specific file*. The certificate of analysis ~~with~~ *and* the withdrawal certificate shall be returned *or electronically transmitted* to the clerk of the court in which the charge will be heard.

B. After completion of the analysis, the Department shall preserve the remainder of the blood until *at least* 90 days have lapsed from the date the blood was drawn. During this 90-day period, the accused may, by motion filed before the court in which the charge will be heard, with notice to the Department, request an order directing the Department to transmit the remainder of the blood sample to an independent laboratory retained by the accused for analysis. The Department shall destroy the remainder of the blood sample if no notice of a motion to transmit the remaining blood sample is received during the 90-day period.

C. When a blood sample taken in accordance with the provisions of §§ [18.2-268.2](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-268.2) through [18.2-268.6](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-268.6) is forwarded for analysis to the Department, a report of the test results shall be filed in that office. Upon proper identification of the certificate of withdrawal, the certificate of analysis, with the withdrawal certificate attached, shall, when attested by the Director, be admissible in any court as evidence of the facts therein stated and of the results of such analysis (i) in any criminal proceeding, provided the requirements of subsection A of § [19.2-187.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-187.1) have been satisfied and the accused has not objected to the admission of the certificate pursuant to subsection B of § [19.2-187.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-187.1), or (ii) in any civil proceeding. On motion of the accused, the report of analysis prepared for the remaining blood sample shall be admissible in evidence provided the report is duly attested by a person performing such analysis and the independent laboratory that performed the analysis is accredited or certified to conduct forensic blood alcohol/drug testing by one or more of the following bodies: American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB); College of American Pathologists (CAP); United States Department of Health and Human Services Substance Abuse and Mental Health Services Administration (SAMHSA); or American Board of Forensic Toxicology (ABFT).

Upon request of the person whose blood was analyzed, the test results shall be made available to him.

The Director may delegate or assign these duties to an employee of the Department.

§ [19.2-187](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-187). Admission into evidence of certain certificates of analysis.

In any hearing or trial of any criminal offense or in any proceeding brought pursuant to Chapter 22.1 (§ [19.2-386.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-386.1) et seq.), a certificate of analysis of a person performing an analysis or examination, duly attested by such person, shall be admissible in evidence as evidence of the facts therein stated and the results of the analysis or examination referred to therein, provided (i) the certificate of analysis is filed with the clerk of the court hearing the case at least seven days prior to the proceeding if the attorney for the Commonwealth intends to offer it into evidence in a preliminary hearing or the accused intends to offer it into evidence in any hearing or trial, or (ii) the requirements of subsection A of § [19.2-187.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-187.1) have been satisfied and the accused has not objected to the admission of the certificate pursuant to subsection B of § [19.2-187.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-187.1), when any such analysis or examination is performed in any laboratory operated by the Division of Consolidated Laboratory Services or the Department of Forensic Science or authorized by such Department to conduct such analysis or examination, or performed by a person licensed by the Department of Forensic Science pursuant to § [18.2-268.9](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-268.9) or [46.2-341.26:9](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.26C9) to conduct such analysis or examination, or performed by the Federal Bureau of Investigation, the federal Postal Inspection Service, the federal Bureau of Alcohol, Tobacco and Firearms, the Naval Criminal Investigative Service, the National Fish and Wildlife Forensics Laboratory, the federal Drug Enforcement Administration, the Forensic Document Laboratory of the U.S. Department of Homeland Security, or the U.S. Secret Service Laboratory.

In a hearing or trial in which the provisions of subsection A of § [19.2-187.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-187.1) do not apply, a copy of such certificate shall be mailed or delivered by the clerk or attorney for the Commonwealth to counsel of record for the accused at no charge at least seven days prior to the hearing or trial upon request made by such counsel to the clerk with notice of the request to the attorney for the Commonwealth. The request to the clerk shall be on a form prescribed by the Supreme Court and filed with the clerk at least 10 days prior to the hearing or trial. In the event that a request for a copy of a certificate is filed with the clerk with respect to a case that is not yet before the court, the clerk shall advise the requester that he must resubmit the request at such time as the case is properly before the court in order for such request to be effective. If, upon proper request made by counsel of record for the accused, a copy of such certificate is not mailed or delivered by the clerk or attorney for the Commonwealth to counsel of record for the accused in a timely manner in accordance with this section, the accused shall be entitled to continue the hearing or trial.

The certificate of analysis of any examination conducted by the Department of Forensic Science relating to a controlled substance, marijuana, or synthetic cannabinoids as defined in § [18.2-248.1:1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-248.1C1) shall be mailed or forwarded by personnel of the Department of Forensic Science to the attorney for the Commonwealth of the jurisdiction where such offense may be heard. The attorney for the Commonwealth shall acknowledge receipt of the certificate on forms provided by the laboratory.

Any such certificate of analysis purporting to be signed*, either by hand or by electronic means,* by any such person shall be admissible as evidence in such hearing or trial without any proof of the seal or signature or of the official character of the person whose name is signed to it. *The attestation signature of a person performing the analysis or examination may be either hand or electronically signed.*

For the purposes of this section and §§ [19.2-187.01](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-187.01), [19.2-187.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-187.1), and [19.2-187.2](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-187.2), the term "certificate of analysis" includes reports of analysis and results of laboratory examination.

§ [46.2-341.26:7](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.26C7). Transmission of samples.

A. Upon receipt of a blood sample forwarded to the Department for analysis pursuant to § [46.2-341.26:6](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.26C6), the Department shall have it examined for its alcohol or drug content, and the Director shall execute a certificate of analysis indicating the name of the suspect; the date, time, and by whom the blood sample was received and examined; a statement that the seal on the vial had not been broken or otherwise tampered with; a statement that the container and vial were provided or approved by the Department and that the vial was one to which the completed withdrawal certificate was attached; and a statement of the sample's alcohol or drug content. The Director or his representative shall remove the withdrawal certificate from the vial~~,~~ *and either (i)* attach it to the certificate of analysis and state in the certificate of analysis that it was so removed and attached *or (ii) electronically scan it into the Department's Laboratory Information Management System and place the original withdrawal certificate in its case-specific file*. The certificate of analysis ~~with~~ *and* the withdrawal certificate shall be returned *or electronically transmitted* to the clerk of the court in which the charge will be heard. After completion of the analysis, the Department shall preserve the remainder of the blood until *at least* 90 days have lapsed from the date the blood was drawn. During this 90-day period, the accused may, by motion filed before the court in which the charge will be heard, with notice to the Department, request an order directing the Department to transmit the remainder of the blood sample to an independent laboratory retained by the accused for analysis. The Department shall destroy the remainder of the blood sample if no notice of a motion to transmit the remaining blood sample is received during the 90-day period.

B. When a blood sample taken in accordance with the provisions of §§ [46.2-341.26:2](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.26C2) through [46.2-341.26:6](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-341.26C6) is forwarded for analysis to the Department, a report of the test results shall be filed in that office. Upon proper identification of the certificate of withdrawal, the certificate of analysis, with the withdrawal certificate attached, shall, when attested by the Director, be admissible in any court as evidence of the facts therein stated and of the results of such analysis (i) in any criminal proceeding, provided that the requirements of subsection A of § [19.2-187.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-187.1) have been satisfied and the accused has not objected to the admission of the certificate pursuant to subsection B of § [19.2-187.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-187.1), or (ii) in any civil proceeding. On motion of the accused, the report of analysis prepared for the remaining blood sample shall be admissible in evidence provided the report is duly attested by a person performing such analysis and the independent laboratory that performed the analysis is accredited or certified to conduct forensic blood alcohol/drug testing by one or more of the following bodies: American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB); College of American Pathologists (CAP); United States Department of Health and Human Services Substance Abuse and Mental Health Services Administration (SAMHSA); or American Board of Forensic Toxicology (ABFT).

Upon request of the person whose blood or breath was analyzed, the test results shall be made available to him.

The Director may delegate or assign these duties to an employee of the Department.

**Mental health; prohibition of firearms.** Requires the district court judge or special justice to file any order from a commitment hearing for involuntary admission or involuntary outpatient treatment or any certification of voluntary admission subsequent to a temporary detention order with the district court clerk for the county or city where the hearing took place as soon as practicable but no later than the close of business on the next business day following the completion of the hearing. The bill also amends guardianship provisions to require that a copy of the court's findings that a person is incapacitated or has been restored to capacity or a copy of any order appointing a conservator or guardian shall be filed by the judge with the clerk of the circuit court for the county or city where the hearing took place as soon as practicable, but no later than the close of business on the next business day following the completion of the hearing. Current law does not specify in which county or city the copy shall be filed, nor does it provide a deadline. The bill also changes the deadline for a clerk to certify and forward to the Central Criminal Records Exchange a copy of any order adjudicating a person incapacitated, any order appointing a conservator or guardian, or any order of restoration of capacity to as soon as practicable, but no later than the close of business on the following day instead of the current requirement that a clerk perform these actions "forthwith." This bill is identical to [SB 576](http://leg1.state.va.us/cgi-bin/legp504.exe?141+sum+SB576).

**CHAPTER 336**

*An Act to amend and reenact §§* [*37.2-819*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+37.2-819) *and* [*64.2-2014*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+64.2-2014)*, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to mental health and the prohibition of firearms.*

[H 743]

Approved March 27, 2014

 Be it enacted by the General Assembly of Virginia:

1. That §§ [37.2-819](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+37.2-819) and [64.2-2014](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+64.2-2014), as it is currently effective and as it shall become effective, of the Code of Virginia are amended and reenacted as follows:

§ [37.2-819](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+37.2-819). Order of involuntary admission or mandatory outpatient treatment forwarded to CCRE; certain voluntary admissions forwarded to CCRE; firearm background check.

A. *The order from a commitment hearing issued pursuant to this chapter for involuntary admission or mandatory outpatient treatment and the certification of any person who has been the subject of a temporary detention order pursuant to §* [*37.2-809*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+37.2-809) *and who, after being advised by the judge or special justice that he will be prohibited from possessing a firearm pursuant to §* [*18.2-308.1:3*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-308.1C3)*, subsequently agreed to voluntary admission pursuant to §* [*37.2-805*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+37.2-805) *shall be filed by the judge or special justice with the clerk of the district court for the county or city where the hearing took place as soon as practicable but no later than the close of business on the next business day following the completion of the hearing.*

*B.* Upon receipt of any order from a commitment hearing issued pursuant to this chapter for involuntary admission to a facility, the clerk of court shall, as soon as practicable but not later than the close of business on the next following business day, certify and forward to the Central Criminal Records Exchange, on a form provided by the Exchange, a copy of the order. Upon receipt of any order from a commitment hearing issued pursuant to this chapter for mandatory outpatient treatment, the clerk of court shall, prior to the close of that business day, certify and forward to the Central Criminal Records Exchange, on a form provided by the ~~exchange~~ *Exchange*, a copy of the order.

