

Report to the Chairman of the
Transportation Committee of the Virginia
House of Delegates Pursuant to HB 695,
HB 987, HB 1082, HB 1316, and SB 390

Driving Credentials for Resident Immigrants

DEPARTMENT OF MOTOR VEHICLES
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Executive Summary

Introduction

This report presents the results of a study of the potential impact should the Commonwealth allow resident immigrants, including legally present individuals and undocumented individuals, to apply for a driving credential. The 2016 Virginia General Assembly considered five bills concerning providing resident immigrants with driving credentials: HB 695 (Kory); HB 987 (Lopez); HB 1082 (Boysko); HB 1316 (Bloxom); and SB 390 (Surovell). As became clear in House Transportation subcommittee discussions, the issues covered by these bills could have significant impacts on highway safety, motor vehicle insurance, law enforcement, and economic growth.

As a result, Chairman Ron Villanueva, Chair of the House Transportation Committee, charged the Department of Motor Vehicles (DMV) to study the potential impact of issuing driving credentials to resident immigrants and mandated that the study consist of a broad spectrum of stakeholders.¹² DMV partnered with immigrant community representatives; highway safety advocates; law enforcement; insurance industry representatives; human trafficking prevention advocates; agricultural industry representatives; economic and social research institutions; Virginia judicial representatives; and other state agencies. The stakeholders addressed the study in two parts:

Part 1 – Whether to Expand the Limited Duration Driver’s License to Include All Legally Present Individuals

Part 2 – If the Commonwealth Authorizes Undocumented Immigrants to Drive, What Should Be Required

To answer these questions, the stakeholder groups reviewed the legislative history of the Commonwealth’s legal presence requirement for driving credentials; examined existing research and data; researched the impact in other states that have provided driving credentials to similarly situated individuals; and discussed issues specific to implementation in the Commonwealth.

The Study

The stakeholders met multiple times from April to August. On April 4th and 18th, the entire stakeholder group met to brainstorm, identify issues, and assign topics and research to specific subcommittees. Four subcommittees were formed to address the relevant topics: Law Enforcement; Highway Safety; Fiscal and Economic Impact; and Insurance. The subcommittees met in May and June, and presented their recommendations at the final stakeholder meeting held August 1. At the August 1st full stakeholder meeting, the stakeholders determined their final recommendations. Based on these recommendations, DMV drafted proposed legislation, and included both the recommendations and the proposed legislation in this report. This report lists

¹ Chairman Villanueva’s February 23, 2016 charge letter is attached as Appendix 1.

² A list of the stakeholders is attached as Appendix 3.

the recommendations of the majority, but DMV has also included in the discussion section of this report and related appendices any minority positions that emerged. Finally, Part 2 of this report reflects the stakeholders' focus on how to implement driver privilege cards, should the General Assembly choose to create them. The report should not be read as endorsing a policy decision to issue driver privilege cards. Indeed, the Appendices include stakeholder comments supporting Virginia issuing such credentials and stakeholder comments expressing serious concerns.

Recommendations: Part 1 – Expanding the Limited Duration Driver’s License to Include All Legally Present Individuals

- 1) The stakeholders concluded that the limited duration driver’s license should be expanded to include all legally present individuals.

Recommendations: Part 2 – Issuing a Driver Privilege Card (DPC) to Undocumented Individuals

- 1) A DPC applicant must provide one primary proof of identity and one secondary proof of identity document, just like an applicant for a regular driver’s license.
- 2) A DPC applicant must prove residency to the same standard as a regular driver’s license applicant.
- 3) DPC applicants must successfully pass the Vision Screening, Knowledge Test, and Road Test, the same as all other applicants for a driving credential.
- 4) DPC applicants must meet any applicable driver education and learner’s permit requirements.
- 5) DPC applicants must have filed a Virginia tax return reporting Virginia source income.
- 6) DMV and the Department of Taxation (TAX) should create a real-time electronic verification process to verify that an applicant has filed a tax return reporting Virginia source income, at every issuance.
- 7) DPC applicants with adverse data, such as unpaid court fines, must comply with the outstanding requirements to be eligible for a DPC.
- 8) DPC applicants with multiple driving records will have their driving records merged and may be investigated for potential fraud.
- 9) DPC holders must comply with all existing insurance requirements.
- 10) DPC holders will face the same penalties as regular drivers for not complying with insurance requirements.
- 11) DMV should track the rate at which DPC holders comply with insurance requirements.
- 12) DPCs must be distinguishable from standard licenses and must clearly state “Driver Privilege Card” on the front of the card.
- 13) The face of a DPC will include a banner stating “Not valid identification for federal, voting, or public benefit purposes.”
- 14) A DPC will be valid for up to 2 years, expiring on the holder’s

birthdate.

- 15) All DPC renewals must be conducted in person.
- 16) An original issuance DPC should cost \$51.
- 17) A DPC renewal should cost \$20.
- 18) DMV should collect data on the number of DPCs issued; the number of convictions and suspensions entered against DPC holders; and the number of crashes and type of crashes (injurious; fatal) involving DPC holders.
- 19) DPC applicants should not be eligible to waive the knowledge or skills tests by taking driver's education courses or by taking advantage of foreign driver's license reciprocity arrangements.

I. Legislative History of the Legal Presence Requirement

Prior to 2004, Virginia did not limit eligibility for driver's licenses, permits, or identification cards to those authorized to be in the United States, nor did the agency inquire into the citizenship or immigration status of individuals applying for these credentials. This state of affairs changed in the wake of the terrorist attacks of September 11, 2001.

Legislation was subsequently introduced in the 2003 session of the General Assembly to restrict the issuance of driver's licenses and ID cards to those authorized to be in the United States. As introduced, SB 1058 and its identical companion HB 1954 proposed that DMV's then standard five-year licenses and cards be issued only to U.S. citizens and those "granted permanent resident alien status or a[n] immigrant visa" by federal immigration authorities, while those with "a nonimmigrant visa for entry into the United States" would be eligible for a "temporary" license or card with a validity period that was tied to the validity period of the visa. The legislation grandfathered current licensees and cardholders from having to present proof of legal presence when applying for a renewal, reissuance, or duplicate, provided their credentials were still valid – i.e., not expired, canceled, revoked, etc. It is unclear whether the bills' patrons intended to authorize issuance of licenses and ID cards to everyone lawfully in the United States—a universe that perhaps was imagined as consisting only of citizens, immigrants with a green card or visa, and nonimmigrants with a visa. However, amendments to the bill added in the Senate Committee for Courts of Justice indicate that legislators recognized that there were other groups of people who were legally present, since they expanded the list of those eligible for a temporary license to include applicants with:

- (i) a valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry into the United States, (ii) a pending or approved application for asylum in the United States (iii) entry into the United States in refugee status, (iv) a pending or approved application for temporary protected status in the United States, (v) approved deferred action status or (vi) a pending application for adjustment of status to legal permanent resident status or conditional resident status[.]

While the legislation underwent other amendments after leaving Senate Courts, the basic provisions regarding eligibility—regular driver's licenses and ID cards for U.S. citizens, permanent residents, and conditional permanent residents; limited-duration licenses and cards for the six groups listed above; grandfathering of current licensees and cardholders—stayed in the bill and were eventually enacted into § 46.2-328.1, where they remain today.

II. Summary of Other States that Issue Driver Privilege Cards

As of 2016, twelve states and the District of Columbia have passed legislation to allow undocumented immigrants to obtain some form of a driver's license. Washington, the first state to take such an action, passed legislation in 1993 to permit applicants without a social security number to use other documentation to establish proof of residency in the state.³ By taking this approach, Washington did not issue a separate credential for undocumented immigrants, but rather allowed individuals who could not establish legal presence to obtain a regular driver's license if they could satisfy residency requirements.

In 2005, Utah became the first state to legislate the creation of a driver privilege card.⁴ Applicants without a social security card were required to establish residency in Utah for six months. The Utah driver privilege card expired on the applicant's birthday the first year following the year the card was issued or renewed.

In 2012 and 2013, seven states (California, Colorado, Connecticut, Illinois, Maryland, Nevada, and Vermont) and the District of Columbia enacted various forms of driver privilege card legislation. California, Colorado, Connecticut and Maryland allowed individuals to obtain a driver's license regardless of legal presence if certain conditions were met, such as providing proof of having filed tax returns or establishing an intent to legalize the applicant's immigration status as soon as possible.⁵ The Illinois law authorized the Secretary of State to issue a "temporary visitor's driver's license" to persons who resided in Illinois for one year and were unable to provide documents establishing a lawful immigration status in the United States.⁶ Nevada authorized the issuance of a "driver privilege card" upon the presentation of sufficient documentation, which was valid until the holder's next birthday.⁷ Under the Vermont law, a resident of Vermont who is unable to establish legal presence may obtain an "operator's privilege card."⁸ In the District of Columbia, an applicant who does not possess a social security number may be issued a "limited purpose driver's license."⁹

More recently, Delaware authorized a procedure for undocumented immigrants to obtain a "driver privilege card"¹⁰ in 2015. In the same year, Hawaii allowed residents to obtain a "limited purpose driver's license" without proof of authorized presence in the United States.¹¹

In conjunction with its effort to issue driver's licenses that are compliant with the REAL ID Act, New Mexico passed legislation in 2016 that created driver authorization cards for individuals who could not establish legal presence in the United States.¹² New Mexico had

³ H.B. 1444, Washington (1993).

⁴ S.B. 227, Utah (2005).

⁵ A.B. 60, California (2013); S.B. 251, Colorado (2013); H.B. 6495, Connecticut (2013); S.B. 715, Maryland (2013).

⁶ S.B. 957, Illinois (2012).

⁷ S.B. 303, Nevada (2013).

⁸ S.B. 38, Vermont (2013).

⁹ B. 275, District of Columbia (2013).

¹⁰ S.B. 59, Delaware (2015).

¹¹ H.B. 1007, Hawaii (2015).

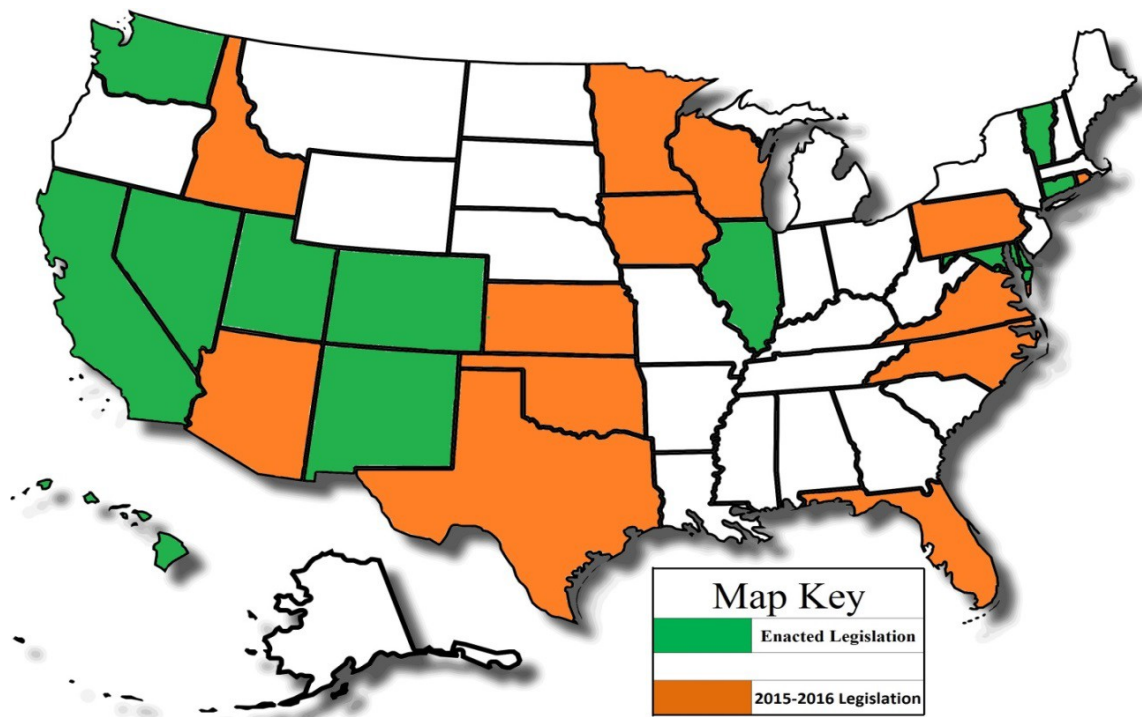
¹² H.B. 99, New Mexico (2016).

previously allowed driver's license applicants to use tax identification numbers instead of social security numbers regardless of immigration status to obtain a license.¹³

With respect to the legislation passed in the above thirteen jurisdictions, all of the referenced statutes required that the applicants provide proof of identity and proof of residency to obtain a driver privilege card. The majority of the states required that the driver privilege card be distinguishable on its face from a driver's license. Other than those factors, the jurisdictions have taken different approaches to driver privilege card legislation on details such as the length of time the card is valid, the name of the credential, and the requirements to meet to be eligible to obtain a card.

Other states, including Arizona, Florida, Idaho, Iowa, Michigan, Minnesota, North Carolina, Oklahoma, Pennsylvania, Rhode Island, Texas, Virginia, and Wyoming have considered legislation relating to driver privilege cards in past sessions or plan to consider such legislation in upcoming sessions.

FIGURE 1: States that have enacted driver privilege card legislation; States with 2015-2016 pending driver privilege card legislation¹⁴



¹³ H.B. 173, New Mexico (2003).

¹⁴ Figure 1: Jurisdictions with enacted legislation (green): California, Colorado, Connecticut, Delaware, District of Columbia, Hawaii, Illinois, Maryland, Nevada, New Mexico, Utah, Vermont, and Washington. Figure 1: States with 2015-2016 legislation: Arizona, Florida, Idaho, Iowa, Michigan, Minnesota, North Carolina, Oklahoma, Pennsylvania, Rhode Island, Texas, Virginia, and Wyoming.

III. Virginia DMV Current Licensing Processes

DMV provided stakeholders with numerous presentations concerning current DMV processes. These presentations allowed stakeholders to better understand what credentialing issues needed to be addressed and the impacts of changing or adding to current licensing procedures. DMV's current licensing process consists of four steps:

- Step 1: Application
- Step 2: Testing
- Step 3: Delivery of Credential
- Step 4: Use of Credential

Step 1: Applying for Credential

Currently, an applicant is required to provide DMV with a driver's license application (DL1P), primary proof of identity, secondary proof of identity (applicants age 19 and older), a valid social security number (SSN)¹⁵, proof of residency, and proof of legal presence.¹⁶ After receiving the application and documents, DMV's Customer Service Representative (CSR) authenticates the proof documents. All CSRs receive Fraudulent Document Recognition Training provided by the American Association of Motor Vehicle Administrators (AAMVA), which teaches the CSR how to verify the security features imbedded in each document. After a CSR authenticates all of the presented documents, a senior CSR performs an additional authentication review of the primary identity document and proof of legal presence document. If a SSN is provided, the CSR performs a real-time verification of the applicant's SSN through the Social Security Administration's Social Security Online Verification System (SSOLV). Finally, if the applicant's documentation indicates that the applicant is not a U.S. citizen, the CSR verifies the applicant's legal presence through the Department of Homeland Security's real-time Systematic Alien Verification for Entitlements (SAVE) program.

Once the CSR confirms the applicant's documents are in order, the CSR takes the applicant's photo and has the applicant provide an electronic signature. At this time, the CSR also ensures that important information is correctly recorded. Finally, the CSR enters any optional indicators that the applicant requests, such as an indicator for hearing impairment or insulin dependence.

Step 2: Testing

An applicant must pass three different examinations to receive a driver's license.¹⁷ Immediately following completion of the application process, the CSR administers the Vision

¹⁵ This requirement only applies to those applicants who have been issued a social security number.

¹⁶ These requirements (documentation and testing) are for an original application and routinely are not required for a renewal, save for the Vision Screening at every other renewal.

¹⁷ These requirements are for an original application and are not routinely required for renewal, save for the Vision Screening during each in person visit.

Screening.¹⁸ After successfully completing the Vision Screening, the applicant takes the Knowledge Test. The Knowledge Test consists of two parts. Part 1 tests the applicant's knowledge of road signs. In order to successfully pass, the applicant must answer 100% of the ten questions correctly. Part 2 tests the applicant's understanding of the laws of the road. The applicant must answer 80% of the 25 questions correctly in order to pass Part 2, at which point the applicant has successfully completed the Knowledge Test. Currently, DMV offers both parts of the Knowledge Test in over 20 languages.¹⁹ If an applicant requires testing in a language that DMV does not offer, a translator can assist.

Upon successful completion of the Knowledge Test, the applicant is issued a Learner's Permit. The applicant holds the Learner's Permit for a minimum of 60 days prior to returning to DMV to take the Road Test. The 60 day holding period is waived if the applicant has completed an approved Driver's Education course.

DMV administers the Road Test in two steps. First, the Examiner conducts the Pre-Road Skills Safety Check. During this check, the Examiner determines if 1) the vehicle is road safe; 2) the applicant understands the Examiner such that the applicant can follow the Examiner's instructions; and 3) the applicant is familiar enough with the vehicle such that the applicant can safely operate it. Once the applicant successfully completes the check, the Examiner explains what the Road Test will include. Only if the Examiner is comfortable with the vehicle's and the applicant's road safety will the Examiner begin the Road Test.

For each Customer Service Center (CSC), there are at least two Road Test routes to allow for flexibility if there is concern that the applicant may know the route, or if there are construction or weather issues. At any point in time, during the Pre-Road Skills Safety Check or Road Test, the Examiner may end the test, if the Examiner feels that the applicant is not safe on the road. Once the Road Test is successfully completed, the Examiner provides the CSR with the passing score and the CSR issues the applicant the appropriate driving credential.

Step 3: Delivery of the Credential

For all driving credentials, DMV's standard practice is to provide the individual with a temporary driving permit (TDP) indicating that the individual successfully completed the driver's licensing application and testing requirements. The individual is authorized to drive using the TDP. The individual does not leave the CSC with a new license in hand. Instead, DMV mails the new license to the individual and the individual should receive the license within 7-10 days. This is done for two reasons. First, it increases the security of the credential. Currently, the credentials are produced at a central, secure facility in Danville, Virginia. Because the credentials are centrally produced, DMV can ensure that the processes that imbed security features (such as raised text and holograms) in the cards are better protected from hacking by outside entities.

¹⁸ If the applicant fails the Vision Screening, DMV provides the applicant with a form to take to a physician. Once the physician fills out the form with the appropriate recommendation, for example glasses, the applicant can return to complete the driver's license testing.

¹⁹ DMV administers the Knowledge Test in: American Sign Language, Arabic, Chinese (Mandarin), Chinese (Mandarin Traditional), Ethiopian (Amharic), English, Dari, Farsi, French, German, Haitian/Creole, Italian, Japanese, Korean, Mongolian, Nepali, Pashto, Punjabi, Russian, Spanish, Turkish, Vietnamese, and Urdu.

Second, in the period between completion of the testing process and the actual delivery of the credential, DMV can address any additional issues that might have emerged after the applicant completed the credentialing process.

Step 4: Use of the Credential

Once the credential is mailed to the customer, the customer can then use the credential. Customers can use the credential as proof of driving privileges in Virginia, proof of driving privileges in other U.S. states, and proof of identity for federal, state, and local purposes. The driver's license can also be used to establish age for the purposes of legally purchasing alcohol, lottery tickets, and tobacco. Driver's licenses may also be accepted for other purposes, such as proof of identity when renting a property. However, private retail establishments have complete control over whether or not a driver's license is an acceptable identity document. Currently, Virginia does not legally demand that retailers accept driver's licenses, and it does not prohibit retailers from accepting driver's licenses.

Conclusion

The stakeholders used DMV's current processes as a framework for their decisions about issuing driving credentials to resident immigrants. As will be made clear in subsequent sections, the stakeholders attempted to maintain the same application and testing processes for all driving credential applicants. The stakeholders focused on the highway safety benefits from maintaining the same testing processes for all driving credential applicants.

IV.Part 1 – Expanding the Limited Duration Driver’s License to Include All Legally Present Individuals

Chairman Villanueva charged DMV and the stakeholders to address the issues contained within HB 695 (Kory), HB 987 (Lopez), HB 1082 (Boysko), HB 1316 (Bloxom) and SB 390 (Surovell) concerning issuing driving credentials to resident immigrants. These five bills addressed credentialing issues for two distinct groups of resident immigrants. The first group consists of legally present individuals who do not qualify for a limited duration driver’s license under current Virginia law. As was described in Section I, Virginia law currently allows legally present immigrants with certain statuses to apply for a limited duration driver’s license. Some of the legally present individuals excluded from qualification for a limited duration driver’s license include:

- Parolees (Examples: Humanitarian Parole, Significant Public Benefit Parole, Advance Parole);
- Aliens granted Cancellation of Removal or Suspension of Deportation;
- Aliens present in the U.S. with pending Asylee/Refugee relative petitions;
- Aliens granted Withholding of Removal where removal to home country is not possible;
- Applications for suspension of deportation or cancellation of removal;
- Aliens granted Voluntary Departure;
- Beneficiaries of Family Unity Protection Benefits; and
- Applicants under:
 - Nicaraguan Adjustment and Central American Relief Act (NACARA);
 - Haitian Refugee Immigration Fairness Act (HRIFA); and
 - Cuban-Haitian Adjustment Act.

In order to address these excluded statuses, the 2016 legislation considered expanding the limited duration driver’s license to include all legally present individuals. Using the legislative proposal as a starting point, the stakeholders discussed limited duration driver’s licenses and the law enforcement, highway safety, and fiscal concerns with the proposed expansion.

Limited Duration Driver’s License

Limited duration driver’s licenses are exactly like regular driver’s licenses, except for the validity period. Applicants for a limited duration driver’s license must provide primary proof of identification, secondary proof of identification, a SSN²⁰, proof of legal presence, and proof of Virginia residency. Regular driver’s license applicants must provide the same documentation. Once meeting the application requirements, an applicant for a limited duration driver’s license must pass the same testing required of regular driver’s license applicants. This includes the Vision Screening, two part Knowledge Test, and Road Test.²¹

²⁰ This applies only to those applicants with social security numbers.

²¹ These requirements are for a first issuance Limited Duration Driver’s License. At renewal, a limited duration driver’s license holder must provide proof of legal presence and successfully complete the Vision Screening.

The only difference between a regular driver's license and a limited duration driver's license is the length of time that the license is valid for, as the name implies. A standard duration driver's license, the most commonly issued by DMV, is valid for up to 8 years. A limited duration driver's license is restricted to the length of time an individual is legally present, according to their immigration papers. For instance, if an individual has a work visa that is valid for 2 years, DMV would issue that individual a limited duration driver's license valid for 2 years. At the end of that period, if the individual qualifies for subsequent legal presence, the individual would have to present his most recent immigration papers to receive a new license with a new validity period. In the case of individuals who have been granted an indeterminate stay, DMV issues them a one year limited duration license. Each year the individuals renew the license and once again provide proof of legal presence.

Proposed Expansion: Stakeholder Discussion

Based on DMV's explanation of the current limited duration driver's license process, the stakeholders identified three areas of discussion:

- 1) Is there any difference in the vetting process for those statuses currently excluded?

At the request of the stakeholders, DMV contacted the Department of Homeland Security (DHS) to ask about the vetting process for legal immigrants. While DHS stated that they did not take part in local or state legislation, they were willing to answer specific questions. DHS said that all those who are granted legal presence must meet similar vetting requirements. This includes a criminal background check, running fingerprints across multiple databases, and an interview with the individual. The precise order in which the vetting requirements are met and which department conducts the inquiry varies based on the location of the immigrant. If the immigrant applies for legal status while outside of the United States, at least part of the vetting process will take place through the U.S. Department of State. However, if an immigrant is applying for legal status from within the United States, then DHS handles more of the vetting process. As a result, the exact procedure followed differs based upon the situation of the immigrant. DHS concluded by stating all legally present individuals have successfully completed DHS's vetting process.

As further evidence of the similarity between the individuals that are currently eligible for limited duration licenses and the population that is currently excluded, DMV provided examples of an applicant's legal presence documents. In many cases, an ineligible individual provides the same proof of legal presence DHS documentation as an eligible individual. The only difference between them is which status is entered on the form. As such, DMV staff's fraudulent document recognition training already includes most of the legal presence documents the expanded population would provide.

- 2) Will highway safety be impacted by potential language barriers?

As described in Section III, DMV's current process checks for language barrier issues. To demonstrate this, the stakeholders asked DMV to research how many Road Tests are ended due to a language barrier. DMV conducted a two week field survey and determined that 67 out of 6,172 road tests were ended because the examiner felt uncomfortable with the applicant's language comprehension. This is approximately 1% of all tests. DMV does not anticipate any additional concerns because the same process would apply to any new applicant for a driving credential.

3) What is the expansion likely to cost?

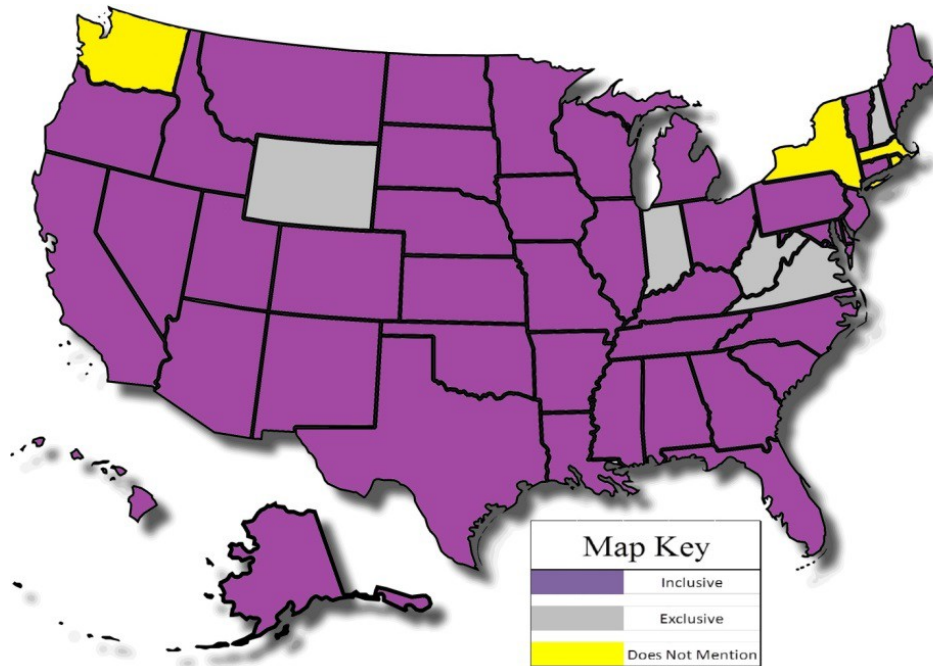
Based on federal immigration numbers, DMV estimates that the potential expansion of the limited duration driver's license could affect a population of approximately 6,000 individuals. In comparison, DMV currently serves over 5 million customers and issues over 100,000 limited duration driver's licenses per year. As such, DMV does not expect there to be any measurable increase in wait times or any additional staff requirements in order to accommodate the additional customers. Since this is the expansion of an already existing card, DMV would not have any additional start-up costs. As such, DMV expects the expansion to have minimal fiscal impact on DMV. The stakeholders could not identify any other costs that may arise due to licensing this population.

In addition, the stakeholders reviewed information on other states' and D.C.'s credentialing of legally present individuals. Forty-one states and D.C. explicitly allow all legally present individuals to apply for a driving credential. Washington does not have a legal presence requirement for its driver's license, so individuals of any immigration status may apply. New York, Rhode Island, and Massachusetts do not specifically address legal presence in statute. This leaves Virginia as one of only five states that specifically limit driver's licenses by immigration status.²² Figure 3 displays this information.

Finally, DMV staff stated that the current process, which requires them to turn away legally present individuals, is very challenging from a customer service standpoint. DMV front counter staff stated that it is very difficult to explain to an individual who is legally present in the U.S. and potentially allowed to work that DMV cannot issue him any type of license.

²² The five states with statutes that explicitly limit driver's license eligibility by immigration status: Indiana, New Hampshire, Virginia, West Virginia, and Wyoming.

FIGURE 2: States with statutes that provide driving credentials for all Legally Present Immigrants



Conclusion:

From their discussions, the stakeholders determined that DMV is capable of implementing the change without significant cost and without affecting current security standards or testing requirements. The stakeholders also noted that expanding the limited duration driver's license could significantly improve the lives of a number of legally present Virginia residents. **The stakeholders recommend that the limited duration license be expanded to all legally present individuals.**

V. Part 1 – Proposed Legislation

§ 46.2-328.1. Licenses, permits and special identification cards to be issued only to United States citizens, legal permanent resident aliens, or holders of valid unexpired nonimmigrant visas; exceptions; renewal, duplication, or reissuance.