~~B.~~ *C.* The clerk of court shall also, as soon as practicable but no later than the close of business on the next following business day, forward upon receipt to the Central Criminal Records Exchange, on a form provided by the Exchange, certification of any person who has been the subject of a temporary detention order pursuant to § [37.2-809](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+37.2-809), and who, after being advised by the judge or special justice that he will be prohibited from possessing a firearm pursuant to § [18.2-308.1:3](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-308.1C3), subsequently agreed to voluntary admission pursuant to § [37.2-805](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+37.2-805).

~~C.~~ *D.* The copy of the forms and orders sent to the Central Criminal Records Exchange pursuant to subsection ~~A~~ *B*, and the forms and certifications sent to the Central Criminal Records Exchange regarding voluntary admission pursuant to subsection ~~B~~ *C*, shall be kept confidential in a separate file and used only to determine a person's eligibility to possess, purchase, or transfer a firearm. No medical records shall be forwarded to the Central Criminal Records Exchange with any form, order, or certification required by subsection ~~A or~~ B *or C*. The Department of State Police shall forward only a person's eligibility to possess, purchase, or transfer a firearm to the National Instant Criminal Background Check System.

§ [64.2-2014](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+64.2-2014). (Effective until July 1, 2014) Clerk to index findings of incapacity or restoration; notice of findings.

A. A copy of the court's findings that a person is incapacitated or has been restored to capacity, or a copy of any order appointing a conservator or guardian pursuant to § [64.2-2115](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+64.2-2115), shall be filed by the judge with the clerk of the circuit court *for the county or city where the hearing took place as soon as practicable, but no later than the close of business on the next business day following the completion of the hearing*. The clerk shall properly index the findings in the index to deed books by reference to the order book and page whereon the order is spread and shall immediately notify the Commissioner of Behavioral Health and Developmental Services in accordance with § [64.2-2028](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+64.2-2028), the commissioner of accounts in order to ensure compliance by a conservator with the duties imposed pursuant to §§ [64.2-2021](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+64.2-2021), [64.2-2022](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+64.2-2022), [64.2-2023](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+64.2-2023), and [64.2-2026](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+64.2-2026), and the Secretary of the State Board of Elections with the information required by § [24.2-410](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+24.2-410). If a guardian is appointed, the clerk shall forward a copy of the court order to the local department of social services of the jurisdiction where the person then resides. If a guardianship is terminated or otherwise modified, the clerk shall forward a copy of the court order to the local department of social services to which the original order of appointment was forwarded and, if different, to the local department of social services in the jurisdiction where the person then resides.

B. The clerk shall*, as soon as practicable, but no later than the close of business on the following business day,* certify and forward ~~forthwith~~ *upon receipt* to the Central Criminal Records Exchange, on a form provided by the Exchange, a copy of any order adjudicating a person incapacitated under this article, any order appointing a conservator or guardian pursuant to § [64.2-2115](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+64.2-2115), and any order of restoration of capacity under § [64.2-2012](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+64.2-2012). The copy of the form and the order shall be kept confidential in a separate file and used only to determine a person's eligibility to possess, purchase, or transfer a firearm.

§ [64.2-2014](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+64.2-2014). (Effective July 1, 2014) Clerk to index findings of incapacity or restoration; notice of findings.

A. A copy of the court's findings that a person is incapacitated or has been restored to capacity, or a copy of any order appointing a conservator or guardian pursuant to § [64.2-2115](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+64.2-2115), shall be filed by the judge with the clerk of the circuit court *for the county or city where the hearing took place as soon as practicable, but no later than the close of business on the next business day following the completion of the hearing*. The clerk shall properly index the findings in the index to deed books by reference to the order book and page whereon the order is spread and shall immediately notify the Commissioner of Behavioral Health and Developmental Services in accordance with § [64.2-2028](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+64.2-2028), the commissioner of accounts in order to ensure compliance by a conservator with the duties imposed pursuant to §§ [64.2-2021](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+64.2-2021), [64.2-2022](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+64.2-2022), [64.2-2023](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+64.2-2023), and [64.2-2026](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+64.2-2026), and the Commissioner of Elections with the information required by § [24.2-410](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+24.2-410). If a guardian is appointed, the clerk shall forward a copy of the court order to the local department of social services of the jurisdiction where the person then resides. If a guardianship is terminated or otherwise modified, the clerk shall forward a copy of the court order to the local department of social services to which the original order of appointment was forwarded and, if different, to the local department of social services in the jurisdiction where the person then resides.

B. The clerk shall*, as soon as practicable, but no later than the close of business on the following business day,* certify and forward ~~forthwith~~ *upon receipt* to the Central Criminal Records Exchange, on a form provided by the Exchange, a copy of any order adjudicating a person incapacitated under this article, any order appointing a conservator or guardian pursuant to § [64.2-2115](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+64.2-2115), and any order of restoration of capacity under § [64.2-2012](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+64.2-2012). The copy of the form and the order shall be kept confidential in a separate file and used only to determine a person's eligibility to possess, purchase, or transfer a firearm.

**Sex offenders; reregistration; name change.** Provides that a person required to register with the Sex Offender and Crimes Against Minors Registry must reregister in person with the local law-enforcement agency within three days following a change of the person's name and that a person who is incarcerated or civilly committed must notify the Registry within three days following a name change. Currently, there is no time specified for when such person has to reregister. The bill also requires that the information contained in the Registry must include any former name of a person required to register if he has lawfully changed his name during the period for which he is required to register. Persons required to register who have changed their name prior to July 1, 2014, who have not already reregistered following their name change, must register within three days of July 1, 2014.

**CHAPTER 677**

*An Act to amend and reenact §§* [*9.1-903*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+9.1-903) *and* [*9.1-908*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+9.1-908) *of the Code of Virginia, relating to sex offenders; reregistration; name change.*

[H 1251]

Approved April 6, 2014

 Be it enacted by the General Assembly of Virginia:

1. That §§ [9.1-903](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+9.1-903) and [9.1-908](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+9.1-908) of the Code of Virginia are amended and reenacted as follows:

§ [9.1-903](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+9.1-903). Registration procedures.

A. Every person convicted, including juveniles tried and convicted in the circuit courts pursuant to § [16.1-269.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+16.1-269.1), whether sentenced as an adult or juvenile, of an offense for which registration is required and every juvenile found delinquent of an offense for which registration is required under subsection G of § [9.1-902](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+9.1-902) shall be required upon conviction to register and reregister with the Department of State Police. The court shall order the person to provide to the local law-enforcement agency of the county or city where he physically resides all information required by the State Police for inclusion in the Registry. The court shall immediately remand the person to the custody of the local law-enforcement agency for the purpose of obtaining the person's fingerprints and photographs of a type and kind specified by the State Police for inclusion in the Registry. Upon conviction, the local law-enforcement agency shall forthwith forward to the State Police all the necessary registration information.

B. Every person required to register shall register in person within three days of his release from confinement in a state, local or juvenile correctional facility, in a state civil commitment program for sexually violent predators or, if a sentence of confinement is not imposed, within three days of suspension of the sentence or in the case of a juvenile of disposition. A person required to register shall register, and as part of the registration shall submit to be photographed, submit to have a sample of his blood, saliva, or tissue taken for DNA (deoxyribonucleic acid) analysis and submission to the DNA databank to determine identification characteristics specific to the person, provide electronic mail address information, any instant message, chat or other Internet communication name or identity information that the person uses or intends to use, submit to have his fingerprints and palm prints taken, provide information regarding his place of employment, and provide motor vehicle, watercraft and aircraft registration information for all motor vehicles, watercraft and aircraft owned by him. The local law-enforcement agency shall obtain from the person who presents himself for registration or reregistration one set of fingerprints, electronic mail address information, any instant message, chat or other Internet communication name or identity information that the person uses or intends to use, one set of palm prints, place of employment information, motor vehicle, watercraft and aircraft registration information for all motor vehicles, watercraft and aircraft owned by the registrant, proof of residency and a photograph of a type and kind specified by the State Police for inclusion in the Registry and advise the person of his duties regarding reregistration. The local law-enforcement agency shall obtain from the person who presents himself for registration a sample of his blood, saliva or tissue taken for DNA (deoxyribonucleic acid) analysis to determine identification characteristics specific to the person. If a sample has been previously taken from the person, as indicated by the Local Inmate Data System (LIDS), no additional sample shall be taken. The local law-enforcement agency shall forthwith forward to the State Police all necessary registration information.

C. To establish proof of residence in Virginia, a person who has a permanent physical address shall present one photo-identification form issued by a governmental agency of the Commonwealth which contains the person's complete name, gender, date of birth and complete physical address. The local law-enforcement agency shall forthwith forward to the State Police a copy of the identification presented by the person required to register.

D. Any person required to register shall also reregister in person with the local law-enforcement agency following any change of name or any change of residence, whether within or without the Commonwealth. *The person shall register in person with the local law-enforcement agency within three days following his change of name.* If his new residence is within the Commonwealth, the person shall register in person with the local law-enforcement agency where his new residence is located within three days following his change in residence. If the new residence is located outside of the Commonwealth, the person shall register in person with the local law-enforcement agency where he previously registered within 10 days prior to his change of residence. If a probation or parole officer becomes aware of a change of name or residence for any of his probationers or parolees required to register, the probation or parole officer shall notify the State Police forthwith of learning of the change. Whenever a person subject to registration changes residence to another state, the State Police shall notify the designated law-enforcement agency of that state.

E. Any person required to register shall reregister in person with the local law-enforcement agency where his residence is located within three days following any change of the place of employment, whether within or without the Commonwealth. If a probation or parole officer becomes aware of a change of the place of employment for any of his probationers or parolees required to register, the probation or parole officer shall notify the State Police forthwith upon learning of the change of the person's place of employment. Whenever a person subject to registration changes his place of employment to another state, the State Police shall notify the designated law-enforcement agency of that state.

F. Any person required to register shall reregister in person with the local law-enforcement agency where his residence is located within three days following any change of owned motor vehicle, watercraft and aircraft registration information, whether within or without the Commonwealth. If a probation or parole officer becomes aware of a change of owned motor vehicle, watercraft and aircraft registration information for any of his probationers or parolees required to register, the probation or parole officer shall notify the State Police forthwith upon learning of the change of the person's owned motor vehicle, watercraft and aircraft registration information. Whenever a person required to register changes his owned motor vehicle, watercraft and aircraft registration information to another state, the State Police shall notify the designated law-enforcement agency of that state.

G. Any person required to register shall reregister either in person or electronically with the local law-enforcement agency where his residence is located within 30 minutes following any change of the electronic mail address information, any instant message, chat or other Internet communication name or identity information that the person uses or intends to use, whether within or without the Commonwealth. If a probation or parole officer becomes aware of a change of the electronic mail address information, any instant message, chat or other Internet communication name or identity information for any of his probationers or parolees required to register, the probation or parole officer shall notify the State Police forthwith upon learning of the change.

H. The registration shall be maintained in the Registry and shall include the person's name, *any former name if he has lawfully changed his name during the period for which he is required to register,* all aliases that he has used or under which he may have been known, the date and locality of the conviction for which registration is required, his fingerprints and a photograph of a type and kind specified by the State Police, his date of birth, social security number, current physical and mailing address and a description of the offense or offenses for which he was convicted. The registration shall also include the locality of the conviction and a description of the offense or offenses for previous convictions for the offenses set forth in § [9.1-902](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+9.1-902).

I. The local law-enforcement agency shall forthwith forward to the State Police all necessary registration or reregistration information received by it. Upon receipt of registration or reregistration information the State Police shall forthwith notify the chief law-enforcement officer of the locality listed as the person's address on the registration and reregistration.

J. If a person required to register does not have a legal residence, such person shall designate a location that can be located with reasonable specificity where he resides or habitually locates himself. For the purposes of this section, "residence" shall include such a designated location. If the person wishes to change such designated location, he shall do it pursuant to the terms of this section.

§ [9.1-908](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+9.1-908). Duration of registration requirement.

Any person required to register or reregister shall be required to register until the duty to register and reregister is terminated by a court order as set forth in § [9.1-910](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+9.1-910), except that any person who has been convicted of (i) any sexually violent offense, (ii) murder or (iii) former § [18.2-67.2:1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-67.2C1) shall have a continuing duty to reregister for life.

Any period of confinement in a federal, state or local correctional facility, hospital or any other institution or facility during the otherwise applicable period shall toll the registration period and the duty to reregister shall be extended. Persons confined in a federal, state, or local correctional facility shall not be required to reregister until released from custody. Persons civilly committed pursuant to Chapter 9 (§ [37.2-900](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+37.2-900) et seq.) of Title 37.2 shall not be required to reregister until released from custody. *Persons confined in a federal, state, or local correctional facility or civilly committed pursuant to Chapter 9 (§* [*37.2-900*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+37.2-900) *et seq.) of Title 37.2 shall notify the Registry within three days following any change of name.*

2. That any person required to register who has changed his name prior to July 1, 2014, who has not already reregistered following the change of name shall register in person with the local law-enforcement agency within three days of July 1, 2014.

3. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § [30-19.1:4](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+30-19.1C4), the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 806 of the Acts of Assembly of 2013 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § [30-19.1:4](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+30-19.1C4), the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

**Offenses requiring registration; withdrawal of plea by certain defendants.** Provides that prior to conviction for an offense requiring registration on the Sex Offender and Crimes Against Minors Registry due to the minority, physical helplessness, or mental incapacity of the victim, when the indictment, warrant, or information does not allege that the victim of the offense was a minor, physically helpless, or mentally incapacitated, the court shall determine whether the victim was a minor, physically helpless, or mentally incapacitated. The bill also provides that when the court is required to make such determination, it shall advise the defendant of his right to make a motion to withdraw a plea of guilty or nolo contendere. If the court grants the defendant's motion to withdraw his plea, the case shall be heard by another judge unless the parties agree otherwise. The bill further provides that failure to make a determination as to the minority, physical helplessness, or mental incapacity of the victim or so advise the defendant of his right to make a motion to withdraw his plea does not otherwise invalidate the conviction.

**CHAPTER 546**

*An Act to amend and reenact §* [*9.1-902*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+9.1-902) *of the Code of Virginia, relating to offenses requiring registration; withdrawal of plea by certain defendants.*

[S 537]

Approved April 3, 2014

Be it enacted by the General Assembly of Virginia:

1. That § [9.1-902](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+9.1-902) of the Code of Virginia is amended and reenacted as follows:

§ [9.1-902](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+9.1-902). Offenses requiring registration.

A. For purposes of this chapter:

"Offense for which registration is required" includes:

1. Any offense listed in subsection B;

2. Criminal homicide;

3. Murder;

4. A sexually violent offense;

5. Any offense similar to those listed in subdivisions 1 through 4 under the laws of any foreign country or any political subdivision thereof, the United States or any political subdivision thereof; and

6. Any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted.

B. The offenses included under this subsection include any violation of, attempted violation of, or conspiracy to violate:

1. § [18.2-63](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-63); unless registration is required pursuant to subdivision E 1; § [18.2-64.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-64.1); former § [18.2-67.2:1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-67.2C1); § [18.2-90](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-90) with the intent to commit rape; former § [18.1-88](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.1-88) with the intent to commit rape; subsection B or C of § [18.2-374.1:1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-374.1C1); former subsection D of § [18.2-374.1:1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-374.1C1) as it was in effect from July 1, 1994, through June 30, 2007; former clause (iv) of subsection B of § [18.2-374.3](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-374.3) as it was in effect on June 30, 2007; or subsection B, C, or D of § [18.2-374.3](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-374.3); or a third or subsequent conviction of (i) § [18.2-67.4](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-67.4), (ii) § [18.2-67.4:2](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-67.4C2), (iii) subsection C of § [18.2-67.5](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-67.5), or (iv) § [18.2-386.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-386.1).

If the offense was committed on or after July 1, 2006, § [18.2-91](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-91) with the intent to commit any felony offense listed in this section; subsection A of § [18.2-374.1:1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-374.1C1); or a felony under § [18.2-67.5:1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-67.5C1).

2. Where the victim is a minor or is physically helpless or mentally incapacitated as defined in § [18.2-67.10](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-67.10), subsection A of § [18.2-47](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-47), clause (i) of § [18.2-48](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-48), § [18.2-67.4](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-67.4), subsection C of § [18.2-67.5](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-67.5), § [18.2-361](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-361), § [18.2-366](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-366), or a felony violation of former § [18.1-191](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.1-191).

3. § [18.2-370.6](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-370.6).

C. "Criminal homicide" means a homicide in conjunction with a violation of, attempted violation of, or conspiracy to violate clause (i) of § [18.2-371](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-371) or § [18.2-371.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-371.1), when the offenses arise out of the same incident.

D. "Murder" means a violation of, attempted violation of, or conspiracy to violate § [18.2-31](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-31) or § [18.2-32](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-32) where the victim is (i) under 15 years of age or (ii) where the victim is at least 15 years of age but under 18 years of age and the murder is related to an offense listed in this section or a violation of former § [18.1-21](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.1-21) where the victim is (a) under 15 years of age or (b) at least 15 years of age but under 18 years of age and the murder is related to an offense listed in this section.

E. "Sexually violent offense" means a violation of, attempted violation of, or conspiracy to violate:

1. Clause (ii) and (iii) of § [18.2-48](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-48), former § [18.1-38](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.1-38) with the intent to defile or, for the purpose of concubinage or prostitution, a felony violation of subdivision (2) or (3) of former § [18.1-39](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.1-39) that involves assisting or aiding in such an abduction, § [18.2-61](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-61), former § [18.1-44](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.1-44) when such act is accomplished against the complaining witness's will, by force, or through the use of the complaining witness's mental incapacity or physical helplessness, or if the victim is under 13 years of age, subsection A of § [18.2-63](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-63) where the perpetrator is more than five years older than the victim, § [18.2-67.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-67.1), § [18.2-67.2](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-67.2), § [18.2-67.3](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-67.3), former § [18.1-215](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.1-215) when the complaining witness is under 13 years of age, § [18.2-67.4](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-67.4) where the perpetrator is 18 years of age or older and the victim is under the age of six, subsections A and B of § [18.2-67.5](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-67.5), § [18.2-370](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-370), subdivision (1), (2), or (4) of former § [18.1-213](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.1-213), former § [18.1-214](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.1-214), or § [18.2-370.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-370.1) or § [18.2-374.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-374.1); or

2. § [18.2-63](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-63), § [18.2-64.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-64.1), former § [18.2-67.2:1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-67.2C1), § [18.2-90](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-90) with the intent to commit rape or, where the victim is a minor or is physically helpless or mentally incapacitated as defined in § [18.2-67.10](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-67.10), subsection A of § [18.2-47](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-47), § [18.2-67.4](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-67.4), subsection C of § [18.2-67.5](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-67.5), clause (i) of § [18.2-48](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-48), § [18.2-361](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-361), § [18.2-366](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-366), or subsection C of § [18.2-374.1:1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-374.1C1). An offense listed under this subdivision shall be deemed a sexually violent offense only if the person has been convicted or adjudicated delinquent of any two or more such offenses, provided that person had been at liberty between such convictions or adjudications;

3. If the offense was committed on or after July 1, 2006, § [18.2-91](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-91) with the intent to commit any felony offense listed in this section. An offense listed under this subdivision shall be deemed a sexually violent offense only if the person has been convicted or adjudicated delinquent of any two or more such offenses, provided that the person had been at liberty between such convictions or adjudications; or

4. Chapter 117 (18 U.S.C. § 2421 et seq.) of Title 18 of the United States Code or sex trafficking (as described in § 1591 of Title 18, U.S.C.).

F. "Any offense listed in subsection B," "criminal homicide" as defined in this section, "murder" as defined in this section, and "sexually violent offense" as defined in this section includes (i) any similar offense under the laws of any foreign country or any political subdivision thereof, the United States or any political subdivision thereof or (ii) any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted.

G. Juveniles adjudicated delinquent shall not be required to register; however, where the offender is a juvenile over the age of 13 at the time of the offense who is tried as a juvenile and is adjudicated delinquent on or after July 1, 2005, of any offense for which registration is required, the court may, in its discretion and upon motion of the attorney for the Commonwealth, find that the circumstances of the offense require offender registration. In making its determination, the court shall consider all of the following factors that are relevant to the case: (i) the degree to which the delinquent act was committed with the use of force, threat or intimidation, (ii) the age and maturity of the complaining witness, (iii) the age and maturity of the offender, (iv) the difference in the ages of the complaining witness and the offender, (v) the nature of the relationship between the complaining witness and the offender, (vi) the offender's prior criminal history, and (vii) any other aggravating or mitigating factors relevant to the case. The attorney for the Commonwealth may file such a motion at any time during which the offender is within the jurisdiction of the court for the offense that is the basis for such motion. Prior to any hearing on such motion, the court shall appoint a qualified and competent attorney-at-law to represent the offender unless an attorney has been retained and appears on behalf of the offender or counsel has already been appointed.

H. Prior to entering judgment of conviction of an offense for which registration is required if the victim of the offense was a minor, physically helpless, or mentally incapacitated, *when the indictment, warrant, or information does not allege that the victim of the offense was a minor, physically helpless, or mentally incapacitated,* the court shall determine by a preponderance of the evidence whether the victim of the offense was a minor, physically helpless*,* or mentally incapacitated, as defined in § [18.2-67.10](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-67.10), and shall also determine the age of the victim at the time of the offense if it determines the victim to be a minor. ~~Upon such a determination~~ *When such a determination is required,* the court shall advise the defendant of its determination and of the defendant's right *to make a motion* to withdraw a plea of guilty or nolo contendere *pursuant to §* [*19.2-296*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-296). If the ~~defendant chooses~~ *court grants the defendant's motion* to withdraw his plea of guilty or of nolo contendere, his case shall be heard by another judge, unless the parties agree otherwise. *Failure to make such determination or so advise the defendant does not otherwise invalidate the underlying conviction.*

**Sex Offender and Crimes Against Minors Registry Act; solicitation of prostitution; pandering; minors.** Amends the Sex Offender and Crimes Against Minors Registry Act to add solicitation of prostitution from a minor and pandering involving a minor. The bill also provides that a person who engages in pandering involving a minor is guilty of a Class 4 felony. This bill is identical to [SB 454.](http://leg1.state.va.us/cgi-bin/legp504.exe?141+sum+SB454)

**CHAPTER 649**

*An Act to amend and reenact §§* [*9.1-902*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+9.1-902) *and* [*18.2-355*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-355) *of the Code of Virginia, relating to Sex Offender and Crimes Against Minors Registry; solicitation of prostitution; pandering; minors.*

[H 235]

Approved April 6, 2014

Be it enacted by the General Assembly of Virginia:

1. That §§ [9.1-902](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+9.1-902) and [18.2-355](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-355) of the Code of Virginia are amended and reenacted as follows:

§ [9.1-902](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+9.1-902). Offenses requiring registration.