A. Notwithstanding any other provision of this title, except as provided in subsection G of § 46.2-345, the Department shall not issue an original license, permit, or special identification card to any applicant who has not presented to the Department, with the application, valid documentary evidence that the applicant is either (i) a citizen of the United States, (ii) a legal permanent resident of the United States, or (iii) a conditional resident alien of the United States.

B. Notwithstanding the provisions of subsection A and the provisions of §§ 46.2-330 and 46.2-345, an applicant who presents in person valid documentary evidence ~~of (i) a valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry into the United States, (ii) a pending or approved application for asylum in the United States, (iii) entry into the United States in refugee status, (iv) a pending or approved application for temporary protected status in the United States, (v) approved deferred action status, or (vi) a pending application for adjustment of status to legal permanent residence status or conditional resident status, that a federal court or federal agency having jurisdiction over immigration has authorized the applicant to be in the United States~~ may be issued a temporary license, permit, or special identification card. Such temporary license, permit, or special identification card shall be valid only during the period of time of the applicant's authorized stay in the United States or if there is no definite end to the period of authorized stay a period of one year. No license, permit, or special identification card shall be issued if an applicant's authorized stay in the United States is less than 30 days from the date of application. Any temporary license, permit, or special identification card issued pursuant to this subsection shall clearly indicate that it is temporary and shall state the date that it expires. Such a temporary license, permit or identification card may be renewed only upon presentation of valid documentary evidence that the status by which the applicant qualified for the temporary license, permit or special identification has been extended by ~~the United States Immigration and Naturalization Service or the Bureau of Citizenship and Immigration Services of the Department of Homeland Security~~ a federal court or federal agency with jurisdiction over immigration.

C. Any license or special identification card for which an application has been made for renewal, duplication or reissuance shall be presumed to have been issued in accordance with the provisions of subsection A, provided that, at the time the application is made, (i) the license or special identification card has not expired or been cancelled, suspended or revoked or (ii) the license or special identification card has been canceled or suspended as a result of the applicant having been placed under medical review by the Department pursuant to § 46.2-322. The requirements of subsection A shall apply, however, to a renewal, duplication or reissuance if the Department is notified by a local, state or federal government agency that the individual seeking such renewal, duplication or reissuance is neither a citizen of the United States nor legally in the United States.

D. The Department shall cancel any license, permit, or special identification card that it has issued to an individual if it is notified by a federal government agency that the individual is neither a citizen of the United States nor legally present in the United States.

E. For any applicant who presents a document pursuant to this section proving legal presence other than citizenship, the Department shall record and provide to the State Board of Elections monthly the applicant's document number, if any, issued by an agency or court of the United States government.

VI. Part 2 – If the Commonwealth authorizes undocumented immigrants to drive, what should be required

In addition to expanding the limited duration driver's license to include all legally present individuals, the 2016 legislation also proposed a new driving credential for undocumented immigrants. Relying on language similar to that in HB 1316 and in other states, the stakeholders titled the new driving credential for undocumented immigrants as "Driver Privilege Card" (DPC). The stakeholders spent most of the study discussing the best way to implement DPCs, considering the many implications this proposal has for law enforcement, highway safety, insurance, and the Commonwealth. Some issues required in-depth discussion and research, which resulted in the stakeholders creating four subcommittees: Law Enforcement, Highway Safety, Fiscal and Economic Impact, and Insurance. These subcommittees met in May and June to deal with the issues assigned to them.

Because many of the topics impacted multiple subcommittees, this report details the discussions and final recommendations by topic, and not by subcommittee.

Topics of Discussion

A. Identity Verification

1. Proof Documents:

DMV stated that applicants for a regular driver's license have to provide a primary proof of identity document and a secondary proof of identity document. This allows the Customer Service Representative to cross-reference identity details. The stakeholders determined that applicants for DPCs should be able to meet this level of identity documentation.

DMV also presented information on certain states' ability to electronically verify an identity document in real-time. In particular, DMV provided information on California's current process of real-time e-verification of the Matricula Consular de Alta Seguridad (Consular Identity Card). The stakeholders agreed that an ability to electronically verify a document with the issuing body is definitely a security improvement that DMV should pursue if possible.

Recommendation #1: A DPC applicant must provide one primary proof of identity and one secondary proof of identity document.

2. Fingerprinting:

DMV informed the stakeholders that some states currently issuing DPCs require that an applicant be fingerprinted. In some of those states, the fingerprint records were used to conduct background checks, while in other states the fingerprint records seemed to be used only for identity verification purposes. The stakeholders discussed what a fingerprint requirement would be used for in Virginia. Having decided against background checks and prohibiting convicted felons from applying for a DPC (discussed in the following Adverse/Criminal Information section), the stakeholders determined that the only use for fingerprints in the Commonwealth

would be to verify the applicant's identity. Law enforcement pointed out that, even if DMV collected fingerprints from applicants, DMV would not be able to run the fingerprints against other databases. DMV does not currently have access to federal fingerprint databases, and the Virginia State Police only has access for certain criminal purposes, not identity purposes. In addition, the stakeholders noted that DMV would have to build a computer database to hold the fingerprint records, as DMV's current records are not designed for this information. The stakeholders determined that the costs of maintaining a fingerprint database outweighed the benefit of identity verification, considering that a DPC applicant will have to meet other identity requirements.

3. Facial Recognition:

The stakeholders discussed facial recognition in place of a fingerprint requirement. They reviewed other states' requirements and found that a number of states utilized facial recognition for their entire driver population, not just DPC applicants. At the request of the stakeholders, DMV spoke with its vendor concerning the process of implementing facial recognition and discovered that that implementing facial recognition for such a small segment of its customer base is impractical. However, the stakeholders did note that facial recognition is a valuable tool in combating fraud for all identification credentials.

4. DMV Staff Training and Procedures:

DMV explained that all Customer Service Representatives (CSRs) must complete AAMVA's Fraudulent Document Recognition Training and that DMV procedure requires two CSRs to verify each primary proof of identity document. When presented with a primary identification document, the CSR verifies the document's security features. Once the first CSR approves of the document, a senior CSR also examines the document and verifies the security measures a second time. Both CSRs must electronically sign off on the primary document before the applicant can move on to the next step in the application process. The stakeholders agreed that this process improved identity verification and the process should remain in place for DPC applicants.

B. Application Requirements

1. Residency:

DMV stated that currently all applicants for a regular driver's license must provide proof of Virginia residency. This is in part due to the desire for every driver in the U.S. to have a single driving permit. For highway safety and identity purposes, it benefits all drivers for all states to follow the rule of one person, one identity. The practice of one person, one identity allows states to keep better track of an individual's adverse driving incidents, a driving under the influence conviction for example.²³

²³ Virginia DMV will begin participating in the State to State (S2S) verification system on December 3, 2016. This system will allow us to communicate directly with other participating states to ensure the customer does not also hold a license in that state. If we issue a license to someone who holds a license in another participating state, the

The stakeholders determined that the greatest benefit from the rule of one person, one identity can only be achieved if every applicant for a driving credential has to meet a residency requirement. In addition, the stakeholders discussed how a residency requirement would ensure that applicants for a driver privilege card would have ties to the Commonwealth.

Finally, the stakeholders discussed how a residency requirement would assist in dissuading undocumented immigrants living in other states from coming to Virginia to get a driver privilege card and then immediately leaving the Commonwealth.

Recommendation #2: A DPC applicant must prove residency to the same standard as a regular driver's license applicant.

2. Testing:

The stakeholders determined that applicants for a driver privilege card would be held to the same safety standards as applicants for standard driver's licenses. As such, the stakeholders discussed in detail DMV's current testing process: Vision Screening; two part Knowledge Test; Learner's Permit period; Pre-Road Skills Safety Check; and Road Test. The stakeholders wanted the same testing requirements because of the overall benefit of insuring that every driver knows the rules of the road. FIGURE 3 demonstrates the stakeholders' requirement that all licensed drivers must complete the same testing requirements.

prior license will automatically be surrendered. Alternatively, if someone who holds a Virginia license surrenders it to a participating state, the Virginia license will be automatically canceled.

FIGURE 3: DMV Credentialing Process

Step 1: Applying for a Credential - Applicants supply DMV with appropriate materials.

Driver's License
1) Application
2) Proof of Identity, SSN (if applicable), Legal Presence, VA Residency

Expanded Limited Duration License for All Legally Present Individuals
1) Application
2) Proof of Identity, SSN (if applicable), Legal Presence, VA Residency

Driver Privilege Card
1) Application
2) Proof of Identity, VA Residency
3) Income/Taxes

Step 2: Testing - ALL Applicants for a license to operate a motor vehicle MUST successfully complete the:

Vision Screening

Knowledge Test
Part 1: Road Signs; 100% Pass Rate Required
Part 2: Rules of The Road; 80% Pass Rate Required

Applicants hold Learner's Permit for the applicable period.

Pre-Road Skills Safety Check

Road Test

After successful completion of ALL testing, the customer leaves with a temporary credential, while DMV mails the final credential to the customer.

Step 4: Holders use credential

Driver's License:
Privilege to operate a motor vehicle; Proof of Identity for local, state, and federal purposes

Expanded Limited Duration License to All Legally Present Individuals
Privilege to operate a motor vehicle; Proof of Identity for local, state, and federal purposes – limited to duration of legal presence

Driver Privilege Card
Privilege to operate a motor vehicle

As a result of this discussion, the stakeholders explored how DMV addresses language barriers. DMV explained that the two-part Knowledge Test is offered in over 20 languages, and that during the Pre-Road Skills Safety Check, the Examiner has the authority to end the test if it becomes evident that the applicant does not understand English well enough to complete the Road Test safely. At the stakeholders' request, DMV determined that in a two week period, DMV Examiners ended 67 Road Tests due to language barriers. In that two week period, DMV conducted 6,172 Road Tests, which means that 1.09% of Road Tests were cancelled due to language barriers. The majority of these cancellations occurred in the Northern Virginia customer service centers.

Finally, the stakeholders discussed the driver's education requirements for applicants under the age of 19 and the benefits of having those same requirements for driver privilege card applicants under the age of 19. The stakeholders did not discuss adding any additional testing to the requirements currently in place for applicants for regular driver's licenses. In section IV of this report, DMV has included all of the information it provided to the stakeholders concerning DMV's testing procedures.

Recommendation #3: DPC applicants must successfully pass the Vision Screening, Knowledge Test, and Road Test, the same as all other applicants for a driving credential.

Recommendation #4: DPC applicants must meet any applicable driver education and learner's permit requirements.

3. Virginia Tax Filing with Virginia Source Income:

HB 1316 included a tax filing requirement and DMV's research determined that a number of other states require DPC applicants to file a state tax return. The stakeholders spent a significant period of time discussing a tax or income based requirement and reached agreement on an income tax filing requirement, the purpose of which would be to show an economic tie between the applicant and the Commonwealth.

The stakeholders determined that any tax information should be based on Virginia tax filings. The Virginia Department of Taxation (TAX) explained that any individual can file a tax return whether or not that person has any income. Since the purpose of the requirement is to demonstrate an economic tie to Virginia, the stakeholders set the requirement that the tax filing must show that the filer had Virginia source income.

Through discussion with TAX staff, it was determined that the tax return could be used by anyone specifically named on the tax filing, e.g., both spouses if filing jointly. However, dependents are not listed separately on the tax return; therefore, such dependents would not be able to meet the tax return requirement to obtain a DPC. Juveniles seeking to obtain a DPC would have to independently file a Virginia tax return to be eligible for a DPC. Several representatives on the committee noted that many juvenile immigrants have jobs, and therefore, would be able to meet this requirement. However, this requirement could preclude some family members, such as a grandparent without income, from obtaining a DPC.

As alternatives, the stakeholders also discussed other ways to prove that an applicant earned income in Virginia. Specifically, the group considered whether to accept pay stubs and/or to obtain employment information from the Virginia Employment Commission, but concluded that those sources were not sufficient to prove that the applicant had income in Virginia.

The stakeholders also discussed potentially allowing applicants who are dependents of income tax filers to be deemed to have met the tax return requirement if they can prove they are qualified dependents. However, there would be substantial difficulties in adequately proving dependent status; therefore, this allowance was not provided. The stakeholders determined that if the DPC was implemented successfully, it would always be possible to expand the eligibility requirements to allow dependents at a later date.

The committee determined that the most appropriate documentation to ensure that the tax return requirement was met would be for DMV to obtain electronic verification from the Department of Taxation confirming that the DPC applicant had filed an income tax return with Virginia source income. TAX and DMV agreed that development of an interface to verify tax status was feasible, and further agreed that DMV would only receive confirmation that the applicant met this requirement; DMV would not receive any detailed tax return information regarding the applicant.

Recommendation #5: DPC applicants must file a Virginia tax return showing Virginia source income.

Recommendation #6: The Department of Motor Vehicles and the Department of Taxation should create a real-time electronic verification process to verify that an applicant has filed a tax return reporting Virginia source income, at every issuance.

C.Adverse/Criminal Information

1. Criminal Background Checks:

DMV's research into other states' practices revealed that some states that issue driver privilege cards require applicants to undergo a criminal background check. The stakeholders discussed whether this was necessary in Virginia considering that the point of the card is to ensure that safer drivers are on Virginia's roads. The stakeholders noted that DMV does not require background checks for any other drivers, except when required for select commercial drivers.²⁴ The stakeholders did not see a reason to apply a different standard to DPC holders. The

²⁴ In accordance with Federal Motor Carrier Safety Administration Regulations, DMV administers a fingerprint background check to applicants for a hazardous materials endorsement. The Transportation Security Administration evaluates the results and sends DMV an indicator to say either that the applicant is eligible for the endorsement or that they are not.

Virginia law requires transportation network companies (TNCs) to conduct comprehensive criminal background checks and driving record checks on every individual applying to work as a TNC driver, and at regular intervals after the individual has begun working as a TNC driver. The background checks must include checking the individual's status in the Virginia's Sex Offender and Crimes Against Minors Registry and the U.S. Department of Justice's National Sex Offender Public Website.

stakeholders were also concerned about how the background checks would be conducted, including which agency would conduct the check. The stakeholders concluded there was little value in requiring background checks.

2. Felony/Misdemeanor History:

DMV's research noted that Connecticut prohibits undocumented immigrants with felony convictions from qualifying for a DPC. The stakeholders considered having a similar requirement, but could not find a reason as to why DPC applicants should be treated differently than regular driver's license applicants. If a driver's license applicant has a felony conviction related to driving, then they may have prohibitions affecting the application process. Other felonies have no impact on driving privileges, at this time. The stakeholders saw no reason to apply a different standard to DPC applicants.

3. Adverse Data:

The stakeholders considered the possibility that an applicant for a driver privilege card might have adverse data on his record at the time of application. For example, an applicant may have unpaid court fines. DMV explained that currently any applicant for a driving credential must address any adverse data in DMV's system before being issued a credential. This includes paying any required fines or completing any particular task, such as providing proof of financial responsibility or a completing driver improvement clinic. The stakeholders discussed the benefits of applying the same rules to driver privilege card applicants and could not find any benefit in excluding driver privilege card applicants.

Recommendation #7: DPC applicants with adverse data, such as unpaid court fines, must comply with the outstanding requirements to be eligible for a DPC.

4. Multiple Driving Records

The stakeholders discussed the potential consequences of DMV discovering a DPC applicant having multiple driving records. DMV noted that this could be possible if the applicant had previously held a legal driving credential (before the legal presence requirement), or if there had been past misspellings or confusion over the applicant's name. However, DMV also said that multiple records could be indicia of fraud. The stakeholders determined that DMV should have the ability to investigate any situation in which multiple records were discovered. In cases where no fraud was discovered, DMV would merge the records into a single complete record, just as DMV currently does for regular driver's license holders. In cases where fraud is discovered, DMV would take appropriate legal action.

Recommendation #8: DPC applicants with multiple driving records will have their driving records merged and may be investigated for potential fraud.

D.Motor Vehicle Insurance

The stakeholders considered both HB 1316's insurance requirements and any insurance requirements mandated by other states that issue DPCs. HB 1316 tied insurance to the issuance of a DPC, while most other states left insurance tied solely to vehicle ownership. Currently, Virginia also ties insurance to the vehicle, not the driver. Insurance industry representatives explained that current Virginia policy requires the vehicle owner to certify that the vehicle is covered by a policy with minimum liability coverage, provide a Certificate of Self-Insurance/Letter of Credit, or pay the uninsured motor vehicle fee. Considering the potential cost to insurance companies and Virginia agencies to have to administer two different insurance standards, the stakeholders did not consider altering the insurance requirements for DPC holders.

Also based on HB 1316, the stakeholders discussed increased penalties for DPC holders who violate insurance requirements, such as denying undocumented immigrants' access to DPCs if they previously violated the insurance requirements. The stakeholders found this to be out of proportion with what is required of regular driver's license holders, and instead considered a higher penalty fee for DPC holders. However, the insurance industry representatives noted that Virginia currently has some of the lowest insurance premiums in the nation, and they did not see a reason to alter the current insurance regime in any way. Finally, the stakeholders requested that DMV track the rate of compliance for DPC holders as part of their data collection on DPC implementation.

Recommendation #9: DPC holders must comply with all existing insurance requirements.

Recommendation #10: DPC holders will face the same penalties as driver's license holders for not complying with insurance requirements.

Recommendation #11: DMV should track the rate at which DPC holders comply with insurance requirements.

E.Credential Characteristics

1. Card Design:

The stakeholders wanted to design the DPC such that the card would be clearly identifiable as a DPC for law enforcement, but also not so different as to be unconstitutionally discriminatory. The stakeholders were clearly in favor of having "Driver Privilege Card" marked prominently on the face of the card, in place of the usual "Driver's License" title. As for the fonts and arrangement, the stakeholders advised DMV to make sure that the title of the card was clear, but left the details to DMV and its vendor to determine what was feasible.

Finally, the stakeholders discussed what can appear on a driver's license, including:

- classifications,
- indicators,
- endorsements, and
- restrictions.

The stakeholders agreed that DPCs should be treated the same as standard driver's licenses for the aspects listed above. DMV did inform the stakeholders that a DPC holder would not be eligible for a commercial driver's license under federal law. The stakeholders were comfortable with this limitation.

Recommendation #12: DPCs must be distinguishable from standard licenses and must clearly state "Driver Privilege Card" on the front of the card.

2. Disclaimer:

Also on the face of the card, the stakeholders discussed having a disclaimer clarifying the uses of the card. Considering that DPCs are relatively new, many states have chosen to place a disclaimer on the face of the card, providing information about the DPCs' limitations. The stakeholders reviewed the language used by multiple states and determined that the most important limitations related to federal uses, voting opportunities, and public benefits. In particular, the stakeholders wanted to clarify that a DPC would not serve as an identity document for those three uses. The stakeholders drafted the disclaimer "Not valid identification for federal, voting, or public benefit purposes." They agreed that the disclaimer should be clearly stated on the face of the DPC.

Recommendation #13: The face of a DPC will include a banner stating "Not valid identification for federal, voting, or public benefit purposes."

F. Validity Period

The stakeholders began by reviewing the validity periods for DPCs in other states. Of the 13 jurisdictions that issue driving credentials to undocumented immigrants, 4 states require a validity period of 2 years or less, while 9 states require a validity period from between 3-8 years. The stakeholders also took note that HB 1316 required a 1 year validity period. The stakeholders agreed early on that, at least for the first few years of implementation, a shorter validity period would be appropriate. DMV noted that DMV currently issues driving credentials with validity periods ranging from 1-8 years. While the Law Enforcement Subcommittee preferred maintaining HB 1316's 1 year validity period, the Fiscal and Economic Impact Subcommittee argued that the staff requirements necessary to serve this population every year would be very costly. The stakeholders eventually compromised on a 2 year validity period with in-person renewals. The stakeholders determined that at each renewal DMV would confirm the DPC holder's residency and tax contribution, as well as, update the holder's identification photo.²⁵ Finally, DMV reported that other states suggested tying the validity period to the holder's birthday, so as to serve the affected population throughout the year, instead of in the implementation month. The stakeholders agreed that this was a reasonable request, particularly since it would decrease DMV's staffing costs.

Recommendation #14: A DPC will be valid for up to 2 years, expiring on the holder's birthdate.

Recommendation #15: All DPC renewals must be conducted in person.

²⁵ At renewal, DPC holders must also successfully complete the Vision Screening, the same as a Limited Duration Driver's License holder.

G.Fee:

The stakeholders agreed that as a starting point the cost of an original DPC should cover costs incurred by DMV and TAX in the first year of implementation. The stakeholders agreed that the Commonwealth should not be negatively financially impacted by creating DPCs. The immigrant advocacy community representatives, in particular, agreed that this was a reasonable basis for the cost of the card. The stakeholders then discussed what would be included in determining the cost of an original DPC. The stakeholders identified the following:

- Staffing for DMV customer service centers and DMV law enforcement,
- Training for DMV staff,
- IT programming (including the cost for DMV’s card vendor to design a new DPC credential), and
- Electronic verification process with TAX (one-time set-up).

In order to determine the number of staff necessary for implementation, DMV made assumptions concerning the affected population and the potential increased visits to customer service centers. Using information from the Pew Research Center and the Migration Policy Institute, DMV estimated approximately 308,000 undocumented individuals of driving age currently reside in Virginia. DMV spoke with other states concerning what percentage of their estimated undocumented populations applied for DPCs in the first few years of implementation. Based on their experiences, DMV concluded the following:

Estimate of number of undocumented immigrants who would apply for DPC each year (based on rates in comparable states)		
1 st Year	35%	107,650 applicants
2 nd Year	25%	76,900 applicants
3 rd Year	20%	61,500 applicants
4 th Year	20%	61,500 applicants

DMV recognized that a number of applicants may have to make multiple visits during the application process due to failed knowledge or road tests. Additional visits affect the number of staff DMV needs to maintain current service levels. DMV used a combination of information on the failure rates that other states experienced when first implementing DPC programs and information on Virginia’s current testing failure rates to estimate the following:

Failure rate for Knowledge Tests (based on other states’ data and DMV’s regular driver’s license population)		
Attempt 1	65% of total applicants	200,200 applicants
Attempt 2	30% of applicants who failed on Attempt 1	60,060 applicants
Attempt 3	5% of applicants who failed on Attempt 2	3,003 applicants

Failure rate for Road Test (based on other states' data and DMV's regular driver's license population)		
Attempt 1	20% of total applicants	61,600 applicants
Attempt 2	10% of applicants who failed on Attempt 1	6,160 applicants
Attempt 3	5% of applicants who failed on Attempt 2	308 applicants

*After 3rd attempt, DPC applicants would be referred to driving school, as with applicants for all other driving credentials.

As a result of these estimates and after including all of the other costs identified by the stakeholders, DMV estimated an original DPC would cost \$51. This fee would cover DMV's costs within the first year of implementation, as well as, a one-time start-up payment to TAX for the real-time electronic verification system. The stakeholders agreed that this was a reasonable fee, considering the need to create an entirely new credential. Finally, DMV explained that currently the *Code of Virginia* states that the minimum fee for a license renewal is \$20. DMV and the stakeholders saw no reason to change the fee for the DPC holder population.

It should be noted that this fee structure does not take into account potential issues that could arise if this new customer base were concentrated in limited areas of the state and these customers chose to visit only a small number of CSCs to obtain a DPC. Some CSCs have staffing and customer volumes that are already near the physical capacity of those offices. Adding staff to those offices to serve the additional customers may not be feasible within the current physical constraints of the offices. The cost associated with any needed infrastructure changes was not included in the calculated card cost.

Recommendation #16: An original issuance DPC should cost \$51.

Recommendation #17: A DPC renewal should cost \$20.

H. Highway Safety

1. Safety Benefits:

DPCs are relatively new. As such, there is very little quantitative data concerning DPCs' impact on highway safety. Despite this, the stakeholders believed that issuing DPCs to undocumented immigrants will have highway safety benefits. The stakeholder group noted that many undocumented individuals may be currently driving without a license and without having to prove that they understand Virginia's rules of the road. In particular, the stakeholders believe the following highway safety benefits could result from issuing DPCs:

- Ensuring one card, one identity;
- Requiring everyone on the road to complete licensing testing;
- Increasing driver record accuracy;
- Assisting courts and DMV in applying equal penalties to drivers with multiple offenses;

- Placing better trained drivers on the road;
- Requiring all applicants to be subject to the Driver Improvement Program;
- Encouraging focused outreach and education to the law enforcement and the immigrant community;
- Enhancing communication between law enforcement and the immigrant community; and
- Protecting immigrants from identity theft, being taken advantage of by unscrupulous groups.

2. Data Collection:

Because there is so little data available on the impact of DPCs, the stakeholders made data collection a priority from a highway safety standpoint. The stakeholders wanted DMV to specifically collect the following:

- Number of DPCs issued,
- Conviction rates for DPC holders versus conviction rates for standard driver's license holders,
- Suspension rates for DPC holders versus suspension rates for standard driver's license holders,
- Insurance related conviction rates for DPC holders versus insurance related conviction rates for standard driver's license holders,
- Insurance related suspension rates for DPC holders versus insurance related suspension rates for standard driver's license holders, and
- Number of crashes, (injurious and fatal) involving DPC holders.

Recommendation #18: DMV should collect data on the number of DPCs issued; the number of convictions and suspensions entered against DPC holders; and the number of crashes and type of crashes (injurious and fatal) involving DPC holders.

3. Testing Waivers:

Virginia currently shares driver's license reciprocity arrangements with Canada, France, Germany, and South Korea. These arrangements permit the exchange of driving privileges without the requirement to complete the knowledge and skills tests. The arrangements are entered into only after a thorough comparison of licensing requirements. In addition, DMV allows applicants who have completed courses at approved Driver's Education Schools to waive either the Knowledge or Road Tests. Due to the stakeholders' focus on improving highway safety, the stakeholders decided not to allow DPC applicants to waive any aspect of DMV's testing. While the applicants can still attend any driver's education school they desire, in order to get a DPC, the applicants must complete all of DMV's testing requirements at a DMV customer service center.

Recommendation #19: DPC applicants should not be eligible to waive the knowledge or skills tests by taking driver's education courses or by taking advantage of foreign driver's license reciprocity arrangements.

I. Prohibition Against DMV Releasing Information

The final issue discussed by stakeholders was whether the DPC legislation needed to include additional protection for data relating to DPC holders above the existing law governing DMV's release of customer information. DMV reported that Nevada, Hawaii, California, and D.C. currently have statutory language addressing when DMV can release immigration information. DMV also shared that under current Virginia law, DMV would have to release DPC information to any government agency that requested the information for business purposes.

The stakeholders were divided on this issue. Some stakeholders were concerned that unrestricted government access to DPC holders' immigration information could act as a deterrent for potential DPC applicants. Other stakeholders noted that government agencies did need access to information for legitimate purposes, and that this early in the process, it was difficult to know what precisely needed to be protected. They suggested not including additional statutory protections and if it appeared necessary later, a legislative change could address the issue. As such, the laws currently governing release of information for standard driver's license holders will apply to DPC holders, which includes a provision for government agencies to request information for their official functions.

J. Potential Impacts

The stakeholders discussed the potential economic benefits of DPCs, including increased job opportunities and better paying jobs for DPC holders. At the Chairman's request, DMV attempted to find data about these and other economic impacts in states that issue DPCs. However, DPCs are such a recent development that data is nonexistent concerning their economic impacts. As such, DMV provided the stakeholders with the little available, though not directly related, data.

First, the stakeholders reviewed the findings of a study concerning Oregon's SB 1080. In 2008, Oregon passed SB 1080, which required applicants to provide proof of legal presence as part of a driver's license application. As a result, undocumented immigrants arriving in Oregon after 2008 would not be eligible for a driver's license. In addition, undocumented immigrants who held an Oregon license prior to SB 1080's enactment would not be able to renew their licenses after 2008. In 2011, the Oregon Department of Transportation and the Federal Highway Administration conducted a study of the economic impacts of implementing SB 1080. The study compared the employment prospects of immigrants who held Oregon driver's licenses and of immigrants unable to qualify for a driver's license. The study revealed the following:

- Respondents without a driver's license were much more likely to have experienced a spell of unemployment in the prior year than driver's license holders
 - 66.3% of respondents without driver's licenses said they experienced unemployment vs. 50.2% of driver's license holders
- When asked about wages, driver's license holders fared better in the last year than people without driver's licenses

- 61.6% of people without driver's licenses said that they earned less money in the last year vs. 45.7% of driver's license holders

However, driver's license holders and people without driver's licenses had similar experiences when it came to the difficulty finding a job, and the number of hours worked in a week.