A. For purposes of this chapter:

"Offense for which registration is required" includes:

1. Any offense listed in subsection B;

2. Criminal homicide;

3. Murder;

4. A sexually violent offense;

5. Any offense similar to those listed in subdivisions 1 through 4 under the laws of any foreign country or any political subdivision thereof, the United States or any political subdivision thereof; and

6. Any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted.

B. The offenses included under this subsection include any violation of, attempted violation of, or conspiracy to violate:

1. § [18.2-63](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-63); unless registration is required pursuant to subdivision E 1; § [18.2-64.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-64.1); former § [18.2-67.2:1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-67.2C1); § [18.2-90](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-90) with the intent to commit rape; former § [18.1-88](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.1-88) with the intent to commit rape; *any felony violation of §* [*18.2-346*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-346)*; any violation of subdivision (4) of §* [*18.2-355*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-355)*;* subsection B or C of § [18.2-374.1:1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-374.1C1); former subsection D of § [18.2-374.1:1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-374.1C1) as it was in effect from July 1, 1994, through June 30, 2007; former clause (iv) of subsection B of § [18.2-374.3](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-374.3) as it was in effect on June 30, 2007; or subsection B, C, or D of § [18.2-374.3](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-374.3); or a third or subsequent conviction of (i) § [18.2-67.4](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-67.4), (ii) § [18.2-67.4:2](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-67.4C2), (iii) subsection C of § [18.2-67.5](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-67.5), or (iv) § [18.2-386.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-386.1).

If the offense was committed on or after July 1, 2006, § [18.2-91](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-91) with the intent to commit any felony offense listed in this section; subsection A of § [18.2-374.1:1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-374.1C1); or a felony under § [18.2-67.5:1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-67.5C1).

2. Where the victim is a minor or is physically helpless or mentally incapacitated as defined in § [18.2-67.10](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-67.10), subsection A of § [18.2-47](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-47), clause (i) of § [18.2-48](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-48), § [18.2-67.4](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-67.4), subsection C of § [18.2-67.5](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-67.5), § [18.2-361](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-361), § [18.2-366](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-366), or a felony violation of former § [18.1-191](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.1-191).

3. § [18.2-370.6](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-370.6).

C. "Criminal homicide" means a homicide in conjunction with a violation of, attempted violation of, or conspiracy to violate clause (i) of § [18.2-371](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-371) or § [18.2-371.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-371.1), when the offenses arise out of the same incident.

D. "Murder" means a violation of, attempted violation of, or conspiracy to violate § [18.2-31](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-31) or § [18.2-32](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-32) where the victim is (i) under 15 years of age or (ii) where the victim is at least 15 years of age but under 18 years of age and the murder is related to an offense listed in this section or a violation of former § [18.1-21](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.1-21) where the victim is (a) under 15 years of age or (b) at least 15 years of age but under 18 years of age and the murder is related to an offense listed in this section.

E. "Sexually violent offense" means a violation of, attempted violation of, or conspiracy to violate:

1. Clause (ii) and (iii) of § [18.2-48](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-48), former § [18.1-38](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.1-38) with the intent to defile or, for the purpose of concubinage or prostitution, a felony violation of subdivision (2) or (3) of former § [18.1-39](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.1-39) that involves assisting or aiding in such an abduction, § [18.2-61](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-61), former § [18.1-44](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.1-44) when such act is accomplished against the complaining witness's will, by force, or through the use of the complaining witness's mental incapacity or physical helplessness, or if the victim is under 13 years of age, subsection A of § [18.2-63](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-63) where the perpetrator is more than five years older than the victim, § [18.2-67.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-67.1), § [18.2-67.2](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-67.2), § [18.2-67.3](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-67.3), former § [18.1-215](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.1-215) when the complaining witness is under 13 years of age, § [18.2-67.4](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-67.4) where the perpetrator is 18 years of age or older and the victim is under the age of six, subsections A and B of § [18.2-67.5](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-67.5), § [18.2-370](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-370), subdivision (1), (2), or (4) of former § [18.1-213](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.1-213), former § [18.1-214](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.1-214), or § [18.2-370.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-370.1) or § [18.2-374.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-374.1); or

2. § [18.2-63](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-63), § [18.2-64.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-64.1), former § [18.2-67.2:1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-67.2C1), § [18.2-90](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-90) with the intent to commit rape or, where the victim is a minor or is physically helpless or mentally incapacitated as defined in § [18.2-67.10](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-67.10), subsection A of § [18.2-47](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-47), § [18.2-67.4](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-67.4), subsection C of § [18.2-67.5](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-67.5), clause (i) of § [18.2-48](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-48), § [18.2-361](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-361), § [18.2-366](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-366), or subsection C of § [18.2-374.1:1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-374.1C1). An offense listed under this subdivision shall be deemed a sexually violent offense only if the person has been convicted or adjudicated delinquent of any two or more such offenses, provided that person had been at liberty between such convictions or adjudications;

3. If the offense was committed on or after July 1, 2006, § [18.2-91](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-91) with the intent to commit any felony offense listed in this section. An offense listed under this subdivision shall be deemed a sexually violent offense only if the person has been convicted or adjudicated delinquent of any two or more such offenses, provided that the person had been at liberty between such convictions or adjudications; or

4. Chapter 117 (18 U.S.C. § 2421 et seq.) of Title 18 of the United States Code or sex trafficking (as described in § 1591 of Title 18, U.S.C.).

F. "Any offense listed in subsection B," "criminal homicide" as defined in this section, "murder" as defined in this section, and "sexually violent offense" as defined in this section includes (i) any similar offense under the laws of any foreign country or any political subdivision thereof, the United States or any political subdivision thereof or (ii) any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted.

G. Juveniles adjudicated delinquent shall not be required to register; however, where the offender is a juvenile over the age of 13 at the time of the offense who is tried as a juvenile and is adjudicated delinquent on or after July 1, 2005, of any offense for which registration is required, the court may, in its discretion and upon motion of the attorney for the Commonwealth, find that the circumstances of the offense require offender registration. In making its determination, the court shall consider all of the following factors that are relevant to the case: (i) the degree to which the delinquent act was committed with the use of force, threat or intimidation, (ii) the age and maturity of the complaining witness, (iii) the age and maturity of the offender, (iv) the difference in the ages of the complaining witness and the offender, (v) the nature of the relationship between the complaining witness and the offender, (vi) the offender's prior criminal history, and (vii) any other aggravating or mitigating factors relevant to the case. The attorney for the Commonwealth may file such a motion at any time during which the offender is within the jurisdiction of the court for the offense that is the basis for such motion. Prior to any hearing on such motion, the court shall appoint a qualified and competent attorney-at-law to represent the offender unless an attorney has been retained and appears on behalf of the offender or counsel has already been appointed.

H. Prior to entering judgment of conviction of an offense for which registration is required if the victim of the offense was a minor, physically helpless, or mentally incapacitated, the court shall determine by a preponderance of the evidence whether the victim of the offense was a minor, physically helpless or mentally incapacitated, as defined in § [18.2-67.10](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-67.10), and shall also determine the age of the victim at the time of the offense if it determines the victim to be a minor. Upon such a determination the court shall advise the defendant of its determination and of the defendant's right to withdraw a plea of guilty or nolo contendere. If the defendant chooses to withdraw his plea of guilty or of nolo contendere, his case shall be heard by another judge, unless the parties agree otherwise.

§ [18.2-355](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-355). Taking, detaining, etc., person for prostitution, etc., or consenting thereto; human trafficking.

Any person who:

(1) For purposes of prostitution or unlawful sexual intercourse, takes any person into, or persuades, encourages or causes any person to enter, a bawdy place, or takes or causes such person to be taken to any place against his or her will for such purposes; or~~,~~

(2) Takes or detains a person against his or her will with the intent to compel such person, by force, threats, persuasions, menace or duress, to marry him or her or to marry any other person, or to be defiled; or~~,~~

(3) Being parent, guardian, legal custodian or one standing in loco parentis of a person, consents to such person being taken or detained by any person for the purpose of prostitution or unlawful sexual intercourse; *or*

*(4) For purposes of prostitution, takes any minor into, or persuades, encourages, or causes any minor to enter, a bawdy place, or takes or causes such person to be taken to any place for such purposes;* is guilty of pandering, and shall be guilty of a Class 4 felony.

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](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+30-19.1C4), the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 806 of the Acts of Assembly of 2013 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § [30-19.1:4](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+30-19.1C4), the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

**Temporary detention; transfer.** Establishes a procedure for transferring custody of a person who is the subject of a temporary detention.

**CHAPTER 675**

*An Act to amend and reenact §§* [*37.2-809*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+37.2-809) *and* [*37.2-810*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+37.2-810) *of the Code of Virginia, relating to change of facility for temporary detention.*

[H 1172]

Approved April 6, 2014

 Be it enacted by the General Assembly of Virginia:

1. That §§ [37.2-809](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+37.2-809) and [37.2-810](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+37.2-810) of the Code of Virginia are amended and reenacted as follows:

§ [37.2-809](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+37.2-809). Involuntary temporary detention; issuance and execution of order.

A. For the purposes of this section:

"Designee of the local community services board" means an examiner designated by the local community services board who (i) is skilled in the assessment and treatment of mental illness, (ii) has completed a certification program approved by the Department, (iii) is able to provide an independent examination of the person, (iv) is not related by blood or marriage to the person being evaluated, (v) has no financial interest in the admission or treatment of the person being evaluated, (vi) has no investment interest in the facility detaining or admitting the person under this article, and (vii) except for employees of state hospitals and of the U.S. Department of Veterans Affairs, is not employed by the facility.

"Employee" means an employee of the local community services board who is skilled in the assessment and treatment of mental illness and has completed a certification program approved by the Department.

"Investment interest" means the ownership or holding of an equity or debt security, including shares of stock in a corporation, interests or units of a partnership, bonds, debentures, notes, or other equity or debt instruments.