Second, the stakeholders examined the findings of the 2013 AAMVA Suspended Driver's License Report. The Report explained the economic impact of suspensions on license holders and included the following statistics from New Jersey:

- 42% of drivers lost their jobs after their driving privilege was suspended
- 45% of those drivers were unable to find new employment
- 88% of those drivers who were able to find another job reported a decrease in income

Both the Oregon SB 1080 study and the 2013 AAMVA Suspended Driver's License Report conclude that having a driving credential improves the holder's job prospects. As such, DPCs are likely to provide economic benefits to the Commonwealth, even though it cannot be quantified.

Concerning the topic of judicial efficiency, some of the stakeholders remarked that judges have a more difficult time adjudicating cases involving drivers without licenses. The stakeholders heard that judges often see the same drivers without licenses multiple times in court. This issue has also been mentioned at the annual Judicial Transportation Safety Conference.²⁶ Since the driver does not have a license, variations in recording the driver's name or the driver simply providing a different name for each offense, may result in the judge treating each incident as if the driver is a first-time offender. This restricts the judge's ability to apply the stricter penalties usually assigned to repeat offenders. These multiple records also prevent DMV from imposing administrative sanctions for subsequent offenses, i.e. driver improvement clinics. In addition, drivers without licenses are less likely to even appear in court. Finally, law enforcement and judicial officers must take the time to address both the underlying driving offense and the driving without a license offense at each step of the judicial process. All of this confusion and additional work decreases the efficiency of the courts.

According to DMV, the number of convictions for driving without a license (46.2-300) in fiscal year 2016 was 40,468. Typically, the number ranges from 40,000 to 50,000 per year. The stakeholders determined that issuing DPCs could decrease the number of convictions for driving without a license, though by how much is not quantifiable at this time. The stakeholders also concluded that DPCs could assist judges in correctly adjudicating a number of traffic cases.

²⁶ In conjunction with the Supreme Court's mandatory fall conference, DMV annually holds a judicial transportation conference. At this conference, the participants address pressing transportation safety topics.

VII. Part 2 – Proposed Legislation

1 **§ 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies**
2 **and certain other limited exclusions.**

Comment [A1]: From the Virginia Freedom of Information Act.

3 The following information contained in a public record is excluded from the mandatory
4 disclosure provisions of this chapter but may be disclosed by the custodian in his discretion,
5 except where such disclosure is prohibited by law. Redaction of information excluded under this
6 section from a public record shall be conducted in accordance with § 2.2-3704.01.

7 1. State income, business, and estate tax returns, personal property tax returns, and
8 confidential records held pursuant to § 58.1-3.

9 2. Working papers and correspondence of the Office of the Governor; the Lieutenant
10 Governor; the Attorney General; the members of the General Assembly, the Division of
11 Legislative Services, or the Clerks of the House of Delegates and the Senate of Virginia; the
12 mayor or chief executive officer of any political subdivision of the Commonwealth; or the
13 president or other chief executive officer of any public institution of higher education in
14 Virginia. However, no information that is otherwise open to inspection under this chapter shall
15 be deemed excluded by virtue of the fact that it has been attached to or incorporated within any
16 working paper or correspondence. Nothing in this subdivision shall be construed to authorize the
17 withholding of any resumes or applications submitted by persons who are appointed by the
18 Governor pursuant to § 2.2-106 or 2.2-107.

19 As used in this subdivision:

20 “Members of the General Assembly” means each member of the Senate of Virginia and
21 the House of Delegates and their legislative aides when working on behalf of such member.

22 “Office of the Governor” means the Governor; his chief of staff, counsel, director of
23 policy, Cabinet Secretaries, and Assistant to the Governor for Intergovernmental Affairs and
24 those individuals to whom the Governor has delegated his authority pursuant to § 2.2-104.

25 “Working papers” means those records prepared by or for an above-named public official
26 for his personal or deliberative use.

27 3. Information contained in library records that can be used to identify both (i) any library
28 patron who has borrowed material from a library and (ii) the material such patron borrowed.

29 4. Contract cost estimates prepared for the confidential use of the Department of
30 Transportation in awarding contracts for construction or the purchase of goods or services, and
31 records and automated systems prepared for the Department’s Bid Analysis and Monitoring
32 Program.

33 5. Lists of registered owners of bonds issued by a political subdivision of the
34 Commonwealth, whether the lists are maintained by the political subdivision itself or by a single
35 fiduciary designated by the political subdivision.

36 6. Information furnished by a member of the General Assembly to a meeting of a
37 standing committee, special committee, or subcommittee of his house established solely for the

38 purpose of reviewing members' annual disclosure statements and supporting materials filed
39 under § 30-110 or of formulating advisory opinions to members on standards of conduct, or both.

40 7. Customer account information of a public utility affiliated with a political subdivision
41 of the Commonwealth, including the customer's name and service address, but excluding the
42 amount of utility service provided and the amount of money paid for such utility service.

43 8. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing
44 Development Authority concerning individuals who have applied for or received loans or other
45 housing assistance or who have applied for occupancy of or have occupied housing financed,
46 owned or otherwise assisted by the Virginia Housing Development Authority; (ii) concerning
47 persons participating in or persons on the waiting list for federally funded rent-assistance
48 programs; (iii) filed with any local redevelopment and housing authority created pursuant to
49 § 36-4 concerning persons participating in or persons on the waiting list for housing assistance
50 programs funded by local governments or by any such authority; or (iv) filed with any local
51 redevelopment and housing authority created pursuant to § 36-4 or any other local government
52 agency concerning persons who have applied for occupancy or who have occupied affordable
53 dwelling units established pursuant to § 15.2-2304 or 15.2-2305. However, access to one's own
54 information shall not be denied.

55 9. Information regarding the siting of hazardous waste facilities, except as provided in
56 § 10.1-1441, if disclosure of such information would have a detrimental effect upon the
57 negotiating position of a governing body or on the establishment of the terms, conditions, and
58 provisions of the siting agreement.

59 10. Information on the site-specific location of rare, threatened, endangered, or otherwise
60 imperiled plant and animal species, natural communities, caves, and significant historic and
61 archaeological sites if, in the opinion of the public body that has the responsibility for such
62 information, disclosure of the information would jeopardize the continued existence or the
63 integrity of the resource. This exclusion shall not apply to requests from the owner of the land
64 upon which the resource is located.

65 11. Memoranda, graphics, video or audio tapes, production models, data, and information
66 of a proprietary nature produced by or for or collected by or for the Virginia Lottery relating to
67 matters of a specific lottery game design, development, production, operation, ticket price, prize
68 structure, manner of selecting the winning ticket, manner of payment of prizes to holders of
69 winning tickets, frequency of drawings or selections of winning tickets, odds of winning,
70 advertising, or marketing, where such information not been publicly released, published,
71 copyrighted, or patented. Whether released, published, or copyrighted, all game-related
72 information shall be subject to public disclosure under this chapter upon the first day of sales for
73 the specific lottery game to which it pertains.

74 12. (Effective until October 1, 2016) Information held by the Virginia Retirement
75 System, acting pursuant to § 51.1-124.30, or a local retirement system, acting pursuant to § 51.1-
76 803, or the Rector and Visitors of the University of Virginia, acting pursuant to § 23-76.1, or the
77 Virginia College Savings Plan, acting pursuant to § 23-38.77, relating to the acquisition, holding,
78 or disposition of a security or other ownership interest in an entity, where such security or

79 ownership interest is not traded on a governmentally regulated securities exchange, if disclosure
80 of such information would (i) reveal confidential analyses prepared for the Rector and Visitors of
81 the University of Virginia, prepared by the retirement system or the Virginia College Savings
82 Plan, or provided to the retirement system or the Virginia College Savings Plan under a promise
83 of confidentiality of the future value of such ownership interest or the future financial
84 performance of the entity and (ii) have an adverse effect on the value of the investment to be
85 acquired, held, or disposed of by the retirement system, the Rector and Visitors of the University
86 of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed
87 to authorize the withholding of information relating to the identity of any investment held, the
88 amount invested, or the present value of such investment.

89 12. (Effective October 1, 2016) Information held by the Virginia Retirement System,
90 acting pursuant to § 51.1-124.30, or a local retirement system, acting pursuant to § 51.1-803, or
91 the Rector and Visitors of the University of Virginia, acting pursuant to § 23.1-2210, or the
92 Virginia College Savings Plan, acting pursuant to § 23.1-704, relating to the acquisition, holding,
93 or disposition of a security or other ownership interest in an entity, where such security or
94 ownership interest is not traded on a governmentally regulated securities exchange, if disclosure
95 of such information would (i) reveal confidential analyses prepared for the Rector and Visitors of
96 the University of Virginia, prepared by the retirement system or the Virginia College Savings
97 Plan, or provided to the retirement system or the Virginia College Savings Plan under a promise
98 of confidentiality of the future value of such ownership interest or the future financial
99 performance of the entity and (ii) have an adverse effect on the value of the investment to be
100 acquired, held, or disposed of by the retirement system, the Rector and Visitors of the University
101 of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed
102 to authorize the withholding of information relating to the identity of any investment held, the
103 amount invested, or the present value of such investment.

104 13. Names and addresses of subscribers to Virginia Wildlife magazine, published by the
105 Department of Game and Inland Fisheries, provided the individual subscriber has requested in
106 writing that the Department not release such information.

107 14. Financial, medical, rehabilitative, and other personal information concerning
108 applicants for or recipients of loan funds submitted to or maintained by the Assistive Technology
109 Loan Fund Authority under Chapter 11 (§ 51.5-53 et seq.) of Title 51.5.

110 15. Information held by the Virginia Commonwealth University Health System Authority
111 pertaining to any of the following: an individual's qualifications for or continued membership on
112 its medical or teaching staffs; proprietary information gathered by or in the possession of the
113 Authority from third parties pursuant to a promise of confidentiality; contract cost estimates
114 prepared for confidential use in awarding contracts for construction or the purchase of goods or
115 services; information of a proprietary nature produced or collected by or for the Authority or
116 members of its medical or teaching staffs; financial statements not publicly available that may be
117 filed with the Authority from third parties; the identity, accounts, or account status of any
118 customer of the Authority; consulting or other reports paid for by the Authority to assist the
119 Authority in connection with its strategic planning and goals; the determination of marketing and
120 operational strategies where disclosure of such strategies would be harmful to the competitive
121 position of the Authority; and information of a proprietary nature produced or collected by or for

122 employees of the Authority, other than the Authority's financial or administrative records, in the
123 conduct of or as a result of study or research on medical, scientific, technical, or scholarly issues,
124 whether sponsored by the Authority alone or in conjunction with a governmental body or a
125 private concern, when such information has not been publicly released, published, copyrighted,
126 or patented. This exclusion shall also apply when such information is in the possession of
127 Virginia Commonwealth University.

128 16. Information held by the Department of Environmental Quality, the State Water
129 Control Board, the State Air Pollution Control Board, or the Virginia Waste Management Board
130 relating to (i) active federal environmental enforcement actions that are considered confidential
131 under federal law and (ii) enforcement strategies, including proposed sanctions for enforcement
132 actions. Upon request, such information shall be disclosed after a proposed sanction resulting
133 from the investigation has been proposed to the director of the agency. This subdivision shall not
134 be construed to authorize the withholding of information related to inspection reports, notices of
135 violation, and documents detailing the nature of any environmental contamination that may have
136 occurred or similar documents.

137 17. Information related to the operation of toll facilities that identifies an individual,
138 vehicle, or travel itinerary, including vehicle identification data or vehicle enforcement system
139 information; video or photographic images; Social Security or other identification numbers
140 appearing on driver's licenses; credit card or bank account data; home addresses; phone
141 numbers; or records of the date or time of toll facility use.

142 18. Information held by the Virginia Lottery pertaining to (i) the social security number,
143 tax identification number, state sales tax number, home address and telephone number, personal
144 and lottery banking account and transit numbers of a retailer, and financial information regarding
145 the nonlottery operations of specific retail locations and (ii) individual lottery winners, except that
146 a winner's name, hometown, and amount won shall be disclosed.

147 19. Information held by the Board for Branch Pilots relating to the chemical or drug
148 testing of a person regulated by the Board, where such person has tested negative or has not been
149 the subject of a disciplinary action by the Board for a positive test result.

150 20. Information pertaining to the planning, scheduling, and performance of examinations
151 of holder records pursuant to the Uniform Disposition of Unclaimed Property Act (§ 55-210.1 et
152 seq.) prepared by or for the State Treasurer or his agents or employees or persons employed to
153 perform an audit or examination of holder records.

154 21. Information held by the Virginia Department of Emergency Management or a local
155 governing body relating to citizen emergency response teams established pursuant to an
156 ordinance of a local governing body that reveal the name, address, including e-mail address,
157 telephone or pager numbers, or operating schedule of an individual participant in the program.

158 22. Information held by state or local park and recreation departments and local and
159 regional park authorities concerning identifiable individuals under the age of 18 years. However,
160 nothing in this subdivision shall operate to authorize the withholding of information defined as
161 directory information under regulations implementing the Family Educational Rights and

162 Privacy Act, 20 U.S.C. § 1232g, unless the public body has undertaken the parental notification
163 and opt-out requirements provided by such regulations. Access shall not be denied to the parent,
164 including a noncustodial parent, or guardian of such person, unless the parent's parental rights
165 have been terminated or a court of competent jurisdiction has restricted or denied such access.
166 For such information of persons who are emancipated, the right of access may be asserted by the
167 subject thereof. Any parent or emancipated person who is the subject of the information may
168 waive, in writing, the protections afforded by this subdivision. If the protections are so waived,
169 the public body shall open such information for inspection and copying.

170 23. Information submitted for inclusion in the Statewide Alert Network administered by
171 the Department of Emergency Management that reveal names, physical addresses, email
172 addresses, computer or internet protocol information, telephone numbers, pager numbers, other
173 wireless or portable communications device information, or operating schedules of individuals or
174 agencies, where the release of such information would compromise the security of the Statewide
175 Alert Network or individuals participating in the Statewide Alert Network.

176 24. Information held by the Judicial Inquiry and Review Commission made confidential
177 by § 17.1-913.

178 25. (Effective until October 1, 2016) Information held by the Virginia Retirement System
179 acting pursuant to § 51.1-124.30, a local retirement system acting pursuant to § 51.1-803
180 (hereinafter collectively referred to as the retirement system), or the Virginia College Savings
181 Plan, acting pursuant to § 23-38.77 relating to:

182 a. Internal deliberations of or decisions by the retirement system or the Virginia College
183 Savings Plan on the pursuit of particular investment strategies, or the selection or termination of
184 investment managers, prior to the execution of such investment strategies or the selection or
185 termination of such managers, if disclosure of such information would have an adverse impact
186 on the financial interest of the retirement system or the Virginia College Savings Plan; and

187 b. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.),
188 provided by a private entity to the retirement system or the Virginia College Savings Plan if
189 disclosure of such records would have an adverse impact on the financial interest of the
190 retirement system or the Virginia College Savings Plan.

191 For the records specified in subdivision b to be excluded from the provisions of this
192 chapter, the entity shall make a written request to the retirement system or the Virginia College
193 Savings Plan:

194 (1) Invoking such exclusion prior to or upon submission of the data or other materials for
195 which protection from disclosure is sought;

196 (2) Identifying with specificity the data or other materials for which protection is sought;
197 and

198 (3) Stating the reasons why protection is necessary.

199 The retirement system or the Virginia College Savings Plan shall determine whether the
200 requested exclusion from disclosure meets the requirements set forth in subdivision b.

201 Nothing in this subdivision shall be construed to authorize the withholding of the identity
202 or amount of any investment held or the present value and performance of all asset classes and
203 subclasses.

204 25. (Effective October 1, 2016) Information held by the Virginia Retirement System
205 acting pursuant to § 51.1-124.30, a local retirement system acting pursuant to § 51.1-803
206 (hereinafter collectively referred to as the retirement system), or the Virginia College Savings
207 Plan, acting pursuant to § 23.1-704 relating to:

208 a. Internal deliberations of or decisions by the retirement system or the Virginia College
209 Savings Plan on the pursuit of particular investment strategies, or the selection or termination of
210 investment managers, prior to the execution of such investment strategies or the selection or
211 termination of such managers, if disclosure of such information would have an adverse impact
212 on the financial interest of the retirement system or the Virginia College Savings Plan; and

213 b. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.),
214 provided by a private entity to the retirement system or the Virginia College Savings Plan if
215 disclosure of such records would have an adverse impact on the financial interest of the
216 retirement system or the Virginia College Savings Plan.

217 For the records specified in subdivision b to be excluded from the provisions of this
218 chapter, the entity shall make a written request to the retirement system or the Virginia College
219 Savings Plan:

220 (1) Invoking such exclusion prior to or upon submission of the data or other materials for
221 which protection from disclosure is sought;

222 (2) Identifying with specificity the data or other materials for which protection is sought;
223 and

224 (3) Stating the reasons why protection is necessary.

225 The retirement system or the Virginia College Savings Plan shall determine whether the
226 requested exclusion from disclosure meets the requirements set forth in subdivision b.

227 Nothing in this subdivision shall be construed to authorize the withholding of the identity
228 or amount of any investment held or the present value and performance of all asset classes and
229 subclasses.

230 26. Information held by the Department of Corrections made confidential by § 53.1-233.

231 27. Information maintained by the Department of the Treasury or participants in the
232 Local Government Investment Pool (§ 2.2-4600 et seq.) and required to be provided by such
233 participants to the Department to establish accounts in accordance with § 2.2-4602.

234 28. Personal information, as defined in § 2.2-3801, contained in the Veterans Care Center
235 Resident Trust Funds concerning residents or patients of the Department of Veterans Services
236 Care Centers, except that access shall not be denied to the person who is the subject of the
237 information.

238 29. Information maintained in connection with fundraising activities by the Veterans
239 Services Foundation pursuant to § 2.2-2716 that reveal the address, electronic mail address,
240 facsimile or telephone number, social security number or other identification number appearing
241 on a driver's license or other document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2
242 or the comparable law of another jurisdiction, or credit card or bank account data of identifiable
243 donors, except that access shall not be denied to the person who is the subject of the information.
244 Nothing in this subdivision, however, shall be construed to authorize the withholding of
245 information relating to the amount, date, purpose, and terms of the pledge or donation or the
246 identity of the donor, unless the donor has requested anonymity in connection with or as a
247 condition of making a pledge or donation. The exclusion provided by this subdivision shall not
248 apply to protect from disclosure (i) the identities of sponsors providing grants to or contracting
249 with the foundation for the performance of services or other work or (ii) the terms and conditions
250 of such grants or contracts.

Comment [A2]: Amended to include all driver's licenses, permits, driver privilege cards, and special identification cards issued by Virginia and by other states and countries.

251 30. Names, physical addresses, telephone numbers, and email addresses contained in
252 correspondence between an individual and a member of the governing body, school board, or
253 other public body of the locality in which the individual is a resident, unless the correspondence
254 relates to the transaction of public business. However, no information that is otherwise open to
255 inspection under this chapter shall be deemed exempt by virtue of the fact that it has been
256 attached to or incorporated within any such correspondence.

257 31. Information prepared for and utilized by the Commonwealth's Attorneys' Services
258 Council in the training of state prosecutors or law-enforcement personnel, where such
259 information is not otherwise available to the public and the disclosure of such information would
260 reveal confidential strategies, methods, or procedures to be employed in law-enforcement
261 activities or materials created for the investigation and prosecution of a criminal case.

262 32. Information provided to the Department of Aviation by other entities of the
263 Commonwealth in connection with the operation of aircraft where the information would not be
264 subject to disclosure by the entity providing the information. The entity providing the
265 information to the Department of Aviation shall identify the specific information to be protected
266 and the applicable provision of this chapter that excludes the information from mandatory
267 disclosure.

268 33. Information created or maintained by or on the behalf of the judicial performance
269 evaluation program related to an evaluation of any individual justice or judge made confidential
270 by § 17.1-100.

271 34. (Effective July 1, 2018) Information held by the Virginia Alcoholic Beverage Control
272 Authority that contains (i) information of a proprietary nature gathered by or in the possession of
273 the Authority from a private entity pursuant to a promise of confidentiality; (ii) trade secrets, as
274 defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), of any private entity; (iii)

275 financial information of a private entity, including balance sheets and financial statements, that
276 are not generally available to the public through regulatory disclosure or otherwise; (iv) contract
277 cost estimates prepared for the (a) confidential use in awarding contracts for construction or (b)
278 purchase of goods or services; or (v) the determination of marketing and operational strategies
279 where disclosure of such strategies would be harmful to the competitive position of the
280 Authority.

281 In order for the information identified in clauses (i), (ii), or (iii) to be excluded from the
282 provisions of this chapter, the private entity shall make a written request to the Authority:

283 a. Invoking such exclusion upon submission of the data or other materials for which
284 protection from disclosure is sought;

285 b. Identifying with specificity the data or other materials for which protection is sought;
286 and

287 c. Stating the reasons why protection is necessary.

288 The Authority shall determine whether the requested exclusion from disclosure is
289 necessary to protect such information of the private entity. The Authority shall make a written
290 determination of the nature and scope of the protection to be afforded by it under this
291 subdivision.

292 35. Information reflecting the substance of meetings in which individual sexual assault
293 cases are discussed by any sexual assault team established pursuant to § 15.2-1627.4. The
294 findings of the team may be disclosed or published in statistical or other aggregated form that
295 does not disclose the identity of specific individuals.

296 **§ 2.2-3808.1. Agencies' disclosure of certain account information prohibited.**

Comment [A3]: From the Government Data Collection and Dissemination Practices Act

297 Notwithstanding Chapter 37 (§ 2.2-3700 et seq.) of this title, it shall be unlawful for any
298 agency to disclose the social security number or other identification numbers appearing on
299 driver's licenses ~~or other documents issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 or~~
300 ~~the comparable law of another jurisdiction,~~ or information on credit cards, debit cards, bank
301 accounts, or other electronic billing and payment systems that was supplied to an agency for the
302 purpose of paying fees, fines, taxes, or other charges collected by such agency. The prohibition
303 shall not apply where disclosure of such information is required (i) to conduct or complete the
304 transaction for which such information was submitted or (ii) by other law or court order.

Comment [A4]: Amended to include all driver's licenses, permits, driver privilege cards, and special identification cards issued by Virginia and by other states and countries.

305 **§ 4.1-305. Purchasing or possessing alcoholic beverages unlawful in certain cases;**
306 **venue; exceptions; penalty; forfeiture; deferred proceedings; treatment and education**
307 **programs and services.**

Comment [A5]: From the Alcoholic Beverage Control Act.

308 A. No person to whom an alcoholic beverage may not lawfully be sold under § 4.1-304
309 shall consume, purchase or possess, or attempt to consume, purchase or possess, any alcoholic
310 beverage, except (i) pursuant to subdivisions 1 through 7 of § 4.1-200; (ii) where possession of

The amendments to this statute establish consistency with the terms used elsewhere in the Code of Virginia.

311 the alcoholic beverages by a person less than 21 years of age is due to such person's making a
312 delivery of alcoholic beverages in pursuance of his employment or an order of his parent; or (iii)
313 by any state, federal, or local law-enforcement officer or his agent when possession of an
314 alcoholic beverage is necessary in the performance of his duties. Such person may be prosecuted
315 either in the county or city in which the alcohol was possessed or consumed, or in the county or
316 city in which the person exhibits evidence of physical indicia of consumption of alcohol. It shall
317 be an affirmative defense to a charge of a violation of this subsection if the defendant shows that
318 such consumption or possession was pursuant to subdivision 7 of § 4.1-200.

319 B. No person under the age of 21 years shall use or attempt to use any (i) altered,
320 fictitious, facsimile or simulated license to operate a motor vehicle, (ii) altered, fictitious,
321 facsimile or simulated document, including, but not limited to a birth certificate or student
322 identification card, or (iii) motor vehicle ~~operator's driver's~~ license, birth certificate or student
323 identification card of another person in order to establish a false identification or false age for
324 himself to consume, purchase or attempt to consume or purchase an alcoholic beverage.

325 C. Any person found guilty of a violation of this section shall be guilty of a Class 1
326 misdemeanor; and upon conviction, (i) such person shall be ordered to pay a mandatory
327 minimum fine of \$500 or ordered to perform a mandatory minimum of 50 hours of community
328 service as a condition of probation supervision and (ii) the license to operate a motor vehicle in
329 the Commonwealth of any such person age 18 or older shall be suspended for a period of not less
330 than six months and not more than one year; the license to operate a motor vehicle in the
331 Commonwealth of any juvenile shall be handled in accordance with the provisions of § 16.1-
332 278.9. The court, in its discretion and upon a demonstration of hardship, may authorize an adult
333 convicted of a violation of this section the use of a restricted permit-license to operate a motor
334 vehicle in accordance with the provisions of subsection E of § 18.2-271.1 or when referred to a
335 local community-based probation services agency established pursuant to Article 9 (§ 9.1-173 et
336 seq.) of Chapter 1 of Title 9.1. During the period of license suspension, the court may require an
337 adult who is issued a restricted permit-license under the provisions of this subsection to be (a)
338 monitored by an alcohol safety action program, or (b) supervised by a local community-based
339 probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of
340 Title 9.1, if one has been established for the locality. The alcohol safety action program or local
341 community-based probation services agency shall report to the court any violation of the terms of
342 the restricted permit-license, the required alcohol safety action program monitoring or local
343 community-based probation services and any condition related thereto or any failure to remain
344 alcohol-free during the suspension period.

345 D. Any alcoholic beverage purchased or possessed in violation of this section shall be
346 deemed contraband and forfeited to the Commonwealth in accordance with § 4.1-338.

347 E. Any retail licensee who in good faith promptly notifies the Board or any state or local
348 law-enforcement agency of a violation or suspected violation of this section shall be accorded
349 immunity from an administrative penalty for a violation of § 4.1-304.

350 F. When any adult who has not previously been convicted of underaged consumption,
351 purchase or possession of alcoholic beverages in Virginia or any other state or the United States
352 is before the court, the court may, upon entry of a plea of guilty or not guilty, if the facts found

353 by the court would justify a finding of guilt of a violation of subsection A, without entering a
354 judgment of guilt and with the consent of the accused, defer further proceedings and place him
355 on probation subject to appropriate conditions. Such conditions may include the imposition of
356 the license suspension and restricted license provisions in subsection C. However, in all such
357 deferred proceedings, the court shall require the accused to enter a treatment or education
358 program or both, if available, that in the opinion of the court best suits the needs of the accused.
359 If the accused is placed on local community-based probation, the program or services shall be
360 located in any of the judicial districts served by the local community-based probation services
361 agency or in any judicial district ordered by the court when the placement is with an alcohol
362 safety action program. The services shall be provided by (i) a program licensed by the
363 Department of Behavioral Health and Developmental Services, (ii) certified by the Commission
364 on VASAP, or (iii) by a program or services made available through a community-based
365 probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of
366 Title 9.1, if one has been established for the locality. When an offender is ordered to a local
367 community-based probation services rather than the alcohol safety action program, the local
368 community-based probation services agency shall be responsible for providing for services or
369 referring the offender to education or treatment services as a condition of probation.

370 Upon violation of a condition, the court may enter an adjudication of guilt and proceed as
371 otherwise provided. Upon fulfillment of the conditions, the court shall discharge the person and
372 dismiss the proceedings against him without an adjudication of guilt. A discharge and dismissal
373 hereunder shall be treated as a conviction for the purpose of applying this section in any
374 subsequent proceedings.

375 When any juvenile is found to have committed a violation of subsection A, the
376 disposition of the case shall be handled according to the provisions of Article 9 (§ 16.1-278 et
377 seq.) of Chapter 11 of Title 16.1.

378 **§ 8.01-313. Specific addresses for mailing by statutory agent.**

379 A. For the statutory agent appointed pursuant to §§ 8.01-308 and 8.01-309, the address
380 for the mailing of the process as required by § 8.01-312 shall be the last known address of the
381 nonresident or, where appropriate under subdivision 1 or 2 of § 8.01-310 B, of the executor,
382 administrator, or other personal representative of the nonresident. However, upon the filing of an
383 affidavit by the plaintiff that he does not know and is unable with due diligence to ascertain any
384 post-office address of such nonresident, service of process on the statutory agent shall be
385 sufficient without the mailing otherwise required by this section. Provided further that:

386 1. In the case of a nonresident defendant licensed by the Commonwealth to operate a
387 motor vehicle, the last address reported by such defendant to the Department of Motor Vehicles
388 as his address on an application for or renewal of a driver's licensed driving privileges shall be
389 deemed to be the address of the defendant for the purpose of the mailing required by this section
390 if no other address is known, and, in any case in which the affidavit provided for in § 8.01-316 of
391 this chapter is filed, such a defendant, by so notifying the Department of such an address, and by
392 failing to notify the Department of any change therein, shall be deemed to have appointed the
393 Commissioner of the Department of Motor Vehicles his statutory agent for service of process in

Comment [A6]: Relating to rules of process in civil procedure.

Comment [A7]: Amended to include driver's licenses, permits, and driver privilege cards.

394 an action arising out of operation of a motor vehicle by him in the Commonwealth, and to have
395 accepted as valid service such mailing to such address; or

396 2. In the case of a nonresident defendant not licensed by the Commonwealth to operate a
397 motor vehicle, the address shown on the copy of the report of accident required by § 46.2-372
398 filed by or for him with the Department, and on file at the office of the Department, or the
399 address reported by such a defendant to any state or local police officer, or sheriff investigating
400 the accident sued on, if no other address is known, shall be conclusively presumed to be a valid
401 address of such defendant for the purpose of the mailing provided for in this section, and his so
402 reporting of an incorrect address, or his moving from the address so reported without making
403 provision for forwarding to him of mail directed thereto, shall be deemed to be a waiver of notice
404 and a consent to and acceptance of service of process served upon the Commissioner of the
405 Department of Motor Vehicles as provided in this section.

406 B. For the statutory agent appointed pursuant to § 64.2-1426, the address for the mailing
407 of process as required by § 8.01-312 shall be the address of the fiduciary's statutory agent as
408 contained in the written consent most recently filed with the clerk of the circuit court wherein the
409 qualification of such fiduciary was had or, in the event of the death, removal, resignation or
410 absence from the Commonwealth of such statutory agent, or in the event that such statutory
411 agent cannot with due diligence be found at such address, the address of the clerk of such circuit
412 court.

413 **§ 8.01-420.8. Protection of confidential information in court files.**

Comment [A8]: Relating to rules of evidence in civil procedure.

414 A. Whenever a party files, or causes to be filed, with the court a motion, pleading,
415 subpoena, exhibit, or other document containing a social security number or other identification
416 number appearing on a driver's license ~~or other document issued under Chapter 3 (§ 46.2-300 et~~
417 ~~seq.) of Title 46.2 or the comparable law of another jurisdiction, or on a credit card, debit card,~~
418 bank account, or other electronic billing and payment system, the party shall make reasonable
419 efforts to redact all but the last four digits of the identification number.

Comment [A9]: Amended to include all driver's licenses, permits, driver privilege cards, and special identification cards issued by Virginia and by other states and countries.

420 B. The provisions of subsection A apply to all civil actions in circuit and district court,
421 unless there is a specific statute to the contrary that applies to the particular type of proceeding in
422 which the party is involved.

423 C. Nothing in this section shall create a private cause of action against the party or lawyer
424 who filed the document or any court personnel, the clerk, or any employees of the clerk's office
425 who received it for filing.

426 **§ 8.9A-503. Name of debtor and secured party.**

Comment [A10]: From the Uniform Commercial Code – Secured Transactions; relating to filing of financing statements.

427 (a) Sufficiency of debtor's name. A financing statement sufficiently provides the name of
428 the debtor:

429 (1) except as otherwise provided in paragraph (3), if the debtor is a registered
430 organization or the collateral is held in a trust that is a registered organization, only if the

431 financing statement provides the name that is stated to be the registered organization's name on
432 the public organic record most recently filed with or issued or enacted by the registered
433 organization's jurisdiction of organization which purports to state, amend, or restate the
434 registered organization's name;

435 (2) subject to subsection (f), if the collateral is being administered by the personal
436 representative of a decedent, only if the financing statement provides, as the name of the debtor,
437 the name of the decedent and, in a separate part of the financing statement, indicates that the
438 collateral is being administered by a personal representative;

439 (3) if the collateral is held in a trust that is not a registered organization, only if the
440 financing statement:

441 (A) provides, as the name of the debtor:

442 (i) if the organic record of the trust specifies a name for the trust, the name specified; or

443 (ii) if the organic record of the trust does not specify a name for the trust, the name of the
444 settlor or testator; and

445 (B) in a separate part of the financing statement:

446 (i) if the name is provided in accordance with subparagraph (A)(i), indicates that the
447 collateral is held in trust; or

448 (ii) if the name is provided in accordance with subparagraph (A)(ii), provides additional
449 information sufficient to distinguish the trust from other trusts having one or more of the same
450 settlors or the same testator and indicates that the collateral is held in a trust, unless the additional
451 information so indicates;

452 (4) subject to subsection (g), if the debtor is an individual to whom the Commonwealth
453 has issued a driver's license or ~~identification card pursuant to other document under Chapter 3~~
454 ~~(§ 46.2-300 et seq.) of Title 46.2 that has not expired, only if it provides the name of the~~
455 ~~individual which is indicated on the driver's license or identification card other document~~;

456 (5) if the debtor is an individual to whom paragraph (4) does not apply, only if it provides
457 the individual name of the debtor or the surname and first personal name of the debtor; and

458 (6) in other cases:

459 (A) if the debtor has a name, only if it provides the organizational name of the debtor;
460 and

461 (B) if the debtor does not have a name, only if it provides the names of the partners,
462 members, associates, or other persons comprising the debtor, in a manner that each name
463 provided would be sufficient if the person named were the debtor.

Comment [A11]: Amended to include all driver's licenses, permits, driver privilege cards, and special identification cards issued by Virginia.

464 (b) Additional debtor-related information. A financing statement that provides the name
465 of the debtor in accordance with subsection (a) is not rendered ineffective by the absence of:

466 (1) a trade name or other name of the debtor; or

467 (2) unless required under subsection (a)(6)(B), names of partners, members, associates, or
468 other persons comprising the debtor.

469 (c) Debtor’s trade name insufficient. A financing statement that provides only the
470 debtor’s trade name does not sufficiently provide the name of the debtor.

471 (d) Representative capacity. Failure to indicate the representative capacity of a secured
472 party or representative of a secured party does not affect the sufficiency of a financing statement.

473 (e) Multiple debtors and secured parties. A financing statement may provide the name of
474 more than one debtor and the name of more than one secured party.

475 (f) Name of decedent. The name of the decedent indicated on the order appointing the
476 personal representative of the decedent issued by the court having jurisdiction over the collateral
477 is sufficient as the “name of the decedent” under subsection (a)(2).

478 (g) Multiple driver’s licenses. If the Commonwealth has issued to an individual more
479 than one driver’s license or ~~identification card~~ other document of a kind described in subsection
480 (a)(4), the one that was issued most recently is the one to which subsection (a)(4) refers.

481 (h) Definition. In this section, the “name of the settlor or testator” means:

482 (1) if the settlor is a registered organization, the name of the registered organization
483 indicated on the public organic record filed with or issued or enacted by the registered
484 organization’s jurisdiction of organization; or

485 (2) in other cases, the name of the settlor or testator indicated in the trust’s organic
486 record.

487 **§ 12.1-19. Duties of clerk; records; copies; personal identifiable information;**
488 **records related to the administrative activities of the Commission; unauthorized filings.**

489 A. The clerk of the Commission shall:

490 1. Keep a record of all the proceedings, orders, findings, and judgments of the public
491 sessions of the Commission, and the minutes of the proceedings of each day’s public session
492 shall be read and approved by the Commission and signed by its chairman, or acting chairman;

493 2. Subject to the supervision and control of the Commission, have custody of and
494 preserve all of the records, documents, papers, and files of the Commission, or which may be
495 filed before it in any complaint, proceeding, contest, or controversy, and such records,

Comment [A12]: Amended to include all driver’s licenses, permits, driver privilege cards, and special identification cards issued by Virginia.

Comment [A13]: Relating to the clerk of the State Corporation Commission.

496 documents, papers, and files shall be open to public examination in the office of the clerk to the
497 same extent as the records and files of the courts of this Commonwealth;

498 3. When requested, make and certify copies from any record, document, paper, or file in
499 the clerk's office, and if required, affix the seal of the Commission (or a facsimile thereof)
500 thereto, and otherwise furnish and certify information from the Commission records by any
501 means the Commission may deem suitable; and, except when made at the instance of the
502 Commission or on behalf of the Commonwealth, a political subdivision of the Commonwealth,
503 or the government of the United States, the clerk shall charge and collect the fees fixed by
504 §§ 12.1-21.1 and 12.1-21.2; and any such copy or information, so certified, shall have the same
505 faith, credit, and legal effect as copies made and certified by the clerks of the courts of this
506 Commonwealth from the records and files thereof;

507 4. Certify all allowances made by the Commission to be paid out of the public treasury
508 for witness fees, service of process, or other expenses;

509 5. Issue all notices, writs, processes, or orders awarded by the Commission, or authorized
510 by law, or by the rules of the Commission;

511 6. Receive all fines and penalties imposed by the Commission, all moneys collected on
512 judgments, all registration fees required by law to be paid by corporations, limited liability
513 companies, and other types of business entities, including delinquencies thereof, and all other
514 fees collected by the Commission, and shall keep an accurate account of the same and the
515 disposition of such receipts and shall, at least once in every 30 days during the clerk's term of
516 office, render a statement of all such receipts and collections to the Comptroller, and pay the
517 same into the treasury of the Commonwealth, and shall keep all such other accounts of such
518 collections and disbursements, and shall make all such other reports thereof as may be required
519 by law or by the regulations prescribed by the Comptroller; and

520 7. Generally have the powers, discharge the functions, and perform the duties of a clerk
521 of a court of record in all matters within the jurisdiction of the Commission. The Commission
522 may designate one or more deputies or assistants of the clerk who may discharge any of the
523 clerk's official duties during the clerk's continuance in office.

524 B. A person who prepares or submits to the office of the clerk of the Commission a
525 document or any information for filing with the Commission pursuant to Title 8.9A, Title 13.1,
526 or Title 50 is responsible for ensuring that the document or information does not contain any
527 personal identifiable information, unless such information is otherwise publicly available or is
528 required or authorized by law to be included in the document or information provided. For
529 purposes of this subsection, "personal identifiable information" means (i) a social security
530 number or any other numbers appearing on driver's licenses or other documents issued under
531 Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 or the comparable law of another jurisdiction; (ii)
532 information on credit cards, debit cards, bank accounts, or other electronic billing and payment
533 systems; (iii) a date of birth identified with a particular individual; (iv) the maiden name of an
534 individual's parent; or (v) any financial account number. Any person who prepares or submits to
535 the office of the clerk a document for filing that contains personal identifiable information shall
536 be deemed to have authorized the clerk or any member of the clerk's staff to remove, delete, or

Comment [A14]: Amended to include all driver's licenses, permits, driver privilege cards, and special identification cards issued by Virginia and by other states and countries.

537 obliterate, without prior notice, such information prior or subsequent to recording or filing the
538 document in the office of the clerk. Nothing in this subsection shall be deemed to require the
539 clerk to alter any document submitted for filing. The clerk may refuse to accept for filing any
540 document that includes personal identifiable information and return it for modification or
541 explanation. The Commission, its members, the clerk of the Commission, and any member of the
542 clerk's staff are immune from liability in any proceeding arising from any acts or omissions in
543 the implementation of this subsection. This subsection shall not be construed to limit, withdraw,
544 or overturn any defense or immunity that exists under statutory or common law.

545 C.1. The Commission shall make available for public inspection records related to the
546 administrative activities of the Commission.

547 2. Disclosure of such records shall not be required, however, if (i) such records are
548 otherwise covered by applicable legal privileges, (ii) disclosure of such records could threaten
549 the safety or security of the Commission's employees, physical plant, or information technology
550 assets or data, or (iii) such records are not publicly available from other public entities under the
551 laws of the Commonwealth, including §§ 2.2-3705.1 and 2.2-4342.

552 3. Records held by the clerk of the Commission related to business entities shall be made
553 public or held confidential in accordance with laws and regulations applicable specifically to
554 such records.

555 4. The Commission shall respond within five business days of receiving requests for
556 administrative records. If it is impracticable to provide the records requested within such time
557 period, the Commission shall notify the requester that an additional seven business days will be
558 required, unless due to the scope of the records requested or length of search necessary to locate
559 them the Commission requires additional time, which shall not be unreasonable in length. When
560 any such requested records are not provided, the Commission shall notify the requester of the
561 basis of the denial.

562 5. As used in this subsection, "administrative activities" means matters related to the
563 Commission's operational responsibilities and operational functions, including its revenues,
564 expenditures, financial management and budgetary practices, personnel policies and practices,
565 and procurement policies and practices. "Administrative activities" shall not include the
566 Commission's formal or informal regulatory or legal proceedings or activities, records related to
567 which shall be governed, inter alia, by laws and regulations applicable specifically to such
568 regulatory and legal proceedings or activities, or in accordance with applicable legal privileges.

569 D. Notwithstanding any other provision of law, the clerk may review the circumstances
570 surrounding the execution or delivery of any document associated with any business entity of
571 record in the office of the clerk that was submitted for filing under a business entity statute
572 administered by the Commission pursuant to Title 13.1 or Title 50. If the clerk determines that
573 the person who executed or delivered the document was without authority to act on behalf of the
574 business entity, the clerk is authorized (i) to refuse to accept the document for filing or (ii) if the
575 document has been filed, to summarily remove the document and any documents and data
576 related to the filing from the records in the office of the clerk, correct such records, and provide
577 notice to any business entity affected by the filing. The Commission, its members, the clerk of

578 the Commission, and any member of the clerk's staff are immune from liability in any
579 proceeding arising from any acts or omissions in the implementation of this subsection. This
580 subsection shall not be construed to limit, withdraw, or overturn any defense or immunity that
581 exists under statutory or common law.

582 **§ 16.1-69.40:1. Traffic infractions within authority of traffic violations clerk;**
583 **schedule of fines; prepayment of local ordinances.**

Comment [A15]: Relating to District Courts.

584 A. The Supreme Court shall by rule, which may from time to time be amended,
585 supplemented or repealed, but which shall be uniform in its application throughout the
586 Commonwealth, designate the traffic infractions for which a pretrial waiver of appearance, plea
587 of guilty and fine payment may be accepted. Such designated infractions shall include violations
588 of §§ 46.2-878.2 and 46.2-1242 or any parallel local ordinances. Notwithstanding any rule of the
589 Supreme Court, a person charged with a traffic offense that is listed as prepayable in the Uniform
590 Fine Schedule may prepay his fines and costs without court appearance whether or not he was
591 involved in an accident. The prepayable fine amount for a violation of § 46.2-878.2 shall be \$200
592 plus an amount per mile-per-hour in excess of posted speed limits, as authorized in § 46.2-878.3.

593 Such infractions shall not include:

594 1. Indictable offenses;

595 2. [Repealed.]

596 3. Operation of a motor vehicle while under the influence of intoxicating liquor or a
597 narcotic or habit-producing drug, or permitting another person, who is under the influence of
598 intoxicating liquor or a narcotic or habit-producing drug, to operate a motor vehicle owned by
599 the defendant or in his custody or control;

600 4. Reckless driving;

601 5. Leaving the scene of an accident;

602 6. Driving while under suspension or revocation of driver's licensed driving privileges;

Comment [A16]: Amended to include driver's licenses, permits, and driver privilege cards.

603 7. Driving without being licensed to drive.

604 8. [Repealed.]

605 B. An appearance may be made in person or in writing by mail to a clerk of court or in
606 person before a magistrate, prior to any date fixed for trial in court. Any person so appearing
607 may enter a waiver of trial and a plea of guilty and pay the fine and any civil penalties
608 established for the offense charged, with costs. He shall, prior to the plea, waiver, and payment,
609 be informed of his right to stand trial, that his signature to a plea of guilty will have the same
610 force and effect as a judgment of court, and that the record of conviction will be sent to the
611 Commissioner of the Department of Motor Vehicles or the appropriate offices of the State where
612 he received his license to drive.

613 C. The Supreme Court, upon the recommendation of the Committee on District Courts,
614 shall establish a schedule, within the limits prescribed by law, of the amounts of fines and any
615 civil penalties to be imposed, designating each infraction specifically. The schedule, which may
616 from time to time be amended, supplemented or repealed, shall be uniform in its application
617 throughout the Commonwealth. Such schedule shall not be construed or interpreted so as to limit
618 the discretion of any trial judge trying individual cases at the time fixed for trial. The rule of the
619 Supreme Court establishing the schedule shall be prominently posted in the place where the fines
620 are paid. Fines and costs shall be paid in accordance with the provisions of this Code or any rules
621 or regulations promulgated thereunder.

622 D. Fines imposed under local traffic infraction ordinances that do not parallel provisions
623 of state law and fulfill the criteria set out in subsection A may be prepayable in the manner set
624 forth in subsection B if such ordinances appear in a schedule entered by order of the local circuit
625 courts. The chief judge of each circuit may establish a schedule of the fines, within the limits
626 prescribed by local ordinances, to be imposed for prepayment of local ordinances designating
627 each offense specifically. Upon the entry of such order it shall be forwarded within 10 days to
628 the Supreme Court of Virginia by the clerk of the local circuit court. The schedule, which from
629 time to time may be amended, supplemented or repealed, shall be uniform in its application
630 throughout the circuit. Such schedule shall not be construed or interpreted so as to limit the
631 discretion of any trial judge trying individual cases at the time fixed for trial. This schedule shall
632 be prominently posted in the place where fines are paid. Fines and costs shall be paid in
633 accordance with the provisions of this Code or any rules or regulations promulgated thereunder.

634 **§ 16.1-228. Definitions.**

635 When used in this chapter, unless the context otherwise requires:

636 “Abused or neglected child” means any child:

637 1. Whose parents or other person responsible for his care creates or inflicts, threatens to
638 create or inflict, or allows to be created or inflicted upon such child a physical or mental injury
639 by other than accidental means, or creates a substantial risk of death, disfigurement or
640 impairment of bodily or mental functions, including, but not limited to, a child who is with his
641 parent or other person responsible for his care either (i) during the manufacture or attempted
642 manufacture of a Schedule I or II controlled substance, or (ii) during the unlawful sale of such
643 substance by that child’s parents or other person responsible for his care, where such
644 manufacture, or attempted manufacture or unlawful sale would constitute a felony violation of
645 § 18.2-248;

646 2. Whose parents or other person responsible for his care neglects or refuses to provide
647 care necessary for his health; however, no child who in good faith is under treatment solely by
648 spiritual means through prayer in accordance with the tenets and practices of a recognized church
649 or religious denomination shall for that reason alone be considered to be an abused or neglected
650 child;

651 3. Whose parents or other person responsible for his care abandons such child;

Comment [A17]: Relating to Juvenile and Domestic Relations Courts.

The definition of “driver’s license” added to this statute affects the following provisions in the chapter by ensuring that DPCs and permits are treated the same as DLs:

§ 16.1-278.5(B)(2) (children in need of supervision)—court-ordered probation may include suspension of a DL and issuance of restricted license

§ 16.1-278.8(A)(9) (delinquent juveniles)—court may order suspension of DL and issuance of restricted license

§ 16.1-278.9 (delinquent juveniles who lose DL due to alcohol, drug, and firearm offenses)

§ 16.1-291(C) (revocation/modification of probation, etc.)—court may order suspension of DL and issuance of restricted license

§ 16.1-292(E)(1) (violation of court order)—court may order suspension of DL

§ 16.1-334 (emancipation of minor)—emancipated child may secure DL without parental consent

652 4. Whose parents or other person responsible for his care commits or allows to be
653 committed any sexual act upon a child in violation of the law;

654 5. Who is without parental care or guardianship caused by the unreasonable absence or
655 the mental or physical incapacity of the child's parent, guardian, legal custodian, or other person
656 standing in loco parentis;

657 6. Whose parents or other person responsible for his care creates a substantial risk of
658 physical or mental injury by knowingly leaving the child alone in the same dwelling, including
659 an apartment as defined in § 55-79.2, with a person to whom the child is not related by blood or
660 marriage and who the parent or other person responsible for his care knows has been convicted
661 of an offense against a minor for which registration is required as a violent sexual offender
662 pursuant to § 9.1-902; or

663 7. Who has been identified as a victim of sex trafficking or severe forms of trafficking as
664 defined in the Trafficking Victims Protection Act of 2000, 22 U.S.C § 7102 et seq., and in the
665 Justice for Victims of Trafficking Act of 2015, 42 U.S.C. § 5101 et seq.

666 If a civil proceeding under this chapter is based solely on the parent having left the child
667 at a hospital or emergency medical services agency, it shall be an affirmative defense that such
668 parent safely delivered the child to a hospital that provides 24-hour emergency services or to an
669 attended emergency medical services agency that employs emergency medical services
670 personnel, within 14 days of the child's birth. For purposes of terminating parental rights
671 pursuant to § 16.1-283 and placement for adoption, the court may find such a child is a neglected
672 child upon the ground of abandonment.

673 "Adoptive home" means the place of residence of any natural person in which a child
674 resides as a member of the household and in which he has been placed for the purposes of
675 adoption or in which he has been legally adopted by another member of the household.

676 "Adult" means a person 18 years of age or older.

677 "Ancillary crime" or "ancillary charge" means any delinquent act committed by a
678 juvenile as a part of the same act or transaction as, or which constitutes a part of a common
679 scheme or plan with, a delinquent act which would be a felony if committed by an adult.

680 "Boot camp" means a short term secure or nonsecure juvenile residential facility with
681 highly structured components including, but not limited to, military style drill and ceremony,
682 physical labor, education and rigid discipline, and no less than six months of intensive aftercare.

683 "Child, " "juvenile, " or "minor" means a person less than 18 years of age.

684 "Child in need of services" means (i) a child whose behavior, conduct or condition
685 presents or results in a serious threat to the well-being and physical safety of the child or (ii) a
686 child under the age of 14 whose behavior, conduct or condition presents or results in a serious
687 threat to the well-being and physical safety of another person; however, no child who in good
688 faith is under treatment solely by spiritual means through prayer in accordance with the tenets
689 and practices of a recognized church or religious denomination shall for that reason alone be

690 considered to be a child in need of services, nor shall any child who habitually remains away
691 from or habitually deserts or abandons his family as a result of what the court or the local child
692 protective services unit determines to be incidents of physical, emotional or sexual abuse in the
693 home be considered a child in need of services for that reason alone.

694 However, to find that a child falls within these provisions, (i) the conduct complained of
695 must present a clear and substantial danger to the child's life or health or to the life or health of
696 another person, (ii) the child or his family is in need of treatment, rehabilitation or services not
697 presently being received, and (iii) the intervention of the court is essential to provide the
698 treatment, rehabilitation or services needed by the child or his family.

699 "Child in need of supervision" means:

700 1. A child who, while subject to compulsory school attendance, is habitually and without
701 justification absent from school, and (i) the child has been offered an adequate opportunity to
702 receive the benefit of any and all educational services and programs that are required to be
703 provided by law and which meet the child's particular educational needs, (ii) the school system
704 from which the child is absent or other appropriate agency has made a reasonable effort to effect
705 the child's regular attendance without success, and (iii) the school system has provided
706 documentation that it has complied with the provisions of § 22.1-258; or

707 2. A child who, without reasonable cause and without the consent of his parent, lawful
708 custodian or placement authority, remains away from or deserts or abandons his family or lawful
709 custodian on more than one occasion or escapes or remains away without proper authority from a
710 residential care facility in which he has been placed by the court, and (i) such conduct presents a
711 clear and substantial danger to the child's life or health, (ii) the child or his family is in need of
712 treatment, rehabilitation or services not presently being received, and (iii) the intervention of the
713 court is essential to provide the treatment, rehabilitation or services needed by the child or his
714 family.

715 "Child welfare agency" means a child-placing agency, child-caring institution or
716 independent foster home as defined in § 63.2-100.

717 "The court" or the "juvenile court" or the "juvenile and domestic relations court" means
718 the juvenile and domestic relations district court of each county or city.

719 "Delinquent act" means (i) an act designated a crime under the law of the
720 Commonwealth, or an ordinance of any city, county, town, or service district, or under federal
721 law, (ii) a violation of § 18.2-308.7, or (iii) a violation of a court order as provided for in § 16.1-
722 292, but shall not include an act other than a violation of § 18.2-308.7, which is otherwise lawful,
723 but is designated a crime only if committed by a child. For purposes of §§ 16.1-241 and 16.1-
724 278.9, the term shall include a refusal to take a blood or breath test in violation of § 18.2-268.2
725 or a similar ordinance of any county, city, or town.

726 "Delinquent child" means a child who has committed a delinquent act or an adult who
727 has committed a delinquent act prior to his 18th birthday, except where the jurisdiction of the
728 juvenile court has been terminated under the provisions of § 16.1-269.6.

729 “Department” means the Department of Juvenile Justice and “Director” means the
730 administrative head in charge thereof or such of his assistants and subordinates as are designated
731 by him to discharge the duties imposed upon him under this law.

732 “Driver’s license” means any document issued under Chapter 3 (§ 46.2-300 et seq.) of
733 Title 46.2, or the comparable law of another jurisdiction, authorizing the operation of a motor
734 vehicle upon the highways.

Comment [A18]: This includes all driver’s licenses, permits, and driver privilege cards issued by Virginia and by other states and countries.

735 “Family abuse” means any act involving violence, force, or threat that results in bodily
736 injury or places one in reasonable apprehension of death, sexual assault, or bodily injury and that
737 is committed by a person against such person’s family or household member. Such act includes,
738 but is not limited to, any forceful detention, stalking, criminal sexual assault in violation of
739 Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or any criminal offense that results in
740 bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury.

741 “Family or household member” means (i) the person’s spouse, whether or not he or she
742 resides in the same home with the person, (ii) the person’s former spouse, whether or not he or
743 she resides in the same home with the person, (iii) the person’s parents, stepparents, children,
744 stepchildren, brothers, sisters, half-brothers, half-sisters, grandparents and grandchildren,
745 regardless of whether such persons reside in the same home with the person, (iv) the person’s
746 mother-in-law, father-in-law, sons-in-law, daughters-in-law, brothers-in-law and sisters-in-law
747 who reside in the same home with the person, (v) any individual who has a child in common
748 with the person, whether or not the person and that individual have been married or have resided
749 together at any time, or (vi) any individual who cohabits or who, within the previous 12 months,
750 cohabited with the person, and any children of either of them then residing in the same home
751 with the person.

752 “Foster care services” means the provision of a full range of casework, treatment and
753 community services for a planned period of time to a child who is abused or neglected as defined
754 in § 63.2-100 or in need of services as defined in this section and his family when the child (i)
755 has been identified as needing services to prevent or eliminate the need for foster care placement,
756 (ii) has been placed through an agreement between the local board of social services or a public
757 agency designated by the community policy and management team and the parents or guardians
758 where legal custody remains with the parents or guardians, (iii) has been committed or entrusted
759 to a local board of social services or child welfare agency, or (iv) has been placed under the
760 supervisory responsibility of the local board pursuant to § 16.1-293.

761 “Independent living arrangement” means placement of a child at least 16 years of age
762 who is in the custody of a local board or licensed child-placing agency and has been placed by
763 the local board or licensed child-placing agency in a living arrangement in which he does not
764 have daily substitute parental supervision.

765 “Independent living services” means services and activities provided to a child in foster
766 care 14 years of age or older and who has been committed or entrusted to a local board of social
767 services, child welfare agency, or private child-placing agency. “Independent living services”
768 may also mean services and activities provided to a person who was in foster care on his 18th
769 birthday and has not yet reached the age of 21 years. Such services shall include counseling,

770 education, housing, employment, and money management skills development and access to
771 essential documents and other appropriate services to help children or persons prepare for self-
772 sufficiency.

773 “Intake officer” means a juvenile probation officer appointed as such pursuant to the
774 authority of this chapter.

775 “Jail” or “other facility designed for the detention of adults” means a local or regional
776 correctional facility as defined in § 53.1-1, except those facilities utilized on a temporary basis as
777 a court holding cell for a child incident to a court hearing or as a temporary lock-up room or
778 ward incident to the transfer of a child to a juvenile facility.

779 “The judge” means the judge or the substitute judge of the juvenile and domestic
780 relations district court of each county or city.

781 “This law” or “the law” means the Juvenile and Domestic Relations District Court Law
782 embraced in this chapter.

783 “Legal custody” means (i) a legal status created by court order which vests in a custodian
784 the right to have physical custody of the child, to determine and redetermine where and with
785 whom he shall live, the right and duty to protect, train and discipline him and to provide him
786 with food, shelter, education and ordinary medical care, all subject to any residual parental rights
787 and responsibilities or (ii) the legal status created by court order of joint custody as defined in
788 § 20-107.2.

789 “Permanent foster care placement” means the place of residence in which a child resides
790 and in which he has been placed pursuant to the provisions of §§ 63.2-900 and 63.2-908 with the
791 expectation and agreement between the placing agency and the place of permanent foster care
792 that the child shall remain in the placement until he reaches the age of majority unless modified
793 by court order or unless removed pursuant to § 16.1-251 or 63.2-1517. A permanent foster care
794 placement may be a place of residence of any natural person or persons deemed appropriate to
795 meet a child’s needs on a long-term basis.

796 “Residual parental rights and responsibilities” means all rights and responsibilities
797 remaining with the parent after the transfer of legal custody or guardianship of the person,
798 including but not limited to the right of visitation, consent to adoption, the right to determine
799 religious affiliation and the responsibility for support.