B. A magistrate shall issue, upon the sworn petition of any responsible person, treating physician, or upon his own motion and only after an evaluation conducted in-person or by means of a two-way electronic video and audio communication system as authorized in § [37.2-804.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+37.2-804.1) by an employee or a designee of the local community services board to determine whether the person meets the criteria for temporary detention, a temporary detention order if it appears from all evidence readily available, including any recommendation from a physician or clinical psychologist treating the person, that the person (i) has a mental illness and that there exists a substantial likelihood that, as a result of mental illness, the person will, in the near future, (a) cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if any, or (b) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs, (ii) is in need of hospitalization or treatment, and (iii) is unwilling to volunteer or incapable of volunteering for hospitalization or treatment. The magistrate shall also consider the recommendations of any treating or examining physician licensed in Virginia if available either verbally or in writing prior to rendering a decision. Any temporary detention order entered pursuant to this section shall provide for the disclosure of medical records pursuant to § [37.2-804.2](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+37.2-804.2). This subsection shall not preclude any other disclosures as required or permitted by law.

C. When considering whether there is probable cause to issue a temporary detention order, the magistrate may, in addition to the petition, consider (i) the recommendations of any treating or examining physician or psychologist licensed in Virginia, if available, (ii) any past actions of the person, (iii) any past mental health treatment of the person, (iv) any relevant hearsay evidence, (v) any medical records available, (vi) any affidavits submitted, if the witness is unavailable and it so states in the affidavit, and (vii) any other information available that the magistrate considers relevant to the determination of whether probable cause exists to issue a temporary detention order.

D. A magistrate may issue a temporary detention order without an emergency custody order proceeding. A magistrate may issue a temporary detention order without a prior evaluation pursuant to subsection B if (i) the person has been personally examined within the previous 72 hours by an employee or a designee of the local community services board or (ii) there is a significant physical, psychological, or medical risk to the person or to others associated with conducting such evaluation.

E. An employee or a designee of the local community services board shall determine the facility of temporary detention for all individuals detained pursuant to this section. ~~The~~ *An employee or designee of the local community services board may change the facility of temporary detention and may designate an alternative facility for temporary detention at any point during the period of temporary detention if it is determined that the alternative facility is a more appropriate facility for temporary detention of the individual given the specific security, medical, or behavioral health needs of the person. In cases in which the facility of temporary detention is changed following transfer of custody to an initial facility of temporary custody, transportation of the individual to the alternative facility of temporary detention shall be provided in accordance with the provisions of §* [*37.2-810*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+37.2-810)*. A* facility ~~of temporary detention~~ *in which a person is temporarily detained pursuant to this section* shall be one that has been approved pursuant to regulations of the Board. The *initial* facility *of temporary detention* shall be identified on the preadmission screening report and indicated on the temporary detention order*; however, if an employee or designee of the local community services board designates an alternative facility, that employee or designee shall provide written notice forthwith, on a form developed by the Executive Secretary of the Supreme Court of Virginia, to the clerk of the issuing court of the name and address of the alternative facility*. Except as provided in § [37.2-811](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+37.2-811) for inmates requiring hospitalization in accordance with subdivision A 2 of § [19.2-169.6](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-169.6), the person shall not be detained in a jail or other place of confinement for persons charged with criminal offenses and shall remain in the custody of law enforcement until the person is either detained within a secure facility or custody has been accepted by the appropriate personnel designated by *either* the *initial* facility *of temporary detention* identified in the temporary detention order *or by the alternative facility of temporary detention designated by the employee or designee of the local community services board pursuant to this subsection*.

F. Any facility caring for a person placed with it pursuant to a temporary detention order is authorized to provide emergency medical and psychiatric services within its capabilities when the facility determines that the services are in the best interests of the person within its care. The costs incurred as a result of the hearings and by the facility in providing services during the period of temporary detention shall be paid and recovered pursuant to § [37.2-804](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+37.2-804). The maximum costs reimbursable by the Commonwealth pursuant to this section shall be established by the State Board of Medical Assistance Services based on reasonable criteria. The State Board of Medical Assistance Services shall, by regulation, establish a reasonable rate per day of inpatient care for temporary detention.

G. The employee or the designee of the local community services board who is conducting the evaluation pursuant to this section shall determine, prior to the issuance of the temporary detention order, the insurance status of the person. Where coverage by a third party payor exists, the facility seeking reimbursement under this section shall first seek reimbursement from the third party payor. The Commonwealth shall reimburse the facility only for the balance of costs remaining after the allowances covered by the third party payor have been received.

H. The duration of temporary detention shall be sufficient to allow for completion of the examination required by § [37.2-815](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+37.2-815), preparation of the preadmission screening report required by § [37.2-816](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+37.2-816), and initiation of mental health treatment to stabilize the person's psychiatric condition to avoid involuntary commitment where possible, but shall not exceed 48 hours prior to a hearing. If the 48-hour period herein specified terminates on a Saturday, Sunday, or legal holiday, the person may be detained, as herein provided, until the close of business on the next day that is not a Saturday, Sunday, or legal holiday. The person may be released, pursuant to § [37.2-813](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+37.2-813), before the 48-hour period herein specified has run.

I. If a temporary detention order is not executed within 24 hours of its issuance, or within a shorter period as is specified in the order, the order shall be void and shall be returned unexecuted to the office of the clerk of the issuing court or, if the office is not open, to any magistrate serving the jurisdiction of the issuing court. Subsequent orders may be issued upon the original petition within 96 hours after the petition is filed. However, a magistrate must again obtain the advice of an employee or a designee of the local community services board prior to issuing a subsequent order upon the original petition. Any petition for which no temporary detention order or other process in connection therewith is served on the subject of the petition within 96 hours after the petition is filed shall be void and shall be returned to the office of the clerk of the issuing court.

J. The Executive Secretary of the Supreme Court of Virginia shall establish and require that a magistrate, as provided by this section, be available seven days a week, 24 hours a day, for the purpose of performing the duties established by this section. Each community services board shall provide to each general district court and magistrate's office within its service area a list of its employees and designees who are available to perform the evaluations required herein.

K. For purposes of this section a health care provider or designee of a local community services board or behavioral health authority shall not be required to encrypt any email containing information or medical records provided to a magistrate unless there is reason to believe that a third party will attempt to intercept the email.

L. The employee or designee of the community services board who is conducting the evaluation pursuant to this section shall, if he recommends that the person should not be subject to a temporary detention order, inform the petitioner and an onsite treating physician of his recommendation.

§ [37.2-810](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+37.2-810). Transportation of person in the temporary detention process.

A. In specifying the primary law-enforcement agency and jurisdiction for purposes of this section, the magistrate shall specify in the temporary detention order the law-enforcement agency of the jurisdiction in which the person resides to execute the order and, in cases in which transportation is ordered to be provided by the primary law-enforcement agency, provide transportation. However, if the nearest boundary of the jurisdiction in which the person resides is more than 50 miles from the nearest boundary of the jurisdiction in which the person is located, the law-enforcement agency of the jurisdiction in which the person is located shall execute the order and provide transportation.

B. The magistrate issuing the temporary detention order shall specify the law-enforcement agency to execute the order and provide transportation. However, in cases in which the temporary detention order is based upon a finding that the person who is the subject of the order has a mental illness and that there exists a substantial likelihood that, as a result of mental illness, the person will, in the near future, suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs but there is no substantial likelihood that the person will cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, the magistrate shall consider any request to authorize transportation by an alternative transportation provider in accordance with this section, whenever an alternative transportation provider is identified to the magistrate, which may be a person, facility, or agency, including a family member or friend of the person who is the subject of the temporary detention order, a representative of the community services board, or other transportation provider with personnel trained to provide transportation in a safe manner upon determining, following consideration of information provided by the petitioner; the community services board or its designee; the local law-enforcement agency, if any; the person's treating physician, if any; or other persons who are available and have knowledge of the person, and, when the magistrate deems appropriate, the proposed alternative transportation provider, either in person or via two-way electronic video and audio or telephone communication system, that the proposed alternative transportation provider is available to provide transportation, willing to provide transportation, and able to provide transportation in a safe manner. When transportation is ordered to be provided by an alternative transportation provider, the magistrate shall order the specified primary law-enforcement agency to execute the order, to take the person into custody, and to transfer custody of the person to the alternative transportation provider identified in the order. In such cases, a copy of the temporary detention order shall accompany the person being transported pursuant to this section at all times and shall be delivered by the alternative transportation provider to the temporary detention facility. The temporary detention facility shall return a copy of the temporary detention order to the court designated by the magistrate as soon as is practicable. Delivery of an order to a law-enforcement officer or alternative transportation provider and return of an order to the court may be accomplished electronically or by facsimile.

The order may include transportation of the person to such other medical facility as may be necessary to obtain further medical evaluation or treatment prior to placement as required by a physician at the admitting temporary detention facility. Nothing herein shall preclude a law-enforcement officer or alternative transportation provider from obtaining emergency medical treatment or further medical evaluation at any time for a person in his custody as provided in this section. Such medical evaluation or treatment shall be conducted immediately in accordance with state and federal law.

C. *In cases in which an alternative facility of temporary detention is identified and the law-enforcement agency or alternative transportation provider identified to provide transportation in accordance with subsection B continues to have custody of the person, the local law-enforcement agency or alternative transportation provider shall transport the person to the alternative facility of temporary detention identified by the employee or designee of the community services board. In cases in which an alternative facility of temporary detention is identified and custody of the individual has been transferred from the law-enforcement agency or alternative transportation provider that provided transportation in accordance with subsection B to the initial facility of temporary detention, the employee or designee of the community services board shall request, and a magistrate may enter an order specifying, an alternative transportation provider or, if no alternative transportation provider is available, willing, and able to provide transportation in a safe manner, the local law-enforcement agency for the jurisdiction in which the person resides or, if the nearest boundary of the jurisdiction in which the person resides is more than 50 miles from the nearest boundary of the jurisdiction in which the person is located, the law-enforcement agency of the jurisdiction in which the person is located, to provide transportation.*

*D.* A law-enforcement officer may lawfully go to or be sent beyond the territorial limits of the county, city, or town in which he serves to any point in the Commonwealth for the purpose of executing any temporary detention order pursuant to this section. Law-enforcement agencies may enter into agreements to facilitate the execution of temporary detention orders and provide transportation.

**Temporary detention order; transportation.** Provides that a magistrate may specify any willing law-enforcement agency that has agreed to provide transportation to execute a temporary detention order and transport the person who is the subject of the order. Currently, the magistrate must specify the law-enforcement agency of the jurisdiction in which the person resides or, if the nearest boundary of the jurisdiction in which the person resides is more than 50 miles from the nearest boundary of the jurisdiction in which the person is located, the law-enforcement agency of the jurisdiction in which the person is located.

**CHAPTER 317**

*An Act to amend and reenact §* [*37.2-810*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+37.2-810) *of the Code of Virginia, relating to temporary detention order; transportation.*

[H 323]

Approved March 27, 2014

 Be it enacted by the General Assembly of Virginia:

1. That § [37.2-810](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+37.2-810) of the Code of Virginia is amended and reenacted as follows:

§ [37.2-810](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+37.2-810). Transportation of person in the temporary detention process.

A. In specifying the primary law-enforcement agency and jurisdiction for purposes of this section, the magistrate shall specify in the temporary detention order the law-enforcement agency of the jurisdiction in which the person resides*, or any other willing law-enforcement agency that has agreed to provide transportation,* to execute the order and, in cases in which transportation is ordered to be provided by the primary law-enforcement agency, provide transportation. However, if the nearest boundary of the jurisdiction in which the person resides is more than 50 miles from the nearest boundary of the jurisdiction in which the person is located, the law-enforcement agency of the jurisdiction in which the person is located shall execute the order and provide transportation.