800 “Secure facility” or “detention home” means a local, regional or state public or private
801 locked residential facility that has construction fixtures designed to prevent escape and to restrict
802 the movement and activities of children held in lawful custody.

803 “Shelter care” means the temporary care of children in physically unrestricting facilities.

804 “State Board” means the State Board of Juvenile Justice.

805 “Status offender” means a child who commits an act prohibited by law which would not
806 be criminal if committed by an adult.

807 “Status offense” means an act prohibited by law which would not be an offense if
808 committed by an adult.

809 “Violent juvenile felony” means any of the delinquent acts enumerated in subsection B or
810 C of § 16.1-269.1 when committed by a juvenile 14 years of age or older.

811 **§ 17.1-293. Posting and availability of certain information on the Internet;**
812 **prohibitions.**

813 A. Notwithstanding Chapter 37 (§ 2.2-3700 et seq.) of Title 2.2 or subsection B, it shall
814 be unlawful for any court clerk to disclose the social security number or other identification
815 numbers appearing on driver’s licenses or other documents issued under Chapter 3 (§ 46.2-300 et
816 seq.) of Title 46.2 or the comparable law of another jurisdiction, or information on credit cards,
817 debit cards, bank accounts, or other electronic billing and payment systems that was supplied to a
818 court clerk for the purpose of paying fees, fines, taxes, or other charges collected by such court
819 clerk. The prohibition shall not apply where disclosure of such information is required (i) to
820 conduct or complete the transaction for which such information was submitted or (ii) by other
821 law or court order.

822 B. Beginning January 1, 2004, no court clerk shall post on the Internet any document that
823 contains the following information: (i) an actual signature, (ii) a social security number, (iii) a
824 date of birth identified with a particular person, (iv) the maiden name of a person’s parent so as
825 to be identified with a particular person, (v) any financial account number or numbers, or (vi) the
826 name and age of any minor child.

827 C. Each such clerk shall post notice that includes a list of the documents routinely posted
828 on its website. However, the clerk shall not post information on his website that includes private
829 activity for private financial gain.

830 D. Nothing in this section shall be construed to prohibit access to any original document
831 as provided by law.

832 E. This section shall not apply to the following:

833 1. Providing access to any document among the land records via secure remote access
834 pursuant to § 17.1-294;

835 2. Postings related to legitimate law-enforcement purposes;

836 3. Postings of historical, genealogical, interpretive, or educational documents and
837 information about historic persons and events;

838 4. Postings of instruments and records filed or recorded that are more than 100 years old;

839 5. Providing secure remote access to any person, his counsel, or staff which counsel
840 directly supervises to documents filed in matters to which such person is a party;

Comment [A19]: Relating to clerks of courts of record (Supreme Court, Court of Appeals, Circuit Court).

Comment [A20]: Amended to include all driver’s licenses, permits, driver privilege cards, and special identification cards issued by Virginia and by other states and countries.

841 6. Providing official certificates and certified records in digital form of any document
842 maintained by the clerk pursuant to § 17.1-258.3:2; and

843 7. Providing secure remote access to nonconfidential court records, subject to any fees
844 charged by the clerk, to members in good standing with the Virginia State Bar and their
845 authorized agents, pro hac vice attorneys authorized by the court for purposes of the practice of
846 law, and such governmental agencies as authorized by the clerk.

847 F. Nothing in this section shall prohibit the Supreme Court or any other court clerk from
848 providing online access to a case management system that may include abstracts of case filings
849 and proceedings in the courts of the Commonwealth.

850 G. The court clerk shall be immune from suit arising from any acts or omissions relating
851 to providing remote access on the Internet pursuant to this section unless the clerk was grossly
852 negligent or engaged in willful misconduct.

853 This subsection shall not be construed to limit, withdraw, or overturn any defense or
854 immunity already existing in statutory or common law, or to affect any cause of action accruing
855 prior to July 1, 2005.

856 H. Nothing in this section shall be construed to permit any data accessed by secure
857 remote access to be sold or posted on any other website or in any way redistributed to any third
858 party, and the clerk, in his discretion, may deny secure remote access to ensure compliance with
859 these provisions. However, the data accessed by secure remote access may be included in
860 products or services provided to a third party of the subscriber provided that (i) such data is not
861 made available to the general public and (ii) the subscriber maintains administrative, technical,
862 and security safeguards to protect the confidentiality, integrity, and limited availability of the
863 data.

864 **§ 18.2-6. Meaning of certain terms.**

865 As used in this title:

866 The word “court,” unless otherwise clearly indicated by the context in which it appears,
867 shall mean and include any court vested with appropriate jurisdiction under the Constitution and
868 laws of this Commonwealth.

869 The words “driver’s license” and “license to operate a motor vehicle” shall mean any
870 document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2, or the comparable law of
871 another jurisdiction, authorizing the operation of a motor vehicle upon the highways.

872 The word “judge,” unless otherwise clearly indicated by the context in which it appears,
873 shall mean and include any judge, associate judge or substitute judge, or police justice, of any
874 court.

875 The words “motor vehicle,” “semitrailer,” “trailer” and “vehicle” shall have the
876 respective meanings assigned to them by § 46.2-100.

Comment [A21]: Relating to crimes and offenses.

The definition of “driver’s license” added to this statute affects the following provisions in the title by ensuring that DPCs and permits are treated the same as DLs:

§ 18.2-36.1(C) (involuntary manslaughter)—revocation of DL of person convicted of the offense

§ 18.2-51.4(A) (DUI maiming)—revocation of DL of person convicted of the offense

§ 18.2-186.3(C) (identity theft)—DL number among the types of identifying information included in statute

§ 18.2-186.6(A) (notification of breach of personal information)—DL number among the types of personal information included in statute; also, redaction to leave no more than last 4 digits of DL number

§ 18.2-204.2 (making/selling fake DLs)

§ 18.2-251 (first drug offenses)—probation under statute treated as conviction for purposes of DL forfeiture

§ 18.2-259.1 (forfeiture of DL for drug offenses)

§ 18.2-266.1(B) (underage drinking and driving)—court may order forfeiture of DL and issuance of restricted DL

§ 18.2-271 (forfeiture of DL for DUI)—note that statute uses “DL” and “license” interchangeably

§ 18.2-271.1 (probation of DUI offenders)—note that there is only one reference to DL in this statute; all other references are to “license,” evidently used as a shorthand

§ 18.2-272 (driving after forfeiture of DL)

§ 18.2-308.2:2(B)(1) (criminal history check incident to transfer of firearms)—use of DL or other photo identification to identify purchaser

§ 18.2-371.2(C) (underage tobacco/nicotine)—purchaser of tobacco/nicotine must display DL or similar photo ID as proof of age

The definition added here is also cross-referenced in § 18.2-268.1 (definitions relating to DUI statutes), and thus indirectly affects § 18.1-268.4. See § 18.2-268.1, below.

877 **§ 18.2-268.1. Chemical testing to determine alcohol or drug content of blood;**
878 **definitions.**

879 As used in §§ 18.2-268.2 through 18.2-268.12, unless the context clearly indicates
880 otherwise:

881 The phrase “alcohol or drug” means alcohol, a drug or drugs, or any combination of
882 alcohol and a drug or drugs.

883 The phrase “blood or breath” means either or both.

884 “Chief police officer” means the sheriff in any county not having a chief of police, the
885 chief of police of any county having a chief of police, the chief of police of the city, or the
886 sergeant or chief of police of the town in which the charge will be heard, or their authorized
887 representatives.

888 “Department” means the Department of Forensic Science.

889 “Director” means the Director of the Department of Forensic Science.

890 “License” means any driver’s license, ~~temporary driver’s license, or instruction permit~~
891 ~~authorizing the operation of a motor vehicle upon the highways as that term is defined in § 18.2-~~
892 ~~6.~~

893 “Ordinance” means a county, city or town ordinance.

894 **§ 19.2-258.1. Trial of traffic infractions; measure of proof; failure to appear.**

895 For any traffic infraction cases tried in a district court, the court shall hear and determine
896 the case without the intervention of a jury. For any traffic infraction case appealed to a circuit
897 court, the defendant shall have the right to trial by jury. The defendant shall be presumed
898 innocent until proven guilty beyond a reasonable doubt.

899 When a person charged with a traffic infraction fails to enter a written or court
900 appearance, he shall be deemed to have waived court hearing and the case may be heard in his
901 absence, after which he shall be notified of the court’s finding. He shall be advised that if he fails
902 to comply with any order of the court therein, the court may order suspension of his ~~driver’s~~
903 ~~licensed driving privileges~~ as provided in § 46.2-395 but the court shall not issue a warrant for his
904 failure to appear pursuant to § 46.2-938.

905 **§ 20-60.3. Contents of support orders.**

906 All orders directing the payment of spousal support where there are minor children whom
907 the parties have a mutual duty to support and all orders directing the payment of child support,
908 including those orders confirming separation agreements, entered on or after October 1, 1985,
909 whether they are original orders or modifications of existing orders, shall contain the following:

Comment [A22]: Relating to DUI.

The amended definition of “license” affects one statute by ensuring that DPCs and permits are treated the same as DLs:

§ 18.1-268.4(C) (trial and appeal for refusal of test)—court-ordered license suspension

Comment [A23]: Relating to criminal procedure.

Comment [A24]: Amended to include all driver’s licenses, permits, and driver privilege cards.

Comment [A25]: Relating to spousal support.

910 1. Notice that support payments may be withheld as they become due pursuant to § 20-
911 79.1 or § 20-79.2, from income as defined in § 63.2-1900, without further amendments of this
912 order or having to file an application for services with the Department of Social Services;
913 however, absence of such notice in an order entered prior to July 1, 1988, shall not bar
914 withholding of support payments pursuant to § 20-79.1;

915 2. Notice that support payments may be withheld pursuant to Chapter 19 (§ 63.2-1900 et
916 seq.) of Title 63.2 without further amendments to the order upon application for services with the
917 Department of Social Services; however, absence of such notice in an order entered prior to July
918 1, 1988, shall not bar withholding of support payments pursuant to Chapter 19 (§ 63.2-1900 et
919 seq.) of Title 63.2;

920 3. The name, date of birth, and last four digits of the social security number of each child
921 to whom a duty of support is then owed by the parent;

922 4. If known, the name, date of birth, and last four digits of the social security number of
923 each parent of the child and, unless otherwise ordered, each parent's residential and, if different,
924 mailing address, residential and employer telephone number, driver's license number appearing
925 on a driver's license or other document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2,
926 or the comparable law of another jurisdiction, and the name and address of his or her employer;
927 however, when a protective order has been issued or the court otherwise finds reason to believe
928 that a party is at risk of physical or emotional harm from the other party, information other than
929 the name of the party at risk shall not be included in the order;

930 5. Notice that, pursuant to § 20-124.2, support will continue to be paid for any child over
931 the age of 18 who is (i) a full-time high school student, (ii) not self-supporting, and (iii) living in
932 the home of the party seeking or receiving child support until such child reaches the age of 19 or
933 graduates from high school, whichever occurs first, and that the court may also order that support
934 be paid or continue to be paid for any child over the age of 18 who is (a) severely and
935 permanently mentally or physically disabled, and such disability existed prior to the child
936 reaching the age of 18 or the age of 19 if the child met the requirements of clauses (i), (ii), and
937 (iii); (b) unable to live independently and support himself; and (c) residing in the home of the
938 parent seeking or receiving child support;

939 6. On and after July 1, 1994, notice that a petition may be filed for suspension of any
940 license, certificate, registration or other authorization to engage in a profession, trade, business,
941 occupation, or recreational activity issued by the Commonwealth to a parent as provided in
942 § 63.2-1937 upon a delinquency for a period of 90 days or more or in an amount of \$5,000 or
943 more. The order shall indicate whether either or both parents currently hold such an authorization
944 and, if so, the type of authorization held;

945 7. The monthly amount of support and the effective date of the order. In proceedings on
946 initial petitions, the effective date shall be the date of filing of the petition; in modification
947 proceedings, the effective date may be the date of notice to the responding party. The first
948 monthly payment shall be due on the first day of the month following the hearing date and on the
949 first day of each month thereafter. In addition, an amount shall be assessed for any full and
950 partial months between the effective date of the order and the date that the first monthly payment

Comment [A26]: Amended to include all driver's licenses, permits, driver privilege cards, and special identification cards issued by Virginia and by other states and countries.

951 is due. The assessment for the initial partial month shall be prorated from the effective date
952 through the end of that month, based on the current monthly obligation;

953 8. a. An order for health care coverage, including the health insurance policy information,
954 for dependent children pursuant to §§ 20-108.1 and 20-108.2 if available at reasonable cost as
955 defined in § 63.2-1900, or a written statement that health care coverage is not available at a
956 reasonable cost as defined in such section, and a statement as to whether there is an order for
957 health care coverage for a spouse or former spouse; and

958 b. A statement as to whether cash medical support, as defined in § 63.2-1900, is to be
959 paid by or reimbursed to a party pursuant to subsections D and G of § 20-108.2, and if such
960 expenses are ordered, then the provisions governing how such payment is to be made;

961 9. If support arrearages exist, (i) to whom an arrearage is owed and the amount of the
962 arrearage, (ii) the period of time for which such arrearage is calculated, and (iii) a direction that
963 all payments are to be credited to current support obligations first, with any payment in excess of
964 the current obligation applied to arrearages;

965 10. If child support payments are ordered to be paid through the Department of Social
966 Services or directly to the obligee, and unless the court for good cause shown orders otherwise,
967 the parties shall give each other and the court and, when payments are to be made through the
968 Department, the Department of Social Services at least 30 days' written notice, in advance, of
969 any change of address and any change of telephone number within 30 days after the change;

970 11. If child support payments are ordered to be paid through the Department of Social
971 Services, a provision requiring an obligor to keep the Department of Social Services informed of
972 the name, address and telephone number of his current employer, or if payments are ordered to
973 be paid directly to the obligee, a provision requiring an obligor to keep the court informed of the
974 name, address and telephone number of his current employer;

975 12. If child support payments are ordered to be paid through the Department of Social
976 Services, a provision requiring the party obligated to provide health care coverage to keep the
977 Department of Social Services informed of any changes in the availability of the health care
978 coverage for the minor child or children, or if payments are ordered to be paid directly to the
979 obligee, a provision requiring the party obligated to provide health care coverage to keep the
980 other party informed of any changes in the availability of the health care coverage for the minor
981 child or children;

982 13. The separate amounts due to each person under the order, unless the court specifically
983 orders a unitary award of child and spousal support due or the order affirms a separation
984 agreement containing provision for such unitary award;

985 14. Notice that in determination of a support obligation, the support obligation as it
986 becomes due and unpaid creates a judgment by operation of law. The order shall also provide,
987 pursuant to § 20-78.2, for interest on the arrearage at the judgment rate as established by § 6.2-
988 302 unless the obligee, in a writing submitted to the court, waives the collection of interest;

989 15. Notice that on and after July 1, 1994, the Department of Social Services may,
990 pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2 and in accordance with §§ 20-
991 108.2 and 63.2-1921, initiate a review of the amount of support ordered by any court;

992 16. A statement that if any arrearages for child support, including interest or fees, exist at
993 the time the youngest child included in the order emancipates, payments shall continue in the
994 total amount due (current support plus amount applied toward arrearages) at the time of
995 emancipation until all arrearages are paid; and

996 17. Notice that, in cases enforced by the Department of Social Services, the Department
997 of Motor Vehicles may suspend or refuse to renew the driver's license, or other document issued
998 under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 authorizing the operation of a motor vehicle
999 upon the highways, of any person upon receipt of notice from the Department of Social Services
1000 that the person (i) is delinquent in the payment of child support by 90 days or in an amount of
1001 \$5,000 or more or (ii) has failed to comply with a subpoena, summons, or warrant relating to
1002 paternity or child support proceedings.

Comment [A27]: Amended to include all driver's licenses, permits, and driver privilege cards.

1003 The provisions of this section shall not apply to divorce decrees where there are no minor
1004 children whom the parties have a mutual duty to support.

1005 **§ 20-107.1. Court may decree as to maintenance and support of spouses.**

Comment [A28]: Relating to spousal support.

1006 A. Pursuant to any proceeding arising under subsection L of § 16.1-241 or upon the entry
1007 of a decree providing (i) for the dissolution of a marriage, (ii) for a divorce, whether from the
1008 bond of matrimony or from bed and board, (iii) that neither party is entitled to a divorce, or (iv)
1009 for separate maintenance, the court may make such further decree as it shall deem expedient
1010 concerning the maintenance and support of the spouses, notwithstanding a party's failure to
1011 prove his grounds for divorce, provided that a claim for support has been properly pled by the
1012 party seeking support. However, the court shall have no authority to decree maintenance and
1013 support payable by the estate of a deceased spouse.

1014 B. Any maintenance and support shall be subject to the provisions of § 20-109, and no
1015 permanent maintenance and support shall be awarded from a spouse if there exists in such
1016 spouse's favor a ground of divorce under the provisions of subdivision A (1) of § 20-91.
1017 However, the court may make such an award notwithstanding the existence of such ground if the
1018 court determines from clear and convincing evidence, that a denial of support and maintenance
1019 would constitute a manifest injustice, based upon the respective degrees of fault during the
1020 marriage and the relative economic circumstances of the parties.

1021 C. The court, in its discretion, may decree that maintenance and support of a spouse be
1022 made in periodic payments for a defined duration, or in periodic payments for an undefined
1023 duration, or in a lump sum award, or in any combination thereof.

1024 D. In addition to or in lieu of an award pursuant to subsection C, the court may reserve
1025 the right of a party to receive support in the future. In any case in which the right to support is so
1026 reserved, there shall be a rebuttable presumption that the reservation will continue for a period

1027 equal to 50 percent of the length of time between the date of the marriage and the date of
1028 separation. Once granted, the duration of such a reservation shall not be subject to modification.

1029 E. The court, in determining whether to award support and maintenance for a spouse,
1030 shall consider the circumstances and factors which contributed to the dissolution of the marriage,
1031 specifically including adultery and any other ground for divorce under the provisions of
1032 subdivision A (3) or (6) of § 20-91 or § 20-95. In determining the nature, amount and duration of
1033 an award pursuant to this section, the court shall consider the following:

1034 1. The obligations, needs and financial resources of the parties, including but not limited
1035 to income from all pension, profit sharing or retirement plans, of whatever nature;

1036 2. The standard of living established during the marriage;

1037 3. The duration of the marriage;

1038 4. The age and physical and mental condition of the parties and any special circumstances
1039 of the family;

1040 5. The extent to which the age, physical or mental condition or special circumstances of
1041 any child of the parties would make it appropriate that a party not seek employment outside of
1042 the home;

1043 6. The contributions, monetary and nonmonetary, of each party to the well-being of the
1044 family;

1045 7. The property interests of the parties, both real and personal, tangible and intangible;

1046 8. The provisions made with regard to the marital property under § 20-107.3;

1047 9. The earning capacity, including the skills, education and training of the parties and the
1048 present employment opportunities for persons possessing such earning capacity;

1049 10. The opportunity for, ability of, and the time and costs involved for a party to acquire
1050 the appropriate education, training and employment to obtain the skills needed to enhance his or
1051 her earning ability;

1052 11. The decisions regarding employment, career, economics, education and parenting
1053 arrangements made by the parties during the marriage and their effect on present and future
1054 earning potential, including the length of time one or both of the parties have been absent from
1055 the job market;

1056 12. The extent to which either party has contributed to the attainment of education,
1057 training, career position or profession of the other party; and

1058 13. Such other factors, including the tax consequences to each party and the
1059 circumstances and factors that contributed to the dissolution, specifically including any ground
1060 for divorce, as are necessary to consider the equities between the parties.

1061 F. In contested cases in the circuit courts, any order granting, reserving or denying a
1062 request for spousal support shall be accompanied by written findings and conclusions of the
1063 court identifying the factors in subsection E which support the court's order. If the court awards
1064 periodic support for a defined duration, such findings shall identify the basis for the nature,
1065 amount and duration of the award and, if appropriate, a specification of the events and
1066 circumstances reasonably contemplated by the court which support the award.

1067 G. For purposes of this section and § 20-109, "date of separation" means the earliest date
1068 at which the parties are physically separated and at least one party intends such separation to be
1069 permanent provided the separation is continuous thereafter and "defined duration" means a
1070 period of time (i) with a specific beginning and ending date or (ii) specified in relation to the
1071 occurrence or cessation of an event or condition other than death or termination pursuant to § 20-
1072 110.

1073 H. Where there are no minor children whom the parties have a mutual duty to support, an
1074 order directing the payment of spousal support, including those orders confirming separation
1075 agreements, entered on or after October 1, 1985, whether they are original orders or
1076 modifications of existing orders, shall contain the following:

1077 1. If known, the name, date of birth and social security number of each party and, unless
1078 otherwise ordered, each party's residential and, if different, mailing address, residential and
1079 employer telephone number, driver's license number appearing on a driver's license or other
1080 document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2, or the comparable law of
1081 another jurisdiction, and the name and address of his employer; however, when a protective
1082 order has been issued or the court otherwise finds reason to believe that a party is at risk of
1083 physical or emotional harm from the other party, information other than the name of the party at
1084 risk shall not be included in the order;

Comment [A29]: Amended to include all driver's licenses, permits, driver privilege cards, and special identification cards issued by Virginia and by other states and countries.

1085 2. The amount of periodic spousal support expressed in fixed sums, together with the
1086 payment interval, the date payments are due, and the date the first payment is due;

1087 3. A statement as to whether there is an order for health care coverage for a party;

1088 4. If support arrearages exist, (i) to whom an arrearage is owed and the amount of the
1089 arrearage, (ii) the period of time for which such arrearage is calculated, and (iii) a direction that
1090 all payments are to be credited to current spousal support obligations first, with any payment in
1091 excess of the current obligation applied to arrearages;

1092 5. If spousal support payments are ordered to be paid directly to the obligee, and unless
1093 the court for good cause shown orders otherwise, the parties shall give each other and the court at
1094 least 30 days' written notice, in advance, of any change of address and any change of telephone
1095 number within 30 days after the change; and

1096 6. Notice that in determination of a spousal support obligation, the support obligation as it
1097 becomes due and unpaid creates a judgment by operation of law.

1098

§ 22.1-205. Driver education programs.

Comment [A30]: Relating to curriculum in schools.

1099 A. The Board of Education shall establish for the public school system a standardized
 1100 program of driver education in the safe operation of motor vehicles. Such program shall consist
 1101 of classroom training and behind-the-wheel driver training. However, any student who
 1102 participates in such a program of driver education shall meet the academic requirements
 1103 established by the Board, and no student in a course shall be permitted to operate a motor vehicle
 1104 without a license or permit to do so other document issued by the Department of Motor Vehicles
 1105 under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 authorizing the operation of a motor vehicle
 1106 upon the highways. ~~The program shall include instruction concerning (i) alcohol and drug abuse,~~
 1107 (ii) aggressive driving, (iii) distracted driving, (iv) motorcycle awareness, (v) organ and tissue
 1108 donor awareness, (vi) fuel-efficient driving practices, and (vii) in Planning District 8, for any
 1109 student completing a driver education program beginning in academic year 2010 -- 2011, an
 1110 additional minimum 90-minute parent/student driver education component included as part of
 1111 the in-classroom portion of the driver education curriculum, requiring the participation of the
 1112 student's parent or guardian and emphasizing parental responsibilities regarding juvenile driver
 1113 behavior, juvenile driving restrictions pursuant to the Code of Virginia, and the dangers of
 1114 driving while intoxicated and underage consumption of alcohol. Such instruction shall be
 1115 developed by the Department in cooperation with the Virginia Alcohol Safety Action Program,
 1116 the Department of Health, and the Department of Behavioral Health and Developmental
 1117 Services, as appropriate. Such program shall require a minimum number of miles driven during
 1118 the behind-the-wheel driver training.

Comment [A31]: Amended to include all driver's licenses, permits, and driver privilege cards.

1119 B. The Board shall assist school divisions by preparation, publication and distribution of
 1120 competent driver education instructional materials to ensure a more complete understanding of
 1121 the responsibilities and duties of motor vehicle operators.

1122 C. Each school board shall determine whether to offer the program of driver education in
 1123 the safe operation of motor vehicles and, if offered, whether such program shall be an elective or
 1124 a required course. In addition to the fee approved by the Board of Education pursuant to the
 1125 appropriation act that allows local school boards to charge a per pupil fee for behind-the-wheel
 1126 driver education, the Board of Education may authorize a local school board's request to assess a
 1127 surcharge in order to further recover program costs that exceed state funds distributed through
 1128 basic aid to school divisions offering driver education programs. Each school board may waive
 1129 the fee or the surcharge in total or in part for those students it determines cannot pay the fee or
 1130 surcharge. Only school divisions complying with the standardized program and regulations
 1131 established by the Board of Education and the provisions of § 46.2-335 shall be entitled to
 1132 participate in the distribution of state funds appropriated for driver education.

1133 School boards in Planning District 8 shall make the 90-minute parent/student driver
 1134 education component available to all students and their parents or guardians who are in
 1135 compliance with § 22.1-254.

1136 D. The actual initial driving instruction shall be conducted, with motor vehicles equipped
 1137 as may be required by regulation of the Board of Education, on private or public property
 1138 removed from public highways if practicable; if impracticable, then, at the request of the school
 1139 board, the Commissioner of Highways shall designate a suitable section of road near the school

1140 to be used for such instruction. Such section of road shall be marked with signs, which the
1141 Commissioner of Highways shall supply, giving notice of its use for driving instruction. Such
1142 signs shall be removed at the close of the instruction period. No vehicle other than those used for
1143 driver training shall be operated between such signs at a speed in excess of 25 miles per hour.
1144 Violation of this limit shall be a Class 4 misdemeanor.

1145 E. The Board of Education may, in its discretion, promulgate regulations for the use and
1146 certification of paraprofessionals as teaching assistants in the driver education programs of
1147 school divisions.

1148 F. The Board of Education shall approve correspondence courses for the classroom
1149 training component of driver education. These correspondence courses shall be consistent in
1150 quality with instructional programs developed by the Board for classroom training in the public
1151 schools. Students completing the correspondence courses for classroom training, who are eligible
1152 to take behind-the-wheel driver training, may receive behind-the-wheel driver training (i) from a
1153 public school, upon payment of the required fee, if the school division offers behind-the-wheel
1154 driver training and space is available, (ii) from a driver training school licensed by the
1155 Department of Motor Vehicles, or (iii) in the case of a home schooling parent or guardian
1156 instructing his own child who meets the requirements for home school instruction under § 22.1-
1157 254.1 or subdivision B 1 of § 22.1-254, from a behind-the-wheel training course approved by the
1158 Board. Nothing herein shall be construed to require any school division to provide behind-the-
1159 wheel driver training to nonpublic school students.

1160 **§ 24.2-410.1. Citizenship status; Department of Motor Vehicles to furnish lists of**
1161 **noncitizens.**

Comment [A32]: Relating to voter registration.

1162 A. The Department of Motor Vehicles shall include on the application for a driver's
1163 license, ~~commercial driver's license, temporary driver's permit, learner's permit, motorcycle~~
1164 ~~learner's permit, special identification card or other document,~~ or renewal thereof, issued
1165 pursuant to the provisions of Chapter 3 (§ 46.2-300 et seq.) of Title 46.2, as a predicate to
1166 offering a voter registration application pursuant to § 24.2-411.1, a statement asking the
1167 applicant if he is a United States citizen. If the applicant indicates a noncitizen status, the
1168 Department of Motor Vehicles shall not offer that applicant the opportunity to apply for voter
1169 registration. If the applicant indicates that he is a United States citizen and that he wishes to
1170 register to vote or change his voter registration address, the statement that he is a United States
1171 citizen shall become part of the voter registration application offered to the applicant.
1172 Information on citizenship status shall not be a determinative factor for the issuance of any
1173 document pursuant to the provisions of Chapter 3 (§ 46.2-300 et seq.) of Title 46.2.

Comment [A33]: Amended to include all driver's licenses, permits, driver privilege cards, and special identification cards.

1174 B. Additionally, the Department of Motor Vehicles shall furnish monthly to the
1175 Department of Elections a complete list of all persons who have indicated a noncitizen status to
1176 the Department of Motor Vehicles in obtaining a driver's license, ~~commercial driver's license,~~
1177 ~~temporary driver's permit, learner's permit, motorcycle learner's permit, special identification~~
1178 ~~card or other document,~~ or renewal thereof, issued pursuant to the provisions of Chapter 3
1179 (§ 46.2-300 et seq.) of Title 46.2. The Department of Elections shall transmit the information

Comment [A34]: Amended to include all driver's licenses, permits, driver privilege cards, and special identification cards.

1180 from the list to the appropriate general registrars. Information in the lists shall be confidential
1181 and available only for official use by the Department of Elections and general registrars.

1182 C. For the purposes of this section, the Department of Motor Vehicles is not responsible
1183 for verifying the claim of any applicant who indicates United States citizen status when applying
1184 for a ~~driver's license, commercial driver's license, temporary driver's permit, learner's permit,~~
1185 ~~motorcycle learner's permit, special identification card~~ or other document, or renewal thereof,
1186 issued pursuant to the provisions of Chapter 3 (§ 46.2-300 et seq.) of Title 46.2.

Comment [A35]: Amended to include all driver's licenses, permits, and special identification cards.

Comment [A36]: Relating to voter registration.

1187 **§ 24.2-411.1. Offices of the Department of Motor Vehicles.**

1188 A. The Department of Motor Vehicles shall provide the opportunity to register to vote to
1189 each person who comes to an office of the Department of Motor Vehicles to:

1190 1. Apply for, replace, or renew a driver's license or other document issued under Chapter
1191 3 (§ 46.2-300 et seq.) of Title 46.2;

1192 2. ~~Apply for, replace, or renew a special identification card; or~~

1193 3. Change an address on an existing driver's license or ~~special identification card~~ other
1194 document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2.

Comment [A37]: Amended to include all driver's licenses, permits, and special identification cards.

1195 B. The method used to receive an application for voter registration shall avoid duplication
1196 of the license portion of the license application and require only the minimum additional
1197 information necessary to enable registrars to determine the voter eligibility of the applicant and
1198 to administer voter registration and election laws. A person who does not sign the registration
1199 portion of the application shall be deemed to have declined to register at that time. The voter
1200 application shall include a statement that, if an applicant declines to register to vote, the fact the
1201 applicant has declined to register will remain confidential and will be used only for voter
1202 registration purposes.

1203 Each application form distributed under this section shall be accompanied by the
1204 following statement featured prominently in boldface capital letters: "WARNING:
1205 INTENTIONALLY MAKING A MATERIALLY FALSE STATEMENT ON THIS FORM
1206 CONSTITUTES THE CRIME OF ELECTION FRAUD, WHICH IS PUNISHABLE UNDER
1207 VIRGINIA LAW AS A FELONY. VIOLATORS MAY BE SENTENCED TO UP TO 10
1208 YEARS IN PRISON, OR UP TO 12 MONTHS IN JAIL AND/OR FINED UP TO \$2,500."

1209 Any completed application for voter registration submitted by a person who is already
1210 registered shall serve as a written request to update his registration record. Any change of
1211 address form submitted for purposes of a motor vehicle ~~driver's license or special identification~~
1212 ~~card~~ other document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 shall serve as
1213 notification of change of address for voter registration for the registrant involved unless the
1214 registrant states on the form that the change of address is not for voter registration purposes. If
1215 the information from the notification of change of address for voter registration indicates that the
1216 registered voter has moved to another general registrar's jurisdiction within the Commonwealth,
1217 the notification shall be treated as a request for transfer from the registered voter. The

Comment [A38]: Amended to include all driver's licenses, permits, and special identification cards.

1218 notification and the registered voter's registration record shall be transmitted as directed by the
1219 Department of Elections to the appropriate general registrar who shall send confirmation
1220 documents of the transfer to the voter pursuant to § 24.2-424. The Department of Motor Vehicles
1221 and Department of Elections shall cooperate in the prompt transmittal by electronic or other
1222 means of the notification to the appropriate general registrar.

1223 C. The completed voter registration portion of the application shall be transmitted as
1224 directed by the Department of Elections not later than five business days after the date of receipt.
1225 The Department of Motor Vehicles and Department of Elections shall cooperate in the prompt
1226 transmittal by electronic or other means of the voter registration portion of the application to the
1227 appropriate general registrar.

1228 D. The Department of Elections shall maintain statistical records on the number of
1229 applications to register to vote with information provided from the Department of Motor
1230 Vehicles.

1231 E. A person who provides services at the Department of Motor Vehicles shall not
1232 disclose, except as authorized by law for official use, the social security number, or any part
1233 thereof, of any applicant for voter registration.

1234 F. The Department of Motor Vehicles shall provide assistance as required in providing
1235 voter photo identification cards as provided in subdivision A 3 of § 24.2-404.

1236 **§ 24.2-416.7. Application for voter registration by electronic means.**

Comment [A39]: Relating to voter registration.

1237 A. Notwithstanding any other provision of law, a person who is qualified to register to
1238 vote may apply to register to vote by electronic means as authorized by the State Board by
1239 completing an electronic registration application.

1240 B. Notwithstanding any other provision of law, a registered voter may satisfy the
1241 requirements of §§ 24.2-423 and 24.2-424 to notify the general registrar of a change of legal
1242 name or place of residence within the Commonwealth by electronic means as authorized by the
1243 State Board by completing an electronic registration application.

1244 C. An electronic registration application completed pursuant to this article shall require
1245 that an applicant:

1246 1. Provide the information as required under § 24.2-418;

1247 2. Have a Virginia driver's license or ~~special identification card~~ other document issued by
1248 the Department of Motor Vehicles under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2;

Comment [A40]: Amended to include all driver's licenses, permits, and special identification cards.

1249 3. Provide a social security number and Department of Motor Vehicles customer
1250 identifier number that matches the applicant's record in the Department of Motor Vehicles
1251 records;

1252 4. Attest to the truth of the information provided;

1253 5. Sign the application in a manner consistent with the Uniform Electronic Transactions
1254 Act (§ 59.1-479 et seq.); and

1255 6. Affirmatively authorize the Department of Elections and general registrar to use the
1256 applicant's signature obtained by the Department of Motor Vehicles for voter registration
1257 purposes.

1258 D. In order for an individual to complete a transaction under this article, the general
1259 registrar shall verify that the Department of Motor Vehicles customer identifier number, date of
1260 birth, and social security number provided by the applicant match the information contained in
1261 the Department of Motor Vehicles records.

1262 E. The Department of Motor Vehicles shall provide to the Department of Elections a
1263 digital copy of the applicant's signature on record with the Department of Motor Vehicles.

1264 F. The Department of Elections shall transmit to the general registrar an applicant's
1265 completed voter registration application and digital signature not later than five business days
1266 after the date of receipt.

1267 G. Each transaction taking place under this section shall be accompanied by the following
1268 statement featured prominently in boldface capital letters: "WARNING: INTENTIONALLY
1269 MAKING A MATERIALLY FALSE STATEMENT DURING THIS TRANSACTION
1270 CONSTITUTES THE CRIME OF ELECTION FRAUD, WHICH IS PUNISHABLE UNDER
1271 VIRGINIA LAW AS A FELONY. VIOLATORS MAY BE SENTENCED TO UP TO 10
1272 YEARS IN PRISON, OR UP TO 12 MONTHS IN JAIL AND/OR FINED UP TO \$2,500."

1273 H. The Department of Elections may use additional security measures approved by the
1274 State Board to ensure the accuracy and integrity of registration transactions performed under this
1275 article.

1276 **§ 24.2-643. Qualified voter permitted to vote; procedures at polling place; voter**
1277 **identification.**

Comment [A41]: Relating to voting.

1278 A. After the polls are open, each qualified voter at a precinct shall be permitted to vote.
1279 The officers of election shall ascertain that a person offering to vote is a qualified voter before
1280 admitting him to the voting booth and furnishing an official ballot to him.

1281 B. An officer of election shall ask the voter for his full name and current residence
1282 address and the voter may give such information orally or in writing. The officer of election shall
1283 repeat, in a voice audible to party and candidate representatives present, the full name and
1284 address provided by the voter. The officer shall ask the voter to present any one of the following
1285 forms of identification: his valid Virginia driver's license, his valid United States passport, or
1286 any other photo identification issued by the Commonwealth, one of its political subdivisions, or
1287 the United States, other than a driver privilege card issued under § 46.2-328.2; any valid student
1288 identification card containing a photograph of the voter and issued by any institution of higher
1289 education located in the Commonwealth or any private school located in the Commonwealth; or

Comment [A42]: Expressly excluding DPCs as valid ID for voting.

1290 any valid employee identification card containing a photograph of the voter and issued by an
1291 employer of the voter in the ordinary course of the employer's business.

1292 Any voter who does not show one of the forms of identification specified in this
1293 subsection shall be offered a provisional ballot under the provisions of § 24.2-653. The State
1294 Board of Elections shall provide an ID-ONLY provisional ballot envelope that requires no
1295 follow-up action by the registrar or electoral board other than matching submitted identification
1296 documents from the voter for the electoral board to make a determination on whether to count
1297 the ballot.

1298 If the voter presents one of the forms of identification listed above, if his name is found
1299 on the pollbook in a form identical to or substantially similar to the name on the presented form
1300 of identification and the name provided by the voter, if he is qualified to vote in the election, and
1301 if no objection is made, an officer shall enter, opposite the voter's name on the pollbook, the first
1302 or next consecutive number from the voter count form provided by the State Board, or shall enter
1303 that the voter has voted if the pollbook is in electronic form; an officer shall provide the voter
1304 with the official ballot; and another officer shall admit him to the voting booth. Each voter whose
1305 name has been marked on the pollbooks as present to vote and entitled to a ballot shall remain in
1306 the presence of the officers of election in the polling place until he has voted. If a line of voters
1307 who have been marked on the pollbooks as present to vote forms to await entry to the voting
1308 booths, the line shall not be permitted to extend outside of the room containing the voting booths
1309 and shall remain under observation by the officers of election.

1310 A voter may be accompanied into the voting booth by his child age 15 or younger.

1311 C. If the current residence address provided by the voter is different from the address
1312 shown on the pollbook, the officer of election shall furnish the voter with a change of address
1313 form prescribed by the State Board. Upon its completion, the voter shall sign the prescribed
1314 form, subject to felony penalties for making false statements pursuant to § 24.2-1016, which the
1315 officer of election shall then place in an envelope provided for such forms for transmission to the
1316 general registrar who shall then transfer or cancel the registration of such voter pursuant to
1317 Chapter 4 (§ 24.2-400 et seq.).

1318 D. At the time the voter is asked his full name and current residence address, the officer
1319 of election shall ask any voter for whom the pollbook indicates that an identification number
1320 other than a social security number is recorded on the Virginia voter registration system if he
1321 presently has a social security number. If the voter is able to provide his social security number,
1322 he shall be furnished with a voter registration form prescribed by the State Board to update his
1323 registration information. Upon its completion, the form shall be placed by the officer of election
1324 in an envelope provided for such forms for transmission to the general registrar. Any social
1325 security numbers so provided shall be entered by the general registrar in the voter's record on the
1326 voter registration system.

1327 **§ 32.1-291.2. Definitions.**

1328 As used in this Act, unless the context requires otherwise:

Comment [A43]: From the Revised Uniform Anatomical Gift Act.

1329 “Adult” means an individual who is at least 18 years of age.

1330 “Agent” means an individual:

1331 1. Authorized to make health-care decisions on the principal’s behalf by a power of
1332 attorney for health care; or

1333 2. Expressly authorized to make an anatomical gift on the principal’s behalf by any other
1334 record signed by the principal.

1335 “Anatomical gift” means a donation of all or part of a human body to take effect after the
1336 donor’s death for the purpose of transplantation, therapy, research, or education.

1337 “Decedent” means a deceased individual whose body or part is or may be the source of
1338 an anatomical gift. The term includes a stillborn infant and, subject to restrictions imposed by
1339 law other than this Act, a fetus.

1340 “Disinterested witness” means a witness other than the spouse, child, parent, sibling,
1341 grandchild, grandparent, or guardian of the individual who makes, amends, revokes, or refuses to
1342 make an anatomical gift, or another adult who exhibited special care and concern for the
1343 individual. The term does not include a person to whom an anatomical gift could pass under
1344 § 32.1-291.11.

1345 “Document of gift” means a donor card or other record used to make an anatomical gift.
1346 The term includes a statement or symbol on a driver’s license, identification card, or donor
1347 registry.

1348 “Donor” means an individual whose body or part is the subject of an anatomical gift.

1349 “Donor registry” means a database that contains records of anatomical gifts.

1350 “Driver’s license” means a license or ~~permit or other document~~ issued by the Virginia
1351 Department of Motor Vehicles ~~to operate under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2~~
1352 ~~authorizing the operation of a motor vehicle upon the highways, whether or not conditions are~~
1353 ~~attached to the license or permit/other document.~~

Comment [A44]: Amended to include all driver’s licenses, permits, and driver privilege cards.

1354 “Eye bank” means a person that is licensed, accredited, or regulated under federal or state
1355 law to engage in the recovery, screening, testing, processing, storage, or distribution of human
1356 eyes or portions of human eyes and that is a member of the Virginia Transplant Council,
1357 accredited by the Eye Bank Association of America or the American Association of Tissue
1358 Banks and operating in the Commonwealth of Virginia.

1359 “Guardian” means a person appointed by a court to make decisions regarding the support,
1360 care, education, health, or welfare of an individual. The term does not include a guardian ad
1361 litem, except when the guardian ad litem is authorized by a court to consent to donation.

1362 “Hospital” means a facility licensed as a hospital under the law of any state or a facility
1363 operated as a hospital by the United States, a state, or a subdivision of a state.

1364 | “Identification card” means an identification card issued by the ~~Virginia~~ Department of
1365 | Motor Vehicles under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2.

Comment [A45]: Amended to establish consistency in terms used

1366 | “Know” means to have actual knowledge.

1367 | “Minor” means an individual who is under 18 years of age.

1368 | “Organ procurement organization” means a person designated by the Secretary of the
1369 | United States Department of Health and Human Services as an organ procurement organization
1370 | that is also a member of the Virginia Transplant Council.

1371 | “Parent” means a parent whose parental rights have not been terminated.

1372 | “Part” means an organ, an eye, or tissue of a human being. The term does not include the
1373 | whole body.

1374 | “Person” means an individual, corporation, business trust, estate, trust, partnership,
1375 | limited liability company, association, joint venture, public corporation, government or
1376 | governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

1377 | “Physician” means an individual authorized to practice medicine or osteopathy under the
1378 | law of any state.

1379 | “Procurement organization” means an eye bank, organ procurement organization, or
1380 | tissue bank that is a member of the Virginia Transplant Council.

1381 | “Prospective donor” means an individual who is dead or whose death is imminent and
1382 | has been determined by a procurement organization to have a part that could be medically
1383 | suitable for transplantation, therapy, research, or education. The term does not include an
1384 | individual who has made a refusal.

1385 | “Reasonably available” means able to be contacted by a procurement organization
1386 | without undue effort and willing and able to act in a timely manner consistent with existing
1387 | medical criteria necessary for the making of an anatomical gift.

1388 | “Recipient” means an individual into whose body a decedent’s part has been or is
1389 | intended to be transplanted.

1390 | “Record” means information that is inscribed on a tangible medium or that is stored in an
1391 | electronic or other medium and is retrievable in perceivable form.

1392 | “Refusal” means a record created under § 32.1-291.7 that expressly states an intent to bar
1393 | other persons from making an anatomical gift of an individual’s body or part.

1394 | “Sign” means, with the present intent to authenticate or adopt a record:

1395 | 1. To execute or adopt a tangible symbol; or

1396 2. To attach to or logically associate with the record an electronic symbol, sound, or
1397 process.

1398 “State” means a state of the United States, the District of Columbia, Puerto Rico, the
1399 United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of
1400 the United States.

1401 “Technician” means an individual determined to be qualified to remove or process parts
1402 by an appropriate organization that is licensed, accredited, or regulated under federal or state
1403 law. The term includes an enucleator.

1404 “Tissue” means a portion of the human body other than an organ or an eye. The term
1405 does not include blood unless the blood is donated for the purpose of research or education.

1406 “Tissue bank” means a person that is licensed, accredited, or regulated under federal or
1407 state law to engage in the recovery, screening, testing, processing, storage, or distribution of
1408 tissue and that is a member of the Virginia Transplant Council, accredited by the American
1409 Association of Tissue Banks, and operating in the Commonwealth of Virginia.

1410 “Transplant hospital” means a hospital that furnishes organ transplants and other medical
1411 and surgical specialty services required for the care of transplant patients.

1412 **§ 33.2-613. (Effective until July 1, 2018) Free use of toll facilities by certain state**
1413 **officers and employees; penalties.**

Comment [A46]: Relating to tolling.

1414 A. Upon presentation of a toll pass issued pursuant to regulations promulgated by the
1415 Board, the following persons may use all toll bridges, toll ferries, toll tunnels, and toll roads in
1416 the Commonwealth without the payment of toll while in the performance of their official duties:

1417 1. The Commissioner of Highways;

1418 2. Members of the Commonwealth Transportation Board;

1419 3. Employees of the Department of Transportation;

1420 4. The Superintendent of the Department of State Police;

1421 5. Officers and employees of the Department of State Police;

1422 6. Members of the Alcoholic Beverage Control Board;

1423 7. Employees of the regulatory and hearings divisions of the Department of Alcoholic
1424 Beverage Control and special agents of the Department of Alcoholic Beverage Control;

1425 8. The Commissioner of the Department of Motor Vehicles;

1426 9. Employees of the Department of Motor Vehicles;

1427 10. Local police officers;

1428 11. Sheriffs and their deputies;

1429 12. Regional jail officials;

1430 13. Animal wardens;

1431 14. The Director and officers of the Department of Game and Inland Fisheries;

1432 15. Persons operating firefighting equipment and emergency medical services vehicles
1433 owned by a political subdivision of the Commonwealth or a nonprofit association or corporation;

1434 16. Operators of school buses being used to transport pupils to or from schools;

1435 17. Operators of (i) commuter buses having a capacity of 20 or more passengers,
1436 including the driver, and used to regularly transport workers to and from their places of
1437 employment and (ii) public transit buses;

1438 18. Employees of the Department of Rail and Public Transportation;

1439 19. Employees of any transportation facility created pursuant to the Virginia Highway
1440 Corporation Act of 1988; and

1441 20. Law-enforcement officers of the Virginia Marine Resources Commission.

1442 B. Notwithstanding the provision of subsection A requiring presentation of a toll pass for
1443 toll-free use of such facilities, in cases of emergency and circumstances of concern for public
1444 safety on the highways of the Commonwealth, the Department of Transportation shall, in order
1445 to alleviate an actual or potential threat or risk to the public's safety, facilitate the flow of traffic
1446 on or within the vicinity of the toll facility by permitting the temporary suspension of toll
1447 collection operations on its facilities.

1448 1. The assessment of the threat to public safety shall be performed and the decision
1449 temporarily to suspend toll collection operations shall be made by the Commissioner of
1450 Highways or his designee.

1451 2. Major incidents that may require the temporary suspension of toll collection operations
1452 shall include (i) natural disasters such as hurricanes, tornadoes, fires, and floods; (ii) accidental
1453 releases of hazardous materials such as chemical spills; (iii) major traffic accidents, such as
1454 multivehicle collisions; and (iv) other incidents deemed to present a risk to public safety.

1455 3. In any judicial proceeding in which a person is found to be criminally responsible or
1456 civilly liable for any incident resulting in the suspension of toll collections as provided in this
1457 subsection, the court may assess against the person an amount equal to lost toll revenue as a part
1458 of the costs of the proceeding and order that such amount, not to exceed \$2,000 for any
1459 individual incident, be paid to the Department of Transportation for deposit into the toll road
1460 fund.

1461 C. Any tollgate keeper who refuses to permit the persons listed in subsection A to use any
1462 toll bridge, toll ferry, toll tunnel, or toll road upon presentation of such a toll pass is guilty of a
1463 misdemeanor punishable by a fine of not more than \$50 and not less than \$2.50. Any person
1464 other than those listed in subsection A who exhibits any such toll pass for the purpose of using
1465 any toll bridge, toll ferry, toll tunnel, or toll road is guilty of a Class 1 misdemeanor.

1466 D. Any vehicle operated by the holder of a valid driver's license issued by the
1467 ~~Commonwealth or any other state or other document issued under Chapter 3 (§ 46.2-300 et seq.)~~
1468 ~~of Title 46.2, or the comparable law of another jurisdiction, authorizing the operation of a motor~~
1469 ~~vehicle upon the highways~~ shall be allowed free use of all toll bridges, toll roads, and other toll
1470 facilities in the Commonwealth if:

Comment [A47]: Amended to include all driver's licenses, permits, and driver privilege cards issued by Virginia and by other states and countries.

1471 1. The vehicle is specially equipped to permit its operation by a handicapped person;

1472 2. The driver of the vehicle has been certified, either by a physician licensed by the
1473 Commonwealth or any other state or by the Adjudication Office of the U.S. Department of
1474 Veterans Affairs, as being severely physically disabled and having permanent upper limb
1475 mobility or dexterity impairments that substantially impair his ability to deposit coins in toll
1476 baskets;

1477 3. The driver has applied for and received from the Department of Transportation a
1478 vehicle window sticker identifying him as eligible for such free passage; and

1479 4. Such identifying window sticker is properly displayed on the vehicle.

1480 A copy of this subsection shall be posted at all toll bridges, toll roads, and other toll
1481 facilities in the Commonwealth. The Department of Transportation shall provide envelopes for
1482 payments of tolls by those persons exempted from tolls pursuant to this subsection and shall
1483 accept any payments made by such persons.

1484 E. Nothing contained in this section or in § 33.2-612 or 33.2-1718 shall operate to affect
1485 the provisions of § 22.1-187.

1486 F. Notwithstanding the provisions of subsections A, B, and C, only the following persons
1487 may use the Chesapeake Bay Bridge-Tunnel, facilities of the Richmond Metropolitan
1488 Transportation Authority, or facilities of an operator authorized to operate a toll facility pursuant
1489 to the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) without the payment of
1490 toll when necessary and incidental to the conduct of official business:

1491 1. The Commissioner of Highways;

1492 2. Members of the Commonwealth Transportation Board;

1493 3. Employees of the Department of Transportation;

1494 4. The Superintendent of the Department of State Police;

1495 5. Officers and employees of the Department of State Police;

1496 6. The Commissioner of the Department of Motor Vehicles;

1497 7. Employees of the Department of Motor Vehicles; and

1498 8. Sheriffs and deputy sheriffs.

1499 G. Any vehicle operated by a quadriplegic driver shall be allowed free use of all toll
1500 facilities in Virginia controlled by the Richmond Metropolitan Transportation Authority,
1501 pursuant to the requirements of subdivisions D 1 through 4.

1502 H. Vehicles transporting two or more persons, including the driver, may be permitted
1503 toll-free use of the Dulles Toll Road during rush hours by the Board; however, notwithstanding
1504 the provisions of subdivision B 1 of § 56-543, said vehicles shall not be permitted toll-free use of
1505 a roadway as defined pursuant to the Virginia Highway Corporation Act of 1988 (§ 56-535 et
1506 seq.).

1507 **§ 33.2-613. (Effective July 1, 2018) Free use of toll facilities by certain state officers**
1508 **and employees; penalties.**

Comment [A48]: Relating to tolling.

1509 A. Upon presentation of a toll pass issued pursuant to regulations promulgated by the
1510 Board, the following persons may use all toll bridges, toll ferries, toll tunnels, and toll roads in
1511 the Commonwealth without the payment of toll while in the performance of their official duties:

1512 1. The Commissioner of Highways;

1513 2. Members of the Commonwealth Transportation Board;

1514 3. Employees of the Department of Transportation;

1515 4. The Superintendent of the Department of State Police;

1516 5. Officers and employees of the Department of State Police;

1517 6. Members of the Board of Directors of the Virginia Alcoholic Beverage Control
1518 Authority;

1519 7. Employees of the regulatory and hearings divisions of the Virginia Alcoholic Beverage
1520 Control Authority and special agents of the Virginia Alcoholic Beverage Control Authority;

1521 8. The Commissioner of the Department of Motor Vehicles;

1522 9. Employees of the Department of Motor Vehicles;

1523 10. Local police officers;

1524 11. Sheriffs and their deputies;

1525 12. Regional jail officials;

- 1526 13. Animal wardens;
- 1527 14. The Director and officers of the Department of Game and Inland Fisheries;
- 1528 15. Persons operating firefighting equipment and emergency medical services vehicles
1529 owned by a political subdivision of the Commonwealth or a nonprofit association or corporation;
- 1530 16. Operators of school buses being used to transport pupils to or from schools;
- 1531 17. Operators of (i) commuter buses having a capacity of 20 or more passengers,
1532 including the driver, and used to regularly transport workers to and from their places of
1533 employment and (ii) public transit buses;
- 1534 18. Employees of the Department of Rail and Public Transportation;
- 1535 19. Employees of any transportation facility created pursuant to the Virginia Highway
1536 Corporation Act of 1988; and
- 1537 20. Law-enforcement officers of the Virginia Marine Resources Commission.

1538 B. Notwithstanding the provision of subsection A requiring presentation of a toll pass for
1539 toll-free use of such facilities, in cases of emergency and circumstances of concern for public
1540 safety on the highways of the Commonwealth, the Department of Transportation shall, in order
1541 to alleviate an actual or potential threat or risk to the public's safety, facilitate the flow of traffic
1542 on or within the vicinity of the toll facility by permitting the temporary suspension of toll
1543 collection operations on its facilities.

1544 1. The assessment of the threat to public safety shall be performed and the decision
1545 temporarily to suspend toll collection operations shall be made by the Commissioner of
1546 Highways or his designee.

1547 2. Major incidents that may require the temporary suspension of toll collection operations
1548 shall include (i) natural disasters such as hurricanes, tornadoes, fires, and floods; (ii) accidental
1549 releases of hazardous materials such as chemical spills; (iii) major traffic accidents, such as
1550 multivehicle collisions; and (iv) other incidents deemed to present a risk to public safety.

1551 3. In any judicial proceeding in which a person is found to be criminally responsible or
1552 civilly liable for any incident resulting in the suspension of toll collections as provided in this
1553 subsection, the court may assess against the person an amount equal to lost toll revenue as a part
1554 of the costs of the proceeding and order that such amount, not to exceed \$2,000 for any
1555 individual incident, be paid to the Department of Transportation for deposit into the toll road
1556 fund.

1557 C. Any tollgate keeper who refuses to permit the persons listed in subsection A to use any
1558 toll bridge, toll ferry, toll tunnel, or toll road upon presentation of such a toll pass is guilty of a
1559 misdemeanor punishable by a fine of not more than \$50 and not less than \$2.50. Any person
1560 other than those listed in subsection A who exhibits any such toll pass for the purpose of using
1561 any toll bridge, toll ferry, toll tunnel, or toll road is guilty of a Class 1 misdemeanor.

1562 D. Any vehicle operated by the holder of a valid driver's license issued by the
1563 Commonwealth or any other state or other document issued under Chapter 3 (§ 46.2-300 et seq.)
1564 of Title 46.2, or the comparable law of another jurisdiction, authorizing the operation of a motor
1565 vehicle upon the highways shall be allowed free use of all toll bridges, toll roads, and other toll
1566 facilities in the Commonwealth if:

Comment [A49]: Amended to include all driver's licenses, permits, and driver privilege cards issued by Virginia and by other states and countries.

1567 1. The vehicle is specially equipped to permit its operation by a handicapped person;

1568 2. The driver of the vehicle has been certified, either by a physician licensed by the
1569 Commonwealth or any other state or by the Adjudication Office of the U.S. Department of
1570 Veterans Affairs, as being severely physically disabled and having permanent upper limb
1571 mobility or dexterity impairments that substantially impair his ability to deposit coins in toll
1572 baskets;

1573 3. The driver has applied for and received from the Department of Transportation a
1574 vehicle window sticker identifying him as eligible for such free passage; and

1575 4. Such identifying window sticker is properly displayed on the vehicle.

1576 A copy of this subsection shall be posted at all toll bridges, toll roads, and other toll
1577 facilities in the Commonwealth. The Department of Transportation shall provide envelopes for
1578 payments of tolls by those persons exempted from tolls pursuant to this subsection and shall
1579 accept any payments made by such persons.

1580 E. Nothing contained in this section or in § 33.2-612 or 33.2-1718 shall operate to affect
1581 the provisions of § 22.1-187.

1582 F. Notwithstanding the provisions of subsections A, B, and C, only the following persons
1583 may use the Chesapeake Bay Bridge-Tunnel, facilities of the Richmond Metropolitan
1584 Transportation Authority, or facilities of an operator authorized to operate a toll facility pursuant
1585 to the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) without the payment of
1586 toll when necessary and incidental to the conduct of official business:

1587 1. The Commissioner of Highways;

1588 2. Members of the Commonwealth Transportation Board;

1589 3. Employees of the Department of Transportation;

1590 4. The Superintendent of the Department of State Police;

1591 5. Officers and employees of the Department of State Police;

1592 6. The Commissioner of the Department of Motor Vehicles;

1593 7. Employees of the Department of Motor Vehicles; and

1594 8. Sheriffs and deputy sheriffs.

1595 G. Any vehicle operated by a quadriplegic driver shall be allowed free use of all toll
1596 facilities in Virginia controlled by the Richmond Metropolitan Transportation Authority,
1597 pursuant to the requirements of subdivisions D 1 through 4.