B. The magistrate issuing the temporary detention order shall specify the law-enforcement agency to execute the order and provide transportation. However, in cases in which the temporary detention order is based upon a finding that the person who is the subject of the order has a mental illness and that there exists a substantial likelihood that, as a result of mental illness, the person will, in the near future, suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs but there is no substantial likelihood that the person will cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, the magistrate shall consider any request to authorize transportation by an alternative transportation provider in accordance with this section, whenever an alternative transportation provider is identified to the magistrate, which may be a person, facility, or agency, including a family member or friend of the person who is the subject of the temporary detention order, a representative of the community services board, or other transportation provider with personnel trained to provide transportation in a safe manner upon determining, following consideration of information provided by the petitioner; the community services board or its designee; the local law-enforcement agency, if any; the person's treating physician, if any; or other persons who are available and have knowledge of the person, and, when the magistrate deems appropriate, the proposed alternative transportation provider, either in person or via two-way electronic video and audio or telephone communication system, that the proposed alternative transportation provider is available to provide transportation, willing to provide transportation, and able to provide transportation in a safe manner. When transportation is ordered to be provided by an alternative transportation provider, the magistrate shall order the specified ~~primary~~ law-enforcement agency to execute the order, to take the person into custody, and to transfer custody of the person to the alternative transportation provider identified in the order. In such cases, a copy of the temporary detention order shall accompany the person being transported pursuant to this section at all times and shall be delivered by the alternative transportation provider to the temporary detention facility. The temporary detention facility shall return a copy of the temporary detention order to the court designated by the magistrate as soon as is practicable. Delivery of an order to a law-enforcement officer or alternative transportation provider and return of an order to the court may be accomplished electronically or by facsimile.

The order may include transportation of the person to such other medical facility as may be necessary to obtain further medical evaluation or treatment prior to placement as required by a physician at the admitting temporary detention facility. Nothing herein shall preclude a law-enforcement officer or alternative transportation provider from obtaining emergency medical treatment or further medical evaluation at any time for a person in his custody as provided in this section. Such medical evaluation or treatment shall be conducted immediately in accordance with state and federal law.

C. A law-enforcement officer may lawfully go to or be sent beyond the territorial limits of the county, city, or town in which he serves to any point in the Commonwealth for the purpose of executing any temporary detention order pursuant to this section. Law-enforcement agencies may enter into agreements to facilitate the execution of temporary detention orders and provide transportation.

**Destruction of controlled substances, etc.** Eliminates the requirement that law-enforcement reports on the destruction of seized controlled substances and other drugs and paraphernalia be submitted to the Board of Pharmacy. A return under oath by the law-enforcement officer ordered to destroy them, reporting the time, place, and manner of destruction, will still be made to the court that ordered the destruction or, if the substances are not needed as evidence, to the chief law-enforcement officer.

**CHAPTER 686**

*An Act to amend and reenact §* [*19.2-386.23*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-386.23) *of the Code of Virginia, relating to reporting the disposal of seized controlled substances, marijuana, etc., and paraphernalia.*

[S 211]

Approved April 6, 2014

 Be it enacted by the General Assembly of Virginia:

1. That § [19.2-386.23](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-386.23) of the Code of Virginia is amended and reenacted as follows:

§ [19.2-386.23](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-386.23). Disposal of seized controlled substances, marijuana, synthetic cannabinoids, and paraphernalia.

A. All controlled substances, imitation controlled substances, marijuana, synthetic cannabinoids as defined in § [18.2-248.1:1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-248.1C1), or paraphernalia, the lawful possession of which is not established or the title to which cannot be ascertained, which have come into the custody of a peace officer or have been seized in connection with violations of Chapter 7 (§ [18.2-247](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-247) et seq.) of Title 18.2, shall be forfeited and disposed of as follows:

1. Upon written application by the Department of Forensic Science the court may order the forfeiture of any such substance or paraphernalia to the Department for research and training purposes and for destruction pursuant to regulations of the United States Department of Justice Drug Enforcement Administration and of the Board of Pharmacy once these purposes have been fulfilled.

2. In the event no application is made under subdivision 1 of this subsection, the court shall order the destruction of all such substances or paraphernalia, which order shall state the existence and nature of the substance or paraphernalia, the quantity thereof, the location where seized, the person or persons from whom the substance or paraphernalia was seized, if known, and the manner whereby such item shall be destroyed. However, the court may order that paraphernalia identified in subdivision 5 of § [18.2-265.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-265.1) not be destroyed and that it be given to a person or entity that makes a showing to the court of sufficient need for the property and an ability to put the property to a lawful and publicly beneficial use. A return under oath, reporting the time, place and manner of destruction shall be made to the court ~~and to the Board of Pharmacy~~ by the officer to whom the order is directed. A copy of the order and affidavit shall be made a part of the record of any criminal prosecution in which the substance or paraphernalia was used as evidence and shall, thereafter, be prima facie evidence of its contents. In the event a law-enforcement agency recovers, seizes, finds, is given or otherwise comes into possession of any such substances or paraphernalia that are not evidence in a trial in the Commonwealth, the chief law-enforcement officer of the agency or his designee may, with the written consent of the appropriate attorney for the Commonwealth, order destruction of same; provided that, a statement under oath, reporting a description of the substances and paraphernalia destroyed, and the time, place and manner of destruction is made to the chief law-enforcement officer ~~and to the Board of Pharmacy~~ by the officer to whom the order is directed.

B. No such substance or paraphernalia used or to be used in a criminal prosecution under Chapter 7 (§ [18.2-247](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-247) et seq.) of Title 18.2 shall be disposed of as provided by this section until all rights of appeal have been exhausted, except as provided in § [19.2-386.24](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-386.24).

**Witness's right to nondisclosure of certain information.** Adds witnesses in criminal prosecutions of manufacturing, selling, giving, etc., a controlled substance and of violent felonies to the list of those witnesses who may request to have their addresses, telephone numbers, and places of employment withheld from disclosure. The bill also prohibits an attorney who issues a summons for a witness in a criminal case from filing the names and addresses of witnesses who are protected from disclosure of such information with the clerk of the court.

**CHAPTER 744**

*An Act to amend and reenact §§* [*19.2-11.2*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-11.2) *and* [*19.2-267*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-267) *of the Code of Virginia, relating to witness's right to nondisclosure of certain information.*

[S 640]

Approved April 6, 2014

 Be it enacted by the General Assembly of Virginia:

1. That §§ [19.2-11.2](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-11.2) and [19.2-267](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-267) of the Code of Virginia are amended and reenacted as follows:

§ [19.2-11.2](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-11.2). Crime victim's right to nondisclosure of certain information; exceptions; testimonial privilege.

Upon request of any witness in a criminal prosecution under § [18.2-46.2](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-46.2) ~~or~~*,* [18.2-46.3](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-46.3)*, or* [*18.2-248*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-248) *or of any violent felony as defined by subsection C of §* [*17.1-805*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+17.1-805), or any crime victim, neither a law-enforcement agency, the attorney for the Commonwealth, the counsel for a defendant, a court nor the Department of Corrections, nor any employee of any of them, may disclose, except among themselves, the residential address, telephone number, or place of employment of the witness or victim or a member of the witness' or victim's family, except to the extent that disclosure is (i) of the site of the crime, (ii) required by law or Rules of the Supreme Court, (iii) necessary for law-enforcement purposes or preparation for court proceedings, or (iv) permitted by the court for good cause.

Except with the written consent of the victim, a law-enforcement agency may not disclose to the public information which directly or indirectly identifies the victim of a crime involving any sexual assault, sexual abuse or family abuse, except to the extent that disclosure is (i) of the site of the crime, (ii) required by law, (iii) necessary for law-enforcement purposes, or (iv) permitted by the court for good cause. In addition, at the request of the victim to the Court of Appeals of Virginia or the Supreme Court of Virginia hearing, on or after July 1, 2007, the case of a crime involving any sexual assault or sexual abuse, no appellate decision shall contain the first or last name of the victim.

Nothing herein shall limit the right to examine witnesses in a court of law or otherwise affect the conduct of any criminal proceeding.

§ [19.2-267](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-267). Provisions applicable to witnesses in criminal as well as civil cases; obligation to attend; summons.

Sections [8.01-396.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+8.01-396.1), [8.01-402](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+8.01-402), [8.01-405](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+8.01-405), [8.01-407](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+8.01-407), and [8.01-408](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+8.01-408) to [8.01-410](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+8.01-410), inclusive, shall apply to a criminal as well as a civil case in all respects, except that a witness in a criminal case shall be obliged to attend, and may be proceeded against for failing to do so, although there may not previously have been any payment, or tender to him of anything for attendance, mileage, or tolls. In a criminal case a summons for a witness may be issued by the attorney for the Commonwealth or other attorney charged with the responsibility for the prosecution of a violation of any ordinance or by the attorney for the defendant; however, any attorney who issues such a summons shall, at the time of the issuance, file with the clerk of the court the names and addresses of such witnesses *except to the extent protected under §* [*19.2-11.2*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-11.2).

**Warrant requirement for certain telecommunications records; real-time location data.** Provides that a provider of electronic communication service or remote computing service shall not disclose real-time location data to an investigative or law-enforcement officer except pursuant to a search warrant, subject to certain exceptions. The bill defines "real-time location data" as data or information concerning the current location of an electronic device that is generated, derived from, or obtained by the operation of the device. This bill incorporates [HB 817.](http://leg1.state.va.us/cgi-bin/legp504.exe?141+sum+HB817)

**CHAPTER 388**

*An Act to amend and reenact §* [*19.2-70.3*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-70.3) *of the Code of Virginia, relating to warrant requirement for certain telecommunications records; real-time location data.*

[H 17]

Approved March 31, 2014

 Be it enacted by the General Assembly of Virginia:

1. That § [19.2-70.3](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-70.3) of the Code of Virginia is amended and reenacted as follows:

§ [19.2-70.3](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-70.3). Obtaining records concerning electronic communication service or remote computing service.

A. A provider of electronic communication service or remote computing service, which, for purposes of subdivisions ~~A~~ 2 through ~~A~~ 4, includes a foreign corporation that provides such services, shall disclose a record or other information pertaining to a subscriber to or customer of such service, excluding the contents of electronic communications *and real-time location data*, to an investigative or law-enforcement officer only pursuant to:

1. A subpoena issued by a grand jury of a court of ~~this~~ *the* Commonwealth;

2. A search warrant issued by a magistrate, general district court*,* or ~~a~~ circuit court;

3. A court order for such disclosure issued as provided in ~~this section~~ *subsection B*; or

4. The consent of the subscriber or customer to such disclosure.

B. A court shall issue an order for disclosure under this section only if the investigative or law-enforcement officer shows that there is reason to believe the records or other information sought are relevant and material to an ongoing criminal investigation, or the investigation of any missing child as defined in § [52-32](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+52-32), missing senior adult as defined in § [52-34.4](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+52-34.4), or an incapacitated person as defined in § [64.2-2000](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+64.2-2000) who meets the definition of a missing senior adult except for the age requirement.   Upon issuance of an order for disclosure under this section, the order and any written application or statement of facts may be sealed by the court for 90 days for good cause shown upon application of the attorney for the Commonwealth in an ex parte proceeding. The order and any written application or statement of facts may be sealed for additional 90-day periods for good cause shown upon subsequent application of the attorney for the Commonwealth in an ex parte proceeding. A court issuing an order pursuant to this section, on a motion made promptly by the service provider, may quash or modify the order, if the information or records requested are unusually voluminous in nature or compliance with such order would otherwise cause an undue burden on such provider.