1598 H. Vehicles transporting two or more persons, including the driver, may be permitted
1599 toll-free use of the Dulles Toll Road during rush hours by the Board; however, notwithstanding
1600 the provisions of subdivision B 1 of § 56-543, said vehicles shall not be permitted toll-free use of
1601 a roadway as defined pursuant to the Virginia Highway Corporation Act of 1988 (§ 56-535 et
1602 seq.).

1603 **§ 38.2-2212. Grounds and procedure for cancellation of or refusal to renew motor**
1604 **vehicle insurance policies; review by Commissioner.**

Comment [A50]: Relating to liability insurance.

1605 A. The following definitions shall apply to this section:

1606 “Cancellation” or “to cancel” means a termination of a policy during the policy period.

1607 “Insurer” means any insurance company, association, or exchange licensed to transact
1608 motor vehicle insurance in this Commonwealth.

1609 “Policy of motor vehicle insurance” or “policy” means a policy or contract for bodily
1610 injury or property damage liability insurance issued or delivered in this Commonwealth covering
1611 liability arising from the ownership, maintenance, or use of any motor vehicle, insuring as the
1612 named insured one individual or husband and wife who are residents of the same household, and
1613 under which the insured vehicle designated in the policy is either:

1614 a. A motor vehicle of a private passenger, station wagon, or motorcycle type that is not
1615 used commercially, rented to others, or used as a public or livery conveyance where the term
1616 “public or livery conveyance” does not include car pools, or

1617 b. Any other four-wheel motor vehicle which is not used in the occupation, profession, or
1618 business, other than farming, of the insured, or as a public or livery conveyance, or rented to
1619 others. The term “policy of motor vehicle insurance” or “policy” does not include (i) any policy
1620 issued through the Virginia Automobile Insurance Plan, (ii) any policy covering the operation of
1621 a garage, sales agency, repair shop, service station, or public parking place, (iii) any policy
1622 providing insurance only on an excess basis, or (iv) any other contract providing insurance to the
1623 named insured even though the contract may incidentally provide insurance on motor vehicles.

1624 “Renewal” or “to renew” means (i) the issuance and delivery by an insurer of a policy
1625 superseding at the end of the policy period a policy previously issued and delivered by the same
1626 insurer, providing types and limits of coverage at least equal to those contained in the policy
1627 being superseded, or (ii) the issuance and delivery of a certificate or notice extending the term of
1628 a policy beyond its policy period or term with types and limits of coverage at least equal to those
1629 contained in the policy. Each renewal shall conform with the requirements of the manual rules
1630 and rating program currently filed by the insurer with the Commission. Except as provided in
1631 subsection K of this section, any policy with a policy period or term of less than 12 months or

1632 any policy with no fixed expiration date shall for the purpose of this section be considered as if
1633 written for successive policy periods or terms of six months from the original effective date.

1634 B. This section shall apply only to that portion of a policy of motor vehicle insurance
1635 providing the coverage required by §§ 38.2-2204, 38.2-2205, and 38.2-2206.

1636 C. 1. No insurer shall refuse to renew a motor vehicle insurance policy solely because of
1637 any one or more of the following factors:

1638 a. Age;

1639 b. Sex;

1640 c. Residence;

1641 d. Race;

1642 e. Color;

1643 f. Creed;

1644 g. National origin;

1645 h. Ancestry;

1646 i. Marital status;

1647 j. Lawful occupation, including the military service;

1648 k. Lack of driving experience, or number of years driving experience;

1649 l. Lack of supporting business or lack of the potential for acquiring such business;

1650 m. One or more accidents or violations that occurred more than 48 months immediately
1651 preceding the upcoming anniversary date;

1652 n. One or more claims submitted under the uninsured motorists coverage of the policy
1653 where the uninsured motorist is known or there is physical evidence of contact;

1654 o. A single claim by a single insured submitted under the medical expense coverage due
1655 to an accident for which the insured was neither wholly nor partially at fault;

1656 p. One or more claims submitted under the comprehensive or towing coverages.

1657 However, nothing in this section shall prohibit an insurer from modifying or refusing to renew
1658 the comprehensive or towing coverages at the time of renewal of the policy on the basis of one or
1659 more claims submitted by an insured under those coverages, provided that the insurer shall mail
1660 or deliver to the insured at the address shown in the policy, or deliver electronically to the
1661 address provided by the named insured, written notice of any such change in coverage at least 45
1662 days prior to the renewal;

1663 q. Two or fewer motor vehicle accidents within a three-year period unless the accident
1664 was caused either wholly or partially by the named insured, a resident of the same household, or
1665 other customary operator;

1666 r. Credit information contained in a “consumer report,” as defined in the federal Fair
1667 Credit Reporting Act, 15 U.S.C. § 1681 et seq., bearing on a natural person’s creditworthiness,
1668 credit standing or credit capacity. If credit information is used, in part, as the basis for the
1669 nonrenewal, such credit information shall be based on a consumer report procured within 120
1670 days from the effective date of the nonrenewal. The provisions of this subdivision shall apply
1671 only to insurance purchased primarily for personal, family, or household purposes; or

1672 s. The refusal of a motor vehicle owner as defined in § 46.2-1088.6 to provide access to
1673 recorded data from a recording device as defined in § 46.2-1088.6.

1674 2. Nothing in this section shall require any insurer to renew a policy for an insured where
1675 the insured’s occupation has changed so as to materially increase the risk. Nothing contained in
1676 subdivisions C 1 n, 1 o, and 1 p of this subsection shall prohibit an insurer from refusing to
1677 renew a policy where a claim is false or fraudulent. Nothing in this section prohibits any insurer
1678 from setting rates in accordance with relevant actuarial data.

1679 D. No insurer shall cancel a policy except for one or more of the following reasons:

1680 1. The named insured or any other operator who either resides in the same household or
1681 customarily operates a motor vehicle insured under the policy has had his driver’s license driving
1682 privileges suspended or revoked during the policy period or, if the policy is a renewal, during its
1683 policy period or the 90 days immediately preceding the last effective date.

Comment [A51]: Amended to include all driver’s licenses, permits, and driver privilege cards.

1684 2. The named insured fails to pay the premium for the policy or any installment of the
1685 premium, whether payable to the insurer or its agent either directly or indirectly under any
1686 premium finance plan or extension of credit.

1687 3. The named insured or his duly constituted attorney-in-fact has notified the insurer of a
1688 change in the insured’s legal residence to a state other than Virginia and the insured vehicle will
1689 be principally garaged in the new state of legal residence.

1690 E. No cancellation or refusal to renew by an insurer of a policy of motor vehicle
1691 insurance shall be effective unless the insurer delivers or mails to the named insured at the
1692 address shown in the policy a written notice of the cancellation or refusal to renew, or the insurer
1693 delivers such notice electronically to the address provided by the named insured. The notice
1694 shall:

1695 1. Be in a type size authorized under § 38.2-311.

1696 2. State the effective date of the cancellation or refusal to renew. The effective date of
1697 cancellation or refusal to renew shall be at least 45 days after mailing or delivering to the insured
1698 the notice of cancellation or notice of refusal to renew. However, when the policy is being
1699 canceled or not renewed for the reason set forth in subdivision 2 of subsection D of this section

1700 the effective date may be less than 45 days but at least 15 days from the date of mailing or
1701 delivery.

1702 3. State the specific reason of the insurer for cancellation or refusal to renew and provide
1703 for the notification required by §§ 38.2-608, 38.2-609, and subsection B of § 38.2-610. However,
1704 those notification requirements shall not apply when the policy is being canceled or not renewed
1705 for the reason set forth in subdivision 2 of subsection D of this section.

1706 4. Inform the insured of his right to request in writing within 15 days of the receipt of the
1707 notice that the Commissioner review the action of the insurer.

1708 The notice of cancellation or refusal to renew shall contain the following statement to
1709 inform the insured of such right:

1710 **IMPORTANT NOTICE**

1711 Within 15 days of receiving this notice, you or your attorney may request in writing that
1712 the Commissioner of Insurance review this action to determine whether the insurer has complied
1713 with Virginia laws in canceling or nonrenewing your policy. If this insurer has failed to comply
1714 with the cancellation or nonrenewal laws, the Commissioner may require that your policy be
1715 reinstated. However, the Commissioner is prohibited from making underwriting judgments. If
1716 this insurer has complied with the cancellation or nonrenewal laws, the Commissioner does not
1717 have the authority to overturn this action.

1718 5. Inform the insured of the possible availability of other insurance which may be
1719 obtained through his agent, through another insurer, or through the Virginia Automobile
1720 Insurance Plan.

1721 6. If sent by mail or delivered electronically, comply with the provisions of § 38.2-2208.

1722 Nothing in this subsection prohibits any insurer or agent from including in the notice of
1723 cancellation or refusal to renew, any additional disclosure statements required by state or federal
1724 laws, or any additional information relating to the availability of other insurance.

1725 F. Nothing in this section shall apply:

1726 1. If the insurer or its agent acting on behalf of the insurer has manifested its willingness
1727 to renew by issuing or offering to issue a renewal policy, certificate, or other evidence of
1728 renewal, or has manifested its willingness to renew in writing to the insured. The written
1729 manifestation shall include the name of a proposed insurer, the expiration date of the policy, the
1730 type of insurance coverage, and information regarding the estimated renewal premium. The
1731 insurer shall retain a copy of each written manifestation for a period of at least one year from the
1732 expiration date of any policy that is not renewed;

1733 2. If the named insured, or his duly constituted attorney-in-fact, has notified the insurer or
1734 its agent orally, or in writing, if the insurer requires such notification to be in writing, that he
1735 wishes the policy to be canceled or that he does not wish the policy to be renewed, or if prior to
1736 the date of expiration he fails to accept the offer of the insurer to renew the policy;

1737 3. To any motor vehicle insurance policy which has been in effect less than 60 days when
1738 the termination notice is mailed or delivered to the insured, unless it is a renewal policy; or

1739 4. If an affiliated insurer has manifested its willingness to provide coverage at a lower
1740 premium than would have been charged for the same exposures on the expiring policy. The
1741 affiliated insurer shall manifest its willingness to provide coverage by issuing a policy with the
1742 types and limits of coverage at least equal to those contained in the expiring policy unless the
1743 named insured has requested a change in coverage or limits. When such offer is made by an
1744 affiliated insurer, an offer of renewal shall not be required of the insurer of the expiring policy,
1745 and the policy issued by the affiliated insurer shall be deemed to be a renewal policy.

1746 G. There shall be no liability on the part of and no cause of action of any nature shall
1747 arise against the Commissioner or his subordinates; any insurer, its authorized representatives, its
1748 agents, or its employees; or any person furnishing to the insurer information as to reasons for
1749 cancellation or refusal to renew, for any statement made by any of them in complying with this
1750 section or for providing information pertaining to the cancellation or refusal to renew. For the
1751 purposes of this section, no insurer shall be required to furnish a notice of cancellation or refusal
1752 to renew to anyone other than the named insured, any person designated by the named insured,
1753 or any other person to whom such notice is required to be given by the terms of the policy and
1754 the Commissioner.

1755 H. Within 15 days of receipt of the notice of cancellation or refusal to renew, any insured
1756 or his attorney shall be entitled to request in writing to the Commissioner that he review the
1757 action of the insurer in canceling or refusing to renew the policy of the insured. Upon receipt of
1758 the request, the Commissioner shall promptly begin a review to determine whether the insurer's
1759 cancellation or refusal to renew complies with the requirements of this section and of § 38.2-
1760 2208 if the notice was sent by mail or delivered electronically. The policy shall remain in full
1761 force and effect during the pendency of the review by the Commissioner except where the
1762 cancellation or refusal to renew is for the reason set forth in subdivision 2 of subsection D of this
1763 section, in which case the policy shall terminate as of the effective date stated in the notice.
1764 Where the Commissioner finds from the review that the cancellation or refusal to renew has not
1765 complied with the requirements of this section or of § 38.2-2208, he shall immediately notify the
1766 insurer, the insured and any other person to whom such notice was required to be given by the
1767 terms of the policy that the cancellation or refusal to renew is not effective. Nothing in this
1768 section authorizes the Commissioner to substitute his judgment as to underwriting for that of the
1769 insurer. Where the Commissioner finds in favor of the insured, the Commission in its discretion
1770 may award the insured reasonable attorneys' fees.

1771 I. Each insurer shall maintain for at least one year, records of cancellation and refusal to
1772 renew and copies of every notice or statement referred to in subsection E of this section that it
1773 sends to any of its insureds.

1774 J. The provisions of this section shall not apply to any insurer that limits the issuance of
1775 policies of motor vehicle liability insurance to one class or group of persons engaged in any one
1776 particular profession, trade, occupation, or business. Nothing in this section requires an insurer to
1777 renew a policy of motor vehicle insurance if the insured does not conform to the occupational or
1778 membership requirements of an insurer who limits its writings to an occupation or membership

1779 of an organization. No insurer is required to renew a policy if the insured becomes a nonresident
1780 of Virginia.

1781 K. Notwithstanding any other provision of this section, a motor vehicle insurance policy
1782 with a policy period or term of five months or less may expire at its expiration date when the
1783 insurer has manifested in writing its willingness to renew the policy for at least 30 days and has
1784 mailed or delivered the written manifestation to the insured at least 15 days before the expiration
1785 date of the policy. The written manifestation shall include the name of the proposed insurer, the
1786 expiration date of the policy, the type of insurance coverage, and the estimated renewal
1787 premium. The insurer shall retain a copy of the written manifestation for at least one year from
1788 the expiration date of any policy that is not renewed.

1789 **§ 46.2-328.1. Licenses, permits and special identification cards to be issued only to**
1790 **United States citizens, legal permanent resident aliens, or holders of valid unexpired**
1791 **nonimmigrant visas; exceptions; renewal, duplication, or reissuance.**

1792 A. Notwithstanding any other provision of this title, except as provided in subsection G
1793 of § 46.2-345, the Department shall not issue an original license, permit, or special identification
1794 card to any applicant who has not presented to the Department, with the application, valid
1795 documentary evidence that the applicant is either (i) a citizen of the United States, (ii) a legal
1796 permanent resident of the United States, or (iii) a conditional resident alien of the United States.

1797 B. Notwithstanding the provisions of subsection A and the provisions of §§ 46.2-330 and
1798 46.2-345, an applicant who presents in person valid documentary evidence of (i) a valid,
1799 unexpired nonimmigrant visa or nonimmigrant visa status for entry into the United States, (ii) a
1800 pending or approved application for asylum in the United States, (iii) entry into the United States
1801 in refugee status, (iv) a pending or approved application for temporary protected status in the
1802 United States, (v) approved deferred action status, or (vi) a pending application for adjustment of
1803 status to legal permanent residence status or conditional resident status, that a federal court or
1804 federal agency having jurisdiction over immigration has authorized the applicant to be in the
1805 United States may be issued a temporary limited-duration license, permit, or special
1806 identification card. Such temporary limited-duration license, permit, or special identification card
1807 shall be valid only during the period of time of the applicant's authorized stay in the United
1808 States or if there is no definite end to the period of authorized stay a period of one year. No
1809 license, permit, or special identification card shall be issued if an applicant's authorized stay in
1810 the United States is less than 30 days from the date of application. Any temporary limited-
1811 duration license, permit, or special identification card issued pursuant to this subsection shall
1812 clearly indicate that it is temporary valid for a limited period and shall state the date that it
1813 expires. Such a temporary license, permit or identification card may be renewed only upon
1814 presentation of valid documentary evidence that the status by which the applicant qualified for
1815 the temporary license, permit or special identification has been extended by the United States
1816 Immigration and Naturalization Service or the Bureau of Citizenship and Immigration Services
1817 of the Department of Homeland Security a federal court or federal agency having jurisdiction
1818 over immigration.

1819 C. Any license, permit, or special identification card for which an application has been

Comment [A52]: Expanding eligibility for limited-duration licenses, permits, and cards to everyone lawfully in the US.

Comment [A53]: Distinguishing these credentials from temporary driver's licenses issued under § 46.2-334(D) and (E) and § 46.2-335(I).

Comment [A54]: Amending to mirror lines 1803-05.

1820 made for renewal, duplication or reissuance shall be presumed to have been issued in accordance
1821 with the provisions of subsection A, provided that, at the time the application is made, (i) the
1822 license, permit, or special identification card has not expired or been cancelled, suspended or
1823 revoked or (ii) the license, permit, or special identification card has been canceled or suspended
1824 as a result of the applicant having been placed under medical review by the Department pursuant
1825 to § 46.2-322. The requirements of subsection A shall apply, however, to a renewal, duplication
1826 or reissuance if the Department is notified by a local, state or federal government agency that the
1827 individual seeking such renewal, duplication or reissuance is neither a citizen of the United
1828 States nor legally in the United States.

Comment [A55]: Permits included for consistency.

1829 D. The Department shall cancel any license, permit, or special identification card that it
1830 has issued to an individual if it is notified by a federal government agency that the individual is
1831 neither a citizen of the United States nor legally present in the United States.

1832 E. For any applicant who presents a document pursuant to this section proving legal
1833 presence other than citizenship, the Department shall record and provide to the State Board of
1834 Elections monthly the applicant's document number, if any, issued by an agency or court of the
1835 United States government.

1836 ~~§ 46.2-328.2. Driver privilege cards and permits.~~

Comment [A56]: This is the new statute authorizing issuance of DPCs.

1837 A. Upon application of any person who does not meet the requirements for a driver's
1838 license or permit under subsection A or B of § 46.2-328.1, the Department may issue a driver
1839 privilege card or permit if the Department determines that the applicant (i) has reported income
1840 from Virginia sources, as defined in § 58.1-302, on an individual income tax return filed with the
1841 Commonwealth in the preceding 12 months and (ii) is not in violation of the insurance
1842 requirements set forth in Article 8 of Chapter 6 of this title.

1843 B. Driver privilege cards and permits shall confer the same privileges and shall be subject
1844 to the same provisions of this title as driver's licenses and permits issued under this chapter
1845 unless provided otherwise, and subject to the following conditions and exceptions:

Comment [A57]: This provision eliminates the need to insert DPCs wherever licenses and permits are mentioned in Title 46.2.

1846 1. driver privilege cards and permits shall state "NOT VALID IDENTIFICATION FOR
1847 FEDERAL, VOTING, OR PUBLIC BENEFIT PURPOSES" in conspicuous, bold print on the
1848 face of the card or permit;

1849 2. an applicant for a driver privilege card or permit shall not be eligible for a waiver of
1850 any part of the driver examination provided under § 46.2-325;

1851 3. an applicant for a driver privilege card or permit shall not be required to present proof
1852 of legal presence in the United States;

1853 4. a driver privilege card or permit shall expire on the applicant's second birthday
1854 following the date of issuance; and

1855 5. the fee for an original driver privilege card or permit shall be \$51; however the
1856 Department may issue, upon application by the holder of a valid, unexpired card or permit issued

1857 | [under this section, and upon payment of a fee of \\$20, another driver privilege card or permit that](#)
1858 | [shall be valid for a period of two years from the date of issuance.](#)

1859 | **§ 46.2-330. Expiration and renewal of licenses; examinations required.**

1860 | A. Every driver’s license shall expire on the applicant’s birthday at the end of the period
1861 | of years for which a driver’s license has been issued. At no time shall any driver’s license be
1862 | issued for more than eight years. Thereafter the driver’s license shall be renewed on or before the
1863 | birthday of the licensee and shall be valid for a period not to exceed eight years except as
1864 | otherwise provided by law. Any driver’s license issued to a person age 75 or older shall be issued
1865 | for a period not to exceed five years. Notwithstanding these limitations, the Commissioner may
1866 | extend the validity period of an expiring license if (i) the Department is unable to process an
1867 | application for renewal due to circumstances beyond its control, (ii) the extension has been
1868 | authorized under a directive from the Governor, and (iii) the license was not issued as a [temporary](#)
1869 | [limited-duration driver’s license](#) under the provisions of subsection B of § 46.2-328.1. However,
1870 | in no event shall the validity period be extended more than 90 days per occurrence of such
1871 | conditions. In determining the number of years for which a driver’s license shall be renewed, the
1872 | Commissioner shall take into consideration the examinations, conditions, requirements, and other
1873 | criteria provided under this title that relate to the issuance of a license to operate a vehicle. Any
1874 | driver’s license issued to a person required to register pursuant to Chapter 9 (§ 9.1-900 et seq.) of
1875 | Title 9.1 shall expire on the applicant’s birthday in years which the applicant attains an age
1876 | equally divisible by five.

Comment [A58]: To conform the terminology to § 46.2-328.1(B) as amended.

1877 | B. Within one year prior to the date shown on the driver’s license as the date of
1878 | expiration, the Department shall send notice, to the holder thereof, at the address shown on the
1879 | records of the Department in its driver’s license file, that his license will expire on a date
1880 | specified therein, whether he must be reexamined, and when he may be reexamined. Nonreceipt
1881 | of the notice shall not extend the period of validity of the driver’s license beyond its expiration
1882 | date. The license holder may request the Department to send such renewal notice to an email or
1883 | other electronic address, upon provision of such address to the Department.

1884 | Any driver’s license may be renewed by application after the applicant has taken and
1885 | successfully completed those parts of the examination provided for in §§ 46.2-311, 46.2-325, and
1886 | the Virginia Commercial Driver’s License Act (§ 46.2-341.1 et seq.), including vision and
1887 | written tests, other than the parts of the examination requiring the applicant to drive a motor
1888 | vehicle. All drivers applying in person for renewal of a license shall take and successfully
1889 | complete the examination each renewal year. Every applicant for a renewal shall appear in
1890 | person before the Department, unless specifically notified by the Department that renewal may
1891 | be accomplished in another manner as provided in the notice. Applicants who are required to
1892 | appear in person before the Department to apply for a renewal may also be required to present
1893 | proof of identity, legal presence, residency, and social security number or non-work authorized
1894 | status.

1895 | C. Notwithstanding any other provision of this section, the Commissioner, in his
1896 | discretion, may require any applicant for renewal to be fully examined as provided in §§ 46.2-
1897 | 311 and 46.2-325 and the Virginia Commercial Driver’s License Act (§ 46.2-341.1 et seq.).

1898 Furthermore, if the applicant is less than 75 years old, the Commissioner may waive the vision
1899 examination for any applicant for renewal of a driver's license that is not a commercial driver's
1900 license and the requirement for the taking of the written test as provided in subsection B of this
1901 section, § 46.2-325, and the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.).
1902 However, in no case shall there be any waiver of the vision examination for applicants for
1903 renewal of a commercial driver's license or of the knowledge test required by the Virginia
1904 Commercial Driver's License Act for the hazardous materials endorsement on a commercial
1905 driver's license. No driver's license or learner's permit issued to any person who is 75 years old
1906 or older shall be renewed unless the applicant for renewal appears in person and either (i) passes
1907 a vision examination or (ii) presents a report of a vision examination, made within 90 days prior
1908 thereto by an ophthalmologist or optometrist, indicating that the applicant's vision meets or
1909 exceeds the standards contained in § 46.2-311.

1910 D. Every applicant for renewal of a driver's license, whether renewal shall or shall not be
1911 dependent on any examination of the applicant, shall appear in person before the Department to
1912 apply for renewal, unless specifically notified by the Department that renewal may be
1913 accomplished in another manner as provided in the notice.

1914 E. This section shall not modify the provisions of § 46.2-221.2.

1915 F.1. The Department shall electronically transmit application information, including a
1916 photograph, to the Department of State Police, in a format approved by the State Police, for
1917 comparison with information contained in the Virginia Criminal Information Network and
1918 National Crime Information Center Convicted Sexual Offender Registry files, at the time of the
1919 renewal of a driver's license. Whenever it appears from the records of the State Police that a
1920 person has failed to comply with the duty to register or reregister pursuant to Chapter 9 (§ 9.1-
1921 900 et seq.) of Title 9.1, the State Police shall promptly investigate and, if there is probable cause
1922 to believe a violation has occurred, obtain a warrant or assist in obtaining an indictment charging
1923 a violation of § 18.2-472.1 in the jurisdiction in which the person last registered or reregistered
1924 or in the jurisdiction where the person made application for licensure. The Department of State
1925 Police shall electronically transmit to the Department, in a format approved by the Department,
1926 for each person required to register pursuant to Chapter 9 of Title 9.1, registry information
1927 consisting of the person's name, all aliases that he has used or under which he may have been
1928 known, his date of birth, and his social security number as set out in § 9.1-903.

1929 2. For each person required to register pursuant to Chapter 9 of Title 9.1, the Department
1930 may not waive the requirement that each such person shall appear for each renewal or the
1931 requirement to obtain a photograph in accordance with subsection C of § 46.2-323.

1932 **§ 46.2-332. Fees.**

1933 ~~On and after January 1, 1990, the~~ The fee for each driver's license other than a
1934 commercial driver's license shall be \$2.40 per year. ~~This fee shall not apply to driver privilege~~
1935 ~~cards or permits issued under § 46.2-328.2.~~ If the license is a commercial driver's license or
1936 seasonal restricted commercial driver's license, the fee shall be \$6 per year. ~~Persons 21 years old~~
1937 ~~or older may be issued a scenic driver's license, learner's permit, or commercial driver's license~~

Comment [A59]: Fees for these credentials are set out in § 46.2-328.2.

1938 | ~~for an additional fee of \$5.~~ For any one or more driver's license endorsements or classifications,
1939 except a motorcycle classification, there shall be an additional fee of \$1 per year; for a
1940 motorcycle classification, there shall be an additional fee of \$2 per year. For any and all driver's
1941 license classifications, there shall be an additional fee of \$1 per year. For any revalidation of a
1942 seasonal restricted commercial driver's license, the fee shall be \$5.

Comment [A60]: DMV does not issue these credentials.

1943 In addition to any other fee imposed and collected by the Department, the Department
1944 shall impose and collect a service charge of \$5 upon each person who carries out the renewal of a
1945 driver's license or special identification card in any of the Department's Customer Service
1946 Centers if such renewal can be conducted by mail or telephone or by using an electronic medium
1947 in a format prescribed by the Commissioner. Such service charge shall not apply if, concurrently
1948 with the renewal of the driver's license or special identification card, the person undertakes
1949 another transaction at a Customer Service Center that cannot be conducted by mail or telephone
1950 or by using an electronic medium in a format prescribed by the Commissioner. Such service
1951 charge shall be paid by the Commissioner into the state treasury and shall be set aside as a
1952 special fund to be used to meet the expenses of the Department.

1953 A reexamination fee of \$2 shall be charged for each administration of the knowledge
1954 portion of the driver's license examination taken by an applicant who is 18 years of age or older
1955 if taken more than once within a 15-day period. The reexamination fee shall be charged each
1956 time the examination is administered until the applicant successfully completes the examination,
1957 if taken prior to the fifteenth day.

1958 An applicant who is less than 18 years of age who does not successfully complete the
1959 knowledge portion of the driver's license examination shall not be permitted to take the
1960 knowledge portion more than once in 15 days.

1961 A fee of \$50 shall be charged each time an applicant for a commercial driver's license
1962 fails to keep a scheduled skills test appointment, unless such applicant cancels his appointment
1963 with the assigned driver's license examiner at least 24 hours in advance of the scheduled
1964 appointment. The Commissioner may, on a case-by-case basis, waive such fee for good cause
1965 shown. All such fees shall be paid by the Commissioner into the state treasury and set aside as a
1966 special fund to be used to meet the necessary expenses incurred by the Department.

1967 If the applicant for a driver's license is an employee of the Commonwealth, or of any
1968 county, city, or town who drives a motorcycle or a commercial motor vehicle solely in the line of
1969 his duty, he shall be exempt from the additional fee otherwise assessable for a motorcycle
1970 classification or a commercial motor vehicle endorsement. The Commissioner may prescribe the
1971 forms as may be requisite for completion by persons claiming exemption from additional fees
1972 imposed by this section.

1973 No additional fee above \$2.40 per year shall be assessed for the driver's license or
1974 commercial driver's license required for the operation of a school bus.

1975 Excluding the \$2 reexamination fee, \$1.50 of all fees collected for each original or
1976 renewal driver's license, ~~other than a driver privilege card issued under § 46.2-328.2,~~ shall be
1977 paid into the driver education fund of the state treasury and expended as provided by law.

Comment [A61]: Fees for these credentials are set out in § 46.2-328.2.

1978 Unexpended funds from the driver education fund shall be retained in the fund and be available
1979 for expenditure in ensuing years as provided therein.

1980 All fees for motorcycle classifications shall be distributed as provided in § 46.2-1191.

1981 This section shall supersede conflicting provisions of this chapter.

1982 **§ 46.2-333.1. Surcharges on certain fees of Department; disposition of proceeds.**

1983 Notwithstanding any contrary provision of this chapter, ~~beginning May 1, 2003,~~ there are
1984 hereby imposed, in addition to other fees imposed by this chapter, the following surcharges in
1985 the following amounts:

1986 1. For the issuance of any driver's license other than a commercial driver's license, or a
1987 driver privilege card issued under § 46.2-328.2, \$1.60 per year of validity of the license;

1988 2. For the issuance of any commercial driver's license, \$1 per year of validity of the
1989 license;

1990 3. For the reissuance or replacement of any driver's license, \$5;

1991 4. For the issuance of any special identification card, \$5; and

1992 5. For the reinstatement of any driver's license, \$15.