C. ~~A~~ *Except as provided in subsection D, a* provider of electronic communication service or remote computing service, including a foreign corporation that provides such services, shall disclose the contents of electronic communications *or real-time location data* to an investigative or law-enforcement officer only pursuant to a search warrant issued by a magistrate, a juvenile and domestic relations district court, a general district court, or a circuit court, based upon complaint on oath supported by an affidavit as required in § [19.2-54](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-54), or judicial officer or court of any of the several states of the United States or its territories, or the District of Columbia when the warrant issued by such officer or such court complies with the provisions of subsection ~~E~~ *G*. In the case of a search warrant directed to a foreign corporation*,* the affidavit shall state that the complainant believes that the records requested are actually or constructively possessed by a foreign corporation that provides electronic communication service or remote computing service within the Commonwealth of Virginia. If satisfied that probable cause has been established for such belief and as required by Chapter 5 (§ [19.2-52](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-52) et seq.), the magistrate, the juvenile and domestic relations district court, the general district court, or the circuit court shall issue a warrant identifying those records to be searched for and commanding the person seeking such warrant to properly serve the warrant upon the foreign corporation.

D. *A provider of electronic communication service or remote computing service, including a foreign corporation that provides such services, shall disclose a record or other information pertaining to a subscriber to or customer of such service, including real-time location data but excluding the contents of electronic communications, to an investigative or law-enforcement officer pursuant to an administrative subpoena issued pursuant to §* [*19.2-10.2*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-10.2) *concerning a violation of §* [*18.2-374.1*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-374.1) *or* [*18.2-374.1:1*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-374.1C1)*, former §* [*18.2-374.1:2*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-374.1C2)*, or §* [*18.2-374.3*](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-374.3) *when the information sought is relevant and material to an ongoing criminal investigation.*

*E. When disclosure of real-time location data is not prohibited by federal law, an investigative or law-enforcement officer may obtain real-time location data without a warrant in the following circumstances:*

*1. To respond to the user's call for emergency services;*

*2. With the informed, affirmative consent of the owner or user of the electronic device concerned if (i) the device is in his possession; (ii) the owner or user knows or believes that the device is in the possession of an employee or agent of the owner or user with the owner's or user's consent; or (iii) the owner or user knows or believes that the device has been taken by a third party without the consent of the owner or user;*

*3. With the informed, affirmative consent of the legal guardian or next of kin of the owner or user, if reasonably available, if the owner or user is reasonably believed to be deceased, is reported missing, or is unable to be contacted; or*

*4. If the investigative or law-enforcement officer reasonably believes that an emergency involving the immediate danger to a person requires the disclosure, without delay, of real-time location data concerning a specific person and that a warrant cannot be obtained in time to prevent the identified danger, and the possessor of the real-time location data believes, in good faith, that an emergency involving danger to a person requires disclosure without delay.*

*No later than three business days after seeking disclosure of real-time location data pursuant to this subsection, the investigative or law-enforcement officer seeking the information shall file with the appropriate court a written statement setting forth the facts giving rise to the emergency and the facts as to why the person whose real-time location data was sought is believed to be important in addressing the emergency.*

*F.* In order to comply with the requirements of § [19.2-54](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-54), any search of the records of a foreign corporation shall be deemed to have been made in the same place wherein the search warrant was issued.

~~E.~~ *G.* A Virginia corporation or other entity that provides electronic communication services or remote computing services to the general public, when properly served with a search warrant and affidavit in support of the warrant, issued by a judicial officer or court of any of the several states of the United States or its territories, or the District of Columbia with jurisdiction over the matter, to produce a record or other information pertaining to a subscriber to or customer of such service*, including real-time location data,* or the contents of electronic communications, or both, shall produce the record or other information*, including real-time location data,* or the contents of electronic communications as if that warrant had been issued by a Virginia court. The provisions of this subsection shall only apply to a record or other information*, including real-time location data,* or contents of electronic communications relating to the commission of a criminal offense that is substantially similar to (i) a violent felony as defined in § [17.1-805](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+17.1-805), (ii) an act of violence as defined in § [19.2-297.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-297.1), (iii) any offense for which registration is required pursuant to § [9.1-902](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+9.1-902), (iv) computer fraud pursuant to § [18.2-152.3](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-152.3), or (v) identity theft pursuant to § [18.2-186.3](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-186.3). The search warrant shall be enforced and executed in the Commonwealth as if it were a search warrant described in subsection C.

~~F.~~ *H.* The provider of electronic communication service or remote computing service may verify the authenticity of the written reports or records that it discloses pursuant to this section, excluding the contents of electronic communications, by providing an affidavit from the custodian of those written reports or records or from a person to whom said custodian reports certifying that they are true and complete and that they are prepared in the regular course of business. When so authenticated, the written reports and records are admissible in evidence as a business records exception to the hearsay rule.

~~G.~~ *I.* No cause of action shall lie in any court against a provider of a wire or electronic communication service~~, its~~ *or remote computing service or such provider's* officers, employees, agents, or other specified persons for providing information, facilities, or assistance in accordance with the terms of a court order, warrant*, administrative subpoena,* or subpoena under this section *or the provisions of subsection E*.

~~H.~~ *J. A search warrant or administrative subpoena for the disclosure of real-time location data pursuant to this section shall require the provider to provide ongoing disclosure of such data for a reasonable period of time, not to exceed 30 days. A court may, for good cause shown, grant one or more extensions, not to exceed 30 days each.*

*K.* For the purposes of this section:

*"Electronic device" means a device that enables access to, or use of, an electronic communication service, remote computing service, or location information service, including a global positioning service or other mapping, locational, or directional information service.*

"Foreign corporation" means any corporation or other entity, whose primary place of business is located outside of the boundaries of the Commonwealth, that makes a contract or engages in a terms of service agreement with a resident of the Commonwealth to be performed in whole or in part by either party in the Commonwealth, or a corporation that has been issued a certificate of authority pursuant to § [13.1-759](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+13.1-759) to transact business in the Commonwealth. The making of the contract or terms of service agreement or the issuance of a certificate of authority shall be considered to be the agreement of the foreign corporation or entity that a search warrant or subpoena, which has been properly served on it, has the same legal force and effect as if served personally within the Commonwealth.

"Properly served" means delivery of a search warrant or subpoena by hand, by United States mail, by commercial delivery service, by facsimile or by any other manner to any officer of a corporation or its general manager in the Commonwealth, to any natural person designated by it as agent for the service of process, or if such corporation has designated a corporate agent, to any person named in the latest annual report filed pursuant to § [13.1-775](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+13.1-775).

*"Real-time location data" means any data or information concerning the current location of an electronic device that, in whole or in part, is generated, derived from, or obtained by the operation of the device.*

**MISCELLANEOUS – SUMMARY ONLY**

HB986 and SB612 – Uncodified Act - **Designating the Master Trooper Jerry L. Hines Memorial Bridge.** Designates the Interstate Route 81 bridge over the Maury River in Rockbridge County the "Master Trooper Jerry L. Hines Memorial Bridge."

HB161 - § 16.1-69.35:2 - **Audio recording of proceedings in general district court.** Allows the making of an audio recording of proceedings in general district court by a party or his counsel. Currently, such recording may only be done by tape recording.

HB233 - § 8.01-217 - **How name of person may be changed; sex offenders; probationers; incarcerated persons.** Establishes procedures for name change applications from probationers, persons required to register as sex offenders, and incarcerated persons. The court is required to send a copy of the application to certain attorneys for the Commonwealth and to conduct a hearing. The court may order a change of name if the court determines that it would not frustrate a legitimate law-enforcement purpose, is not sought for a fraudulent purpose, and would not otherwise infringe on the rights of others. An order granting a change of name that fails to comport with the statutory requirements is void ad initio, and the attorney for the Commonwealth for the jurisdiction where the application was filed has the authority to bring an independent action to have the order declared void.

HB80 - § 19.2-254 - **Conditional guilty pleas.** Gives the defendant the same right to enter a conditional guilty plea in a misdemeanor case in circuit court that exists in a felony case.

HB704 - § 17.1-128.1 - **Recording of trial, etc.; misdemeanor cases in circuit court.** Requires the circuit court in misdemeanor cases to allow the Commonwealth, the defendant, or both to record evidence and incidents of trial by a mechanical or electronic device in cases in which there is no court reporter or other court-approved verbatim recording. The purpose of the recording is to aid counsel in producing a statement of facts for appeal when there is no transcript. The recording will not be made a part of the record unless otherwise permitted.

HB1222 – Uncodified Act - **Mental health information and training for first responders and others.** Provides that the Secretary of Public Safety and the Secretary of Health and Human Resources shall encourage the dissemination of information about specialized training in evidence-based strategies to prevent and minimize mental health crises in all jurisdictions. The information shall be disseminated to law-enforcement personnel, other first responders, hospital emergency department personnel, school personnel, and other interested parties.

SB188 - § 51.1-600 - **Deferred compensation plans for state and local employees.** Authorizes the inclusion of a Roth contribution program in deferred compensation retirement plans for state and local government employees beginning July 1, 2015.

HB715 - § 29.1-306 - **Special archery license.** Establishes a new combined license for persons hunting with a bow and arrow or a crossbow. The cost of the license is $17 for residents and $30 for nonresidents.

HB1146 - § 29.1-300.4 - **Apprentice hunters.** Allows persons holding an apprentice hunting license to hunt unsupervised if they have successfully completed a hunter education course.

HB745 - § 18.2-186.4:1 - **Internet publication of personal information; prohibition; attorneys for the Commonwealth.** Adds attorneys for the Commonwealth to the current provision prohibiting a state or local agency from publicly posting or displaying on the Internet the home address or personal telephone numbers of a law-enforcement officer or state or federal judge or justice if such official has made a written demand and obtains a court order.

SB304 - § 32.1-298 - **Disposition of dead bodies.** Establishes a process for the disposition of unclaimed dead bodies. The bill contains an emergency clause.

HB1248 - § 8.01-390 - **911 emergency service call records as evidence.** Provides that recordings and records of 911 emergency service calls shall be deemed authentic transcriptions or recordings of the original statements if they are accompanied by a certificate that authenticates them as true copies and the certificate contains the date and time of the incoming call and, if available, the incoming phone number.

SB260 - § 16.1-340 - **Emergency custody and temporary detention; duration; facility of temporary detention; acute psychiatric bed registry.** Extends the time that a person may be held pursuant to an emergency custody order from four hours with a possible two-hour extension to eight hours. The bill also provides that a representative of the law-enforcement agency that takes the person into emergency custody or executes an emergency custody order must notify the local community services board as soon as practicable after the person is taken into custody or the order is executed. The bill provides further that an individual for whom a temporary detention order is issued shall be detained in a state facility unless the state facility or an employee or designee of the community services board is able to identify an alternative facility that is able and willing to provide temporary detention. Under no circumstances shall a state facility fail or refuse to admit an individual who meets the criteria for temporary detention unless an alternative facility has agreed to accept the individual. The state facility and the local community services board may continue to look for an alternative facility for an additional four hours. The provisions of this bill allowing for this additional four-hour period expire on June 30, 2018. The bill also requires that a person who is the subject of an emergency custody order or temporary detention order be given a written summary of the procedures and statutory protections associated with such custody or detention. The bill also directs the Department of Behavioral Health and Developmental Services to establish an acute psychiatric bed registry that will provide real-time information on the availability of beds in public and private psychiatric facilities and residential crisis stabilization units for individuals who meet the criteria for temporary detention. The provisions of the bill establishing such registry are subject to an emergency clause. The Department of Behavioral Health and Developmental Services shall submit an annual report to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees on the implementation of the provisions of the bill. Finally, the bill directs the Governor's Mental Health Task Force to study issues associated with law enforcement's involvement in the admission process and make recommendations designed to reduce the burden on law-enforcement resources. This bill incorporates [SB 200,](http://leg1.state.va.us/cgi-bin/legp504.exe?141+sum+SB200) [SB 263,](http://leg1.state.va.us/cgi-bin/legp504.exe?141+sum+SB263) [SB 370,](http://leg1.state.va.us/cgi-bin/legp504.exe?141+sum+SB370) and [SB 458](http://leg1.state.va.us/cgi-bin/legp504.exe?141+sum+SB458).

SB654 - § 9.1-102 - **Department of Criminal Justice Services; human trafficking policy.** Requires the Department of Criminal Justice Services to publish and disseminate a model policy or guideline for law-enforcement personnel involved in criminal investigations or assigned to vehicle or street patrol duties to ensure that law-enforcement personnel are sensitive to and aware of human trafficking offenses and the identification of victims of human trafficking offenses.

HB334 and SB421 - § 15.2-1627.5 - **Local multidisciplinary child sexual abuse response teams.** Requires every attorney for the Commonwealth to establish a multidisciplinary child sexual abuse response team to conduct regular reviews of cases involving felony sex offenses involving children. Such teams may also review other reports of child abuse and neglect or sex offenses involving children in the jurisdiction. The bill has a delayed effective date of July 1, 2015, and is identical to [SB 421](http://leg1.state.va.us/cgi-bin/legp504.exe?141+sum+SB421).

HB1196 - § 17.1-123 - **Clerks offices; recordation; possession of child pornography; when security is required.** Makes various changes to laws relating to clerks of court, including (i) providing that the orders making up each day's proceedings that have been recorded in the order book shall be deemed the official records; (ii) providing that clerks may possess evidence of child pornography in the course of their duties; (iii) requiring clerks to receive and maintain control over evidence at the time it is admitted; (iv) allowing the secretary of a firefighting company to appoint a designee for the purpose of filing membership lists with the clerk; (v) removing the requirement in the Uniform Federal Lien Registration Act that a filing officer endorse on the notice of a federal lien the title and address of the official or entity certifying the lien; and (vi) providing that the clerk may make a motion to require a personal representative to furnish security.

HB728 - § 2.2-3011 - **Discriminatory and retaliatory action against whistle blower; remedies.** Provides that no employer may discharge, threaten, or otherwise discriminate or retaliate against a whistle blower, in whole or in part, because the whistle blower is requested or subpoenaed by an appropriate authority to participate in an investigation, hearing, or inquiry by an appropriate authority or in a court action. The bill also provides that any whistle blower may bring a civil action for prohibited actions against him in the circuit court of the jurisdiction where the whistle blower is employed. The bill provides that in a proceeding commenced against any employer for unlawful retaliation against a whistle blower, the court, if it finds that a violation was willfully and knowingly made, may impose upon such employer that is a party to the action, whether a writ of mandamus or injunctive relief is awarded or not, a civil penalty of not less than $500 nor more than $2,500, which amount shall be paid into the Fraud and Abuse Whistle Blower Reward Fund. The bill also provides that the court may order remedies, including reinstatement to the same position or, if the position is filled, to an equivalent position; back pay; full reinstatement of fringe benefits and seniority rights; or any combination of such remedies. The bill also provides that the whistle blower may be entitled to recover reasonable attorney fees and costs. The bill also imposes a three-year statute of limitations for such actions.

HB439 - § 2.2-3009 - **Fraud and Abuse Whistle Blower Protection Act; applicability to Virginia citizens.** Expands the protections of the Fraud and Abuse Whistle Blower Protection Act to Virginia citizens and makes Virginia citizens eligible for an award from the Fraud and Abuse Whistle Blower Reward Fund, provided they meet the requirements of the Act, including where the disclosure results in a recovery of at least $5,000. The bill contains technical amendments.

HB972 - § 16.1-253 - **Protective orders; companion animals.** Provides that a court may include in a protective order provisions granting to the petitioner possession of a companion animal if the petitioner is the owner of the animal. This bill incorporates [HB 624](http://leg1.state.va.us/cgi-bin/legp504.exe?141+sum+HB624).

**HB837 - § 2.2-3704.1 - Virginia Freedom of Information Act (FOIA); state agencies to post notice of allowable charges for producing records.** Requires state agencies in the executive branch to post on their respective public government websites the following statement: "A public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for the requested records. No public body shall impose any extraneous, intermediary, or surplus fees or expenses to recoup the general costs associated with creating or maintaining records or transacting the general business of the public body. Any duplicating fee charged by a public body shall not exceed the actual cost of duplication. All charges for the supplying of requested records shall be estimated in advance at the request of the citizen as set forth in subsection F of § 2.2-3704 of the Code of Virginia."

HB1233 - § 2.2-515.2 - **Address Confidentiality Program; victims of stalking.** Makes victims of stalking eligible for the Address Confidentiality Program. Under current law, only victims of domestic violence are eligible for participation. The bill also allows the Office of the Attorney General to cancel a program participant's certification if the participant obtains a name change through an order of the court and does not provide notice and a copy of the order to the Office of the Attorney General within seven days after entry of the order.

HB293 - § 16.1-340.1 - **Determining facility of temporary detention.** Provides that an individual for whom a temporary detention order is issued shall be detained in a state facility unless the state facility or an employee or designee of the community services board is able to identify an alternative facility that is able and willing to provide temporary detention. The bill also provides that under no circumstances shall a state facility fail or refuse to admit an individual who meets the criteria for temporary detention unless an alternative facility has agreed to accept the individual. The Department of Behavioral Health and Developmental Services shall submit an annual report to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees on the implementation of the provisions of the bill. This bill incorporates [HB 243](http://leg1.state.va.us/cgi-bin/legp504.exe?141+sum+HB243).

HB1053 - §2.2-309 - **Office of the State Inspector General; powers and duties; internal auditors.** Provides that the performance review of a state agency, nonstate agency, or independent contractor of a state agency conducted by the Office of the Inspector General include assessment of the effectiveness, efficiency, or economy of the agency's programs. The bill gives the State Inspector General the discretion to refer certain complaints to the internal audit department of public institutions of higher education. The bill provides that the State Inspector General may provide assistance for investigations as may be requested by the public institution of higher education. In addition, the bill exempts from mandatory disclosure under the Virginia Freedom of Information Act the investigative notes, correspondence and information furnished in confidence, and records otherwise exempted by law that are provided to or produced by or for internal auditors appointed by the head of a state agency or the board of visitors of a public institution of higher education. The bill contains technical amendments. [HB 287](http://leg1.state.va.us/cgi-bin/legp504.exe?141+sum+HB287) is incorporated into this bill

HB1211 and SB649 - § 2.2-419 - **State and Local Government Conflict of Interests Act and General Assembly Conflicts of Interests Act; Virginia Conflict of Interest and Ethics Advisory Council.** Establishes the Virginia Conflict of Interest and Ethics Advisory Council composed of 15 members: four appointments each by the Speaker of the House of Delegates, Senate Committee on Rules, and Governor; one designee of the Attorney General; one representative of the Virginia Association of Counties; and one representative of the Virginia Municipal League. The Council will elect its chairman and vice-chairman. The Council will review and post online the disclosure forms filed by lobbyists and persons subject to the conflict of interests acts and provide formal opinions and informal advice, education, and training. The bill requires the filing of the disclosure forms twice a year. It provides that the Division of Legislative Services will staff the Council, and the Council will transmit complaints of conflict law violations to the ethics advisory panels of the House of Delegates and Senate. The bill prohibits tangible gifts with a value of more than $250 or a combination of tangible gifts with a value of more than $250 to certain officers and employees of state or local governmental or advisory agencies or to legislators from a lobbyist; a lobbyist's principal; or a person, business, or organization who is a party to or seeking to become a party to certain governmental contracts. The bill also clarifies the distinction between gifts and other things of value received for travel, reduces a number of disclosure provision thresholds from $10,000 to $5,000, and requires the disclosure of gifts to immediate family members. Gifts from a relative or personal friend are not subject to disclosure, but a lobbyist; a lobbyist's principal; or a person, business, or organization who is a party to or seeking to become a party to certain governmental contracts cannot be considered a personal friend. Finally, the bill provides that the provisions of the conflict of interests acts do not preclude prosecution for any criminal law violation, including bribery. This bill incorporates [HB 15](http://leg1.state.va.us/cgi-bin/legp504.exe?141+sum+HB15) and [HB 271](http://leg1.state.va.us/cgi-bin/legp504.exe?141+sum+HB271) and is identical to [SB 649](http://leg1.state.va.us/cgi-bin/legp504.exe?141+sum+SB649).

HB730 and SB381 - § 2.2-200 - **Secretary of Public Safety; Secretary of Veterans Affairs and Homeland Security; transfer of certain powers and duties.** Renames the Secretary of Public Safety as the Secretary of Public Safety and Homeland Security and reassigns duties currently assigned to the Secretary of Veterans Affairs and Homeland Security relating to homeland security. The bill renames the Secretary of Veterans Affairs and Homeland Security as the Secretary of Veterans and Defense Affairs. The bill also incorporates portions of the JLARC report relating to improvements to Virginia's homeland security activities. The bill contains numerous amendments to accomplish this transfer of powers and duties. The bill contains an emergency clause and is identical to [SB 381](http://leg1.state.va.us/cgi-bin/legp504.exe?141+sum+SB381).

HB395 - § 32.1-45.2 - **Public safety employees; testing for blood-borne pathogens.** Adds the Department of Forensic Science to the definition of "public safety agency," employees of which may be requested or required to undergo testing for certain blood-borne pathogens following involvement in exposure prone incidents.