1993 All surcharges collected by the Department under this section shall be paid into the state
1994 treasury and shall be set aside as a special fund to be used to support the operation and activities
1995 of the Department's customer service centers.

1996 **§ 46.2-335. Learner's permits; fees; certification required.**

1997 A. The Department, on receiving from any Virginia resident over the age of 15 years and
1998 six months an application for a learner's permit or motorcycle learner's permit, may, subject to
1999 the applicant's satisfactory documentation of meeting the requirements of this chapter and
2000 successful completion of the written or automated knowledge and vision examinations and, in
2001 the case of a motorcycle learner's permit applicant, the automated motorcycle test, issue a permit
2002 entitling the applicant, while having the permit in his immediate possession, to drive a motor
2003 vehicle or, if the application is made for a motorcycle learner's permit, a motorcycle, on the
2004 highways, when accompanied by any licensed driver 21 years of age or older or by his parent or
2005 legal guardian, or by a brother, sister, half-brother, half-sister, step-brother, or step-sister 18
2006 years of age or older. The accompanying person shall be (i) alert, able to assist the driver, and
2007 actually occupying a seat beside the driver or, for motorcycle instruction, providing immediate
2008 supervision from a separate accompanying motor vehicle and (ii) lawfully permitted to operate
2009 the motor vehicle or accompanying motorcycle at that time.

Comment [A62]: Only the reissuance and reinstatement surcharges set out here will apply to DPCs.

2010 The Department shall not, however, issue a learner's permit or motorcycle learner's
2011 permit to any minor applicant required to provide evidence of compliance with the compulsory
2012 school attendance law set forth in Article 1 (§ 22.1-254 et seq.) of Chapter 14 of Title 22.1,
2013 unless such applicant is in good academic standing or, if not in such standing or submitting
2014 evidence thereof, whose parent or guardian, having custody of such minor, provides written
2015 authorization for the minor to obtain a learner's permit or motorcycle learner's permit, which
2016 written authorization shall be obtained on forms provided by the Department and indicating the
2017 Commonwealth's interest in the good academic standing and regular school attendance of such
2018 minors. Any minor providing proper evidence of the solemnization of his marriage or a certified
2019 copy of a court order of emancipation shall not be required to provide the certification of good
2020 academic standing or any written authorization from his parent or guardian to obtain a learner's
2021 permit or motorcycle learner's permit.

2022 Such permit, except a motorcycle learner's permit, shall be valid until the holder thereof
2023 either is issued a driver's license as provided for in this chapter or no longer meets the
2024 qualifications for issuance of a learner's permit as provided in this section. Motorcycle learner's
2025 permits shall be valid for 12 months. When a motorcycle learner's permit expires, the permittee
2026 may, upon submission of an application, payment of the application fee, and successful
2027 completion of the examinations, be issued another motorcycle learner's permit valid for 12
2028 months.

2029 Any person 25 years of age or older who is eligible to receive an operator's license in
2030 Virginia, but who is required, pursuant to § 46.2-324.1, to be issued a learner's permit for 60
2031 days prior to his first behind-the-wheel exam, may be issued such learner's permit even though
2032 restrictions on his driving privilege have been ordered by a court. Any such learner's permit shall
2033 be subject to the restrictions ordered by the court.

2034 B. No driver's license shall be issued to any such person who is less than 18 years old
2035 unless, while holding a learner's permit, he has driven a motor vehicle for at least 45 hours, at
2036 least 15 of which were after sunset, as certified by his parent, foster parent, or legal guardian
2037 unless the person is married or otherwise emancipated. Such certification shall be on a form
2038 provided by the Commissioner and shall contain the following statement:

2039 "It is illegal for anyone to give false information in connection with obtaining a driver's
2040 license. This certification is considered part of the driver's license application, and anyone who
2041 certifies to a false statement may be prosecuted. I certify that the statements made and the
2042 information submitted by me regarding this certification are true and correct."

2043 Such form shall also include the driver's license or Department of Motor Vehicles-issued
2044 identification card number of the person making the certification.

2045 C. No learner's permit shall authorize its holder to operate a motor vehicle with more
2046 than one passenger who is less than 21 years old, except when participating in a driver education
2047 program approved by the Department of Education or a course offered by a driver training school
2048 licensed by the Department. This passenger limitation, however, shall not apply to the members
2049 of the driver's family or household as defined in subsection B of § 46.2-334.01.

2050 D. No learner's permit shall authorize its holder to operate a motor vehicle between
2051 midnight and four o'clock a.m.

2052 E. Except in a driver emergency or when the vehicle is lawfully parked or stopped, no
2053 holder of a learner's permit shall operate a motor vehicle on the highways of the Commonwealth
2054 while using any cellular telephone or any other wireless telecommunications device, regardless
2055 of whether or not such device is handheld. No citation for a violation of this subsection shall be
2056 issued unless the officer issuing such citation has cause to stop or arrest the driver of such motor
2057 vehicle for the violation of some other provision of this Code or local ordinance relating to the
2058 operation, ownership, or maintenance of a motor vehicle or any criminal statute.

2059 F. A violation of subsection C, D, or E shall not constitute negligence, be considered in
2060 mitigation of damages of whatever nature, be admissible in evidence or be the subject of
2061 comment by counsel in any action for the recovery of damages arising out of the operation,
2062 ownership, or maintenance of a motor vehicle, nor shall anything in this subsection change any
2063 existing law, rule, or procedure pertaining to any such civil action.

2064 G. The provisions of §§ 46.2-323 and 46.2-334 relating to evidence and certification of
2065 Virginia residence and, in the case of persons of school age, compliance with the compulsory
2066 school attendance law shall apply, mutatis mutandis, to applications for learner's permits and
2067 motorcycle learner's permits issued under this section.

2068 H. For persons qualifying for a driver's license through driver education courses
2069 approved by the Department of Education or courses offered by driver training schools licensed
2070 by the Department, the application for the learner's permit shall be used as the application for the
2071 driver's license.

2072 I. The Department shall charge a fee of \$3 for each learner's permit and motorcycle
2073 learner's permit issued under this section. Fees for issuance of learner's permits, other than
2074 permits issued under § 46.2-328.2, shall be paid into the driver education fund of the state
2075 treasury; fees for issuance of motorcycle learner's permits shall be paid into the state treasury
2076 and credited to the Motorcycle Rider Safety Training Program Fund created pursuant to § 46.2-
2077 1191. It shall be unlawful for any person, after having received a learner's permit, to drive a
2078 motor vehicle without being accompanied by a licensed driver as provided in the foregoing
2079 provisions of this section; however, a learner's permit other than a motorcycle learner's permit,
2080 accompanied by documentation verifying that the driver is at least 16 years and three months old
2081 and has successfully completed an approved driver's education course, signed by the minor's
2082 parent, guardian, legal custodian or other person standing in loco parentis, shall constitute a
2083 temporary driver's license for the purpose of driving unaccompanied by a licensed driver 18
2084 years of age or older, if all other requirements of this chapter have been met. Such temporary
2085 driver's license shall only be valid until the driver has received his permanent license pursuant to
2086 § 46.2-336.

2087 J. Nothing in this section shall be construed to permit the issuance of a learner's permit
2088 entitling a person to drive a commercial motor vehicle, except as provided by the Virginia
2089 Commercial Driver's License Act (§ 46.2-341.1 et seq.).

Comment [A63]: All fees for driver privilege learner's permits will be retained by DMV; however, driver privilege motorcycle learner's permits will be subject to this subsection.

2090 K. The following limitations shall apply to operation of motorcycles by all persons
2091 holding motorcycle learner's permits:

2092 1. The operator shall wear an approved safety helmet as provided in § 46.2-910.

2093 2. Operation shall be under the immediate supervision of a person licensed to operate a
2094 motorcycle who is 21 years of age or older.

2095 3. No person other than the operator shall occupy the motorcycle.

2096 L. Any violation of this section shall be punishable as a Class 2 misdemeanor.

2097 **§ 46.2-343. Duplicate driver's license, reissued driver's licenses, learner's permit;**
2098 **fees.**

2099 If a driver's license or learner's permit issued under the provisions of this chapter is lost,
2100 stolen, or destroyed, the person to whom it was issued may obtain a duplicate or substitute
2101 thereof on furnishing proof satisfactory to the Department that his license or permit has been lost,
2102 stolen, or destroyed, or that there are good reasons why a duplicate should be issued. Every
2103 applicant for a duplicate or reissued driver's license shall appear in person before the Department
2104 to apply, unless permitted by the Department to apply for duplicate or reissue in another manner.
2105 Applicants who are required to apply in person may be required to present proof of identity, legal
2106 presence, residency, and social security number or non-work authorized status.

2107 There shall be a fee of five dollars for each duplicate license and two dollars for each
2108 duplicate learner's permit. An additional fee of five dollars shall be charged to add or change the
2109 scene on a duplicate license or duplicate learner's permit.

Comment [A64]: DMV does not issue these credentials.

2110 There shall be a fee of five dollars for reissuance of any driver's license upon the
2111 termination of driving restrictions imposed upon the licensee by the Department or a court. An
2112 additional fee of five dollars shall be charged to add or change the scene on a license upon
2113 reissuance.

Comment [A65]: DMV does not issue these credentials.

2114 **§ 58.1-3. (Effective July 1, 2017, until July 1, 2018) Secrecy of information;**
2115 **penalties.**

Comment [A66]: Relating to tax information.

2116 A. Except in accordance with a proper judicial order or as otherwise provided by law, the
2117 Tax Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or
2118 local tax or revenue officer or employee, or any person to whom tax information is divulged
2119 pursuant to § 58.1-512 or 58.1-2712.2, or any former officer or employee of any of the
2120 aforementioned offices shall not divulge any information acquired by him in the performance of
2121 his duties with respect to the transactions, property, including personal property, income or
2122 business of any person, firm or corporation. Such prohibition specifically includes any copy of a
2123 federal return or federal return information required by Virginia law to be attached to or included
2124 in the Virginia return. This prohibition shall apply to any reports, returns, financial documents or
2125 other information filed with the Attorney General pursuant to the provisions of Article 3 (§ 3.2-

2126 4204 et seq.) of Chapter 42 of Title 3.2. Any person violating the provisions of this section is
2127 guilty of a Class 1 misdemeanor. The provisions of this subsection shall not be applicable,
2128 however, to:

2129 1. Matters required by law to be entered on any public assessment roll or book;

2130 2. Acts performed or words spoken, published, or shared with another agency or
2131 subdivision of the Commonwealth in the line of duty under state law;

2132 3. Inquiries and investigations to obtain information as to the process of real estate
2133 assessments by a duly constituted committee of the General Assembly, or when such inquiry or
2134 investigation is relevant to its study, provided that any such information obtained shall be
2135 privileged;

2136 4. The sales price, date of construction, physical dimensions or characteristics of real
2137 property, or any information required for building permits;

2138 5. Copies of or information contained in an estate's probate tax return, filed with the clerk
2139 of court pursuant to § 58.1-1714, when requested by a beneficiary of the estate or an heir at law
2140 of the decedent;

2141 6. Information regarding nonprofit entities exempt from sales and use tax under § 58.1-
2142 609.11, when requested by the General Assembly or any duly constituted committee of the
2143 General Assembly;

2144 7. Reports or information filed with the Attorney General by a Stamping Agent pursuant
2145 to the provisions of Article 3 (§ 3.2-4204 et seq.), when such reports or information are provided
2146 by the Attorney General to a tobacco products manufacturer who is required to establish a
2147 qualified escrow fund pursuant to § 3.2-4201 and are limited to the brand families of that
2148 manufacturer as listed in the Tobacco Directory established pursuant to § 3.2-4206 and are
2149 limited to the current or previous two calendar years or in any year in which the Attorney
2150 General receives Stamping Agent information that potentially alters the required escrow deposit
2151 of the manufacturer. The information shall only be provided in the following manner: the
2152 manufacturer may make a written request, on a quarterly or yearly basis or when the
2153 manufacturer is notified by the Attorney General of a potential change in the amount of a
2154 required escrow deposit, to the Attorney General for a list of the Stamping Agents who reported
2155 stamping or selling its products and the amount reported. The Attorney General shall provide the
2156 list within 15 days of receipt of the request. If the manufacturer wishes to obtain actual copies of
2157 the reports the Stamping Agents filed with the Attorney General, it must first request them from
2158 the Stamping Agents pursuant to subsection C of § 3.2-4209. If the manufacturer does not
2159 receive the reports pursuant to subsection C of § 3.2-4209, the manufacturer may make a written
2160 request to the Attorney General, including a copy of the prior written request to the Stamping
2161 Agent and any response received, for copies of any reports not received. The Attorney General
2162 shall provide copies of the reports within 45 days of receipt of the request.

2163 B.1. Nothing contained in this section shall be construed to prohibit the publication of
2164 statistics so classified as to prevent the identification of particular reports or returns and the items
2165 thereof or the publication of delinquent lists showing the names of taxpayers who are currently

2166 delinquent, together with any relevant information which in the opinion of the Department may
2167 assist in the collection of such delinquent taxes. Notwithstanding any other provision of this
2168 section or other law, the Department, upon request by the General Assembly or any duly
2169 constituted committee of the General Assembly, shall disclose the total aggregate amount of an
2170 income tax deduction or credit taken by all taxpayers, regardless of (i) how few taxpayers took
2171 the deduction or credit or (ii) any other circumstances. This section shall not be construed to
2172 prohibit a local tax official from disclosing whether a person, firm or corporation is licensed to
2173 do business in that locality and divulging, upon written request, the name and address of any
2174 person, firm or corporation transacting business under a fictitious name. Additionally,
2175 notwithstanding any other provision of law, the commissioner of revenue is authorized to
2176 provide, upon written request stating the reason for such request, the Tax Commissioner with
2177 information obtained from local tax returns and other information pertaining to the income, sales
2178 and property of any person, firm or corporation licensed to do business in that locality.

2179 2. This section shall not prohibit the Department from disclosing whether a person, firm,
2180 or corporation is registered as a retail sales and use tax dealer pursuant to Chapter 6 (§ 58.1-
2181 600 et seq.) or whether a certificate of registration number relating to such tax is valid.
2182 Additionally, notwithstanding any other provision of law, the Department is hereby authorized to
2183 make available the names and certificate of registration numbers of dealers who are currently
2184 registered for retail sales and use tax.

2185 3. This section shall not prohibit the Department from disclosing information to
2186 nongovernmental entities with which the Department has entered into a contract to provide
2187 services that assist it in the administration of refund processing or other services related to its
2188 administration of taxes.

2189 4. This section shall not prohibit the Department from disclosing information to taxpayers
2190 regarding whether the taxpayer's employer or another person or entity required to withhold on
2191 behalf of such taxpayer submitted withholding records to the Department for a specific taxable
2192 year as required pursuant to subdivision C 1 of § 58.1-478.

2193 C. Notwithstanding the provisions of subsection A or B or any other provision of this
2194 title, the Tax Commissioner is authorized to (i) divulge tax information to any commissioner of
2195 the revenue, director of finance or other similar collector of county, city or town taxes who, for
2196 the performance of his official duties, requests the same in writing setting forth the reasons for
2197 such request; (ii) provide to the Commissioner of the Department of Social Services, upon
2198 written request, information on the amount of income, filing status, number and type of
2199 dependents, and whether a federal earned income tax credit has been claimed as reported by
2200 persons on their state income tax returns who have applied for public assistance or social
2201 services benefits as defined in § 63.2-100; (iii) provide to the chief executive officer of the
2202 designated student loan guarantor for the Commonwealth of Virginia, upon written request, the
2203 names and home addresses of those persons identified by the designated guarantor as having
2204 delinquent loans guaranteed by the designated guarantor; (iv) provide current address
2205 information upon request to state agencies and institutions for their confidential use in
2206 facilitating the collection of accounts receivable, and to the clerk of a circuit or district court for
2207 their confidential use in facilitating the collection of fines, penalties and costs imposed in a
2208 proceeding in that court; (v) provide to the Commissioner of the Virginia Employment

2209 Commission, after entering into a written agreement, such tax information as may be necessary
2210 to facilitate the collection of unemployment taxes and overpaid benefits; (vi) provide to the
2211 Alcoholic Beverage Control Board, upon entering into a written agreement, such tax information
2212 as may be necessary to facilitate the collection of state and local taxes and the administration of
2213 the alcoholic beverage control laws; (vii) provide to the Director of the Virginia Lottery such tax
2214 information as may be necessary to identify those lottery ticket retailers who owe delinquent
2215 taxes; (viii) provide to the Department of the Treasury for its confidential use such tax
2216 information as may be necessary to facilitate the location of owners and holders of unclaimed
2217 property, as defined in § 55-210.2; (ix) provide to the State Corporation Commission, upon
2218 entering into a written agreement, such tax information as may be necessary to facilitate the
2219 collection of taxes and fees administered by the Commission; (x) provide to the Executive
2220 Director of the Potomac and Rappahannock Transportation Commission for his confidential use
2221 such tax information as may be necessary to facilitate the collection of the motor vehicle fuel
2222 sales tax; (xi) provide to the Commissioner of the Department of Agriculture and Consumer
2223 Services such tax information as may be necessary to identify those applicants for registration as
2224 a supplier of charitable gaming supplies who have not filed required returns or who owe
2225 delinquent taxes; (xii) provide to the Department of Housing and Community Development for
2226 its confidential use such tax information as may be necessary to facilitate the administration of
2227 the remaining effective provisions of the Enterprise Zone Act (§ 59.1-270 et seq.), and the
2228 Enterprise Zone Grant Program (§ 59.1-538 et seq.); (xiii) provide current name and address
2229 information to private collectors entering into a written agreement with the Tax Commissioner,
2230 for their confidential use when acting on behalf of the Commonwealth or any of its political
2231 subdivisions; however, the Tax Commissioner is not authorized to provide such information to a
2232 private collector who has used or disseminated in an unauthorized or prohibited manner any such
2233 information previously provided to such collector; (xiv) provide current name and address
2234 information as to the identity of the wholesale or retail dealer that affixed a tax stamp to a
2235 package of cigarettes to any person who manufactures or sells at retail or wholesale cigarettes
2236 and who may bring an action for injunction or other equitable relief for violation of Chapter 10.1,
2237 Enforcement of Illegal Sale or Distribution of Cigarettes Act; (xv) provide to the Commissioner
2238 of Labor and Industry, upon entering into a written agreement, such tax information as may be
2239 necessary to facilitate the collection of unpaid wages under § 40.1-29; (xvi) provide to the
2240 Director of the Department of Human Resource Management, upon entering into a written
2241 agreement, such tax information as may be necessary to identify persons receiving workers'
2242 compensation indemnity benefits who have failed to report earnings as required by § 65.2-712;
2243 (xvii) provide to any commissioner of the revenue, director of finance, or any other officer of any
2244 county, city, or town performing any or all of the duties of a commissioner of the revenue and to
2245 any dealer registered for the collection of the Communications Sales and Use Tax, a list of the
2246 names, business addresses, and dates of registration of all dealers registered for such tax; (xviii)
2247 provide to the Executive Director of the Northern Virginia Transportation Commission for his
2248 confidential use such tax information as may be necessary to facilitate the collection of the motor
2249 vehicle fuel sales tax; (xix) provide to the Commissioner of Agriculture and Consumer Services
2250 the name and address of the taxpayer businesses licensed by the Commonwealth that identify
2251 themselves as subject to regulation by the Board of Agriculture and Consumer Services pursuant
2252 to §3.2-5130; (xx) provide to the developer or the economic development authority of a tourism
2253 project authorized by § 58.1-3851.1, upon entering into a written agreement, tax information
2254 | facilitating the repayment of gap financing; ~~and~~(xxi) provide to the Virginia Retirement System

2255 and the Department of Human Resource Management, after entering into a written agreement,
2256 such tax information as may be necessary to facilitate the enforcement of subdivision C 4 of
2257 § 9.1-401; and (xxii) provide to the Commissioner of the Department of Motor Vehicles
2258 information sufficient to verify that an applicant for a driver privilege card or permit under
2259 § 46.2-328.2 reported income from Virginia sources, as defined in § 58.1-302, on an individual
2260 income tax return filed with the Commonwealth within the preceding 12 months. The Tax
2261 Commissioner is further authorized to enter into written agreements with duly constituted tax
2262 officials of other states and of the United States for the inspection of tax returns, the making of
2263 audits, and the exchange of information relating to any tax administered by the Department of
2264 Taxation. Any person to whom tax information is divulged pursuant to this section shall be
2265 subject to the prohibitions and penalties prescribed herein as though he were a tax official.

Comment [A67]: Authorizing limited disclosure of information to DMV.

Comment [A68]: Authorizing limited disclosure of information to DMV.

2266 D. Notwithstanding the provisions of subsection A or B or any other provision of this
2267 title, the commissioner of revenue or other assessing official is authorized to (i) provide, upon
2268 written request stating the reason for such request, the chief executive officer of any county or
2269 city with information furnished to the commissioner of revenue by the Tax Commissioner relating
2270 to the name and address of any dealer located within the county or city who paid sales and use
2271 tax, for the purpose of verifying the local sales and use tax revenues payable to the county or city;
2272 (ii) provide to the Department of Professional and Occupational Regulation for its confidential
2273 use the name, address, and amount of gross receipts of any person, firm or entity subject to a
2274 criminal investigation of an unlawful practice of a profession or occupation administered by the
2275 Department of Professional and Occupational Regulation, only after the Department of
2276 Professional and Occupational Regulation exhausts all other means of obtaining such
2277 information; and (iii) provide to any representative of a condominium unit owners' association,
2278 property owners' association or real estate cooperative association, or to the owner of property
2279 governed by any such association, the names and addresses of parties having a security interest in
2280 real property governed by any such association; however, such information shall be released only
2281 upon written request stating the reason for such request, which reason shall be limited to
2282 proposing or opposing changes to the governing documents of the association, and any
2283 information received by any person under this subsection shall be used only for the reason stated
2284 in the written request. The treasurer or other local assessing official may require any person
2285 requesting information pursuant to clause (iii) of this subsection to pay the reasonable cost of
2286 providing such information. Any person to whom tax information is divulged pursuant to this
2287 subsection shall be subject to the prohibitions and penalties prescribed herein as though he were a
2288 tax official.

2289 Notwithstanding the provisions of subsection A or B or any other provisions of this title,
2290 the treasurer or other collector of taxes for a county, city or town is authorized to provide
2291 information relating to any motor vehicle, trailer or semitrailer obtained by such treasurer or
2292 collector in the course of performing his duties to the commissioner of the revenue or other
2293 assessing official for such jurisdiction for use by such commissioner or other official in
2294 performing assessments.

2295 This section shall not be construed to prohibit a local tax official from imprinting or
2296 displaying on a motor vehicle local license decal the year, make, and model and any other legal
2297 identification information about the particular motor vehicle for which that local license decal is
2298 assigned.

2299 E. Notwithstanding any other provisions of law, state agencies and any other
2300 administrative or regulatory unit of state government shall divulge to the Tax Commissioner or
2301 his authorized agent, upon written request, the name, address, and social security number of a
2302 taxpayer, necessary for the performance of the Commissioner's official duties regarding the
2303 administration and enforcement of laws within the jurisdiction of the Department of Taxation.
2304 The receipt of information by the Tax Commissioner or his agent which may be deemed
2305 taxpayer information shall not relieve the Commissioner of the obligations under this section.

2306 F. Additionally, it shall be unlawful for any person to disseminate, publish, or cause to be
2307 published any confidential tax document which he knows or has reason to know is a confidential
2308 tax document. A confidential tax document is any correspondence, document, or tax return that
2309 is prohibited from being divulged by subsection A, B, C, or D and includes any document
2310 containing information on the transactions, property, income, or business of any person, firm, or
2311 corporation that is required to be filed with any state official by § 58.1-512. This prohibition
2312 shall not apply if such confidential tax document has been divulged or disseminated pursuant to a
2313 provision of law authorizing disclosure. Any person violating the provisions of this subsection is
2314 guilty of a Class 1 misdemeanor.

2315 **§ 58.1-3. (Effective July 1, 2018) Secrecy of information; penalties.**

Comment [A69]: Relating to tax information.

2316 A. Except in accordance with a proper judicial order or as otherwise provided by law, the
2317 Tax Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or
2318 local tax or revenue officer or employee, or any person to whom tax information is divulged
2319 pursuant to § 58.1-512 or 58.1-2712.2, or any former officer or employee of any of the
2320 aforementioned offices shall not divulge any information acquired by him in the performance of
2321 his duties with respect to the transactions, property, including personal property, income or
2322 business of any person, firm or corporation. Such prohibition specifically includes any copy of a
2323 federal return or federal return information required by Virginia law to be attached to or included
2324 in the Virginia return. This prohibition shall apply to any reports, returns, financial documents or
2325 other information filed with the Attorney General pursuant to the provisions of Article 3 (§ 3.2-
2326 4204 et seq.) of Chapter 42 of Title 3.2. Any person violating the provisions of this section is
2327 guilty of a Class 1 misdemeanor. The provisions of this subsection shall not be applicable,
2328 however, to:

2329 1. Matters required by law to be entered on any public assessment roll or book;

2330 2. Acts performed or words spoken, published, or shared with another agency or
2331 subdivision of the Commonwealth in the line of duty under state law;

2332 3. Inquiries and investigations to obtain information as to the process of real estate
2333 assessments by a duly constituted committee of the General Assembly, or when such inquiry or
2334 investigation is relevant to its study, provided that any such information obtained shall be
2335 privileged;

2336 4. The sales price, date of construction, physical dimensions or characteristics of real
2337 property, or any information required for building permits;

2338 5. Copies of or information contained in an estate's probate tax return, filed with the clerk
2339 of court pursuant to §58.1-1714, when requested by a beneficiary of the estate or an heir at law
2340 of the decedent;

2341 6. Information regarding nonprofit entities exempt from sales and use tax under § 58.1-
2342 609.11, when requested by the General Assembly or any duly constituted committee of the
2343 General Assembly;

2344 7. Reports or information filed with the Attorney General by a Stamping Agent pursuant
2345 to the provisions of Article 3 (§ 3.2-4204 et seq.), when such reports or information are provided
2346 by the Attorney General to a tobacco products manufacturer who is required to establish a
2347 qualified escrow fund pursuant to § 3.2-4201 and are limited to the brand families of that
2348 manufacturer as listed in the Tobacco Directory established pursuant to § 3.2-4206 and are
2349 limited to the current or previous two calendar years or in any year in which the Attorney
2350 General receives Stamping Agent information that potentially alters the required escrow deposit
2351 of the manufacturer. The information shall only be provided in the following manner: the
2352 manufacturer may make a written request, on a quarterly or yearly basis or when the
2353 manufacturer is notified by the Attorney General of a potential change in the amount of a
2354 required escrow deposit, to the Attorney General for a list of the Stamping Agents who reported
2355 stamping or selling its products and the amount reported. The Attorney General shall provide the
2356 list within 15 days of receipt of the request. If the manufacturer wishes to obtain actual copies of
2357 the reports the Stamping Agents filed with the Attorney General, it must first request them from
2358 the Stamping Agents pursuant to subsection C of § 3.2-4209. If the manufacturer does not
2359 receive the reports pursuant to subsection C of § 3.2-4209, the manufacturer may make a written
2360 request to the Attorney General, including a copy of the prior written request to the Stamping
2361 Agent and any response received, for copies of any reports not received. The Attorney General
2362 shall provide copies of the reports within 45 days of receipt of the request.

2363 B.1. Nothing contained in this section shall be construed to prohibit the publication of
2364 statistics so classified as to prevent the identification of particular reports or returns and the items
2365 thereof or the publication of delinquent lists showing the names of taxpayers who are currently
2366 delinquent, together with any relevant information which in the opinion of the Department may
2367 assist in the collection of such delinquent taxes. Notwithstanding any other provision of this
2368 section or other law, the Department, upon request by the General Assembly or any duly
2369 constituted committee of the General Assembly, shall disclose the total aggregate amount of an
2370 income tax deduction or credit taken by all taxpayers, regardless of (i) how few taxpayers took
2371 the deduction or credit or (ii) any other circumstances. This section shall not be construed to
2372 prohibit a local tax official from disclosing whether a person, firm or corporation is licensed to
2373 do business in that locality and divulging, upon written request, the name and address of any
2374 person, firm or corporation transacting business under a fictitious name. Additionally,
2375 notwithstanding any other provision of law, the commissioner of revenue is authorized to
2376 provide, upon written request stating the reason for such request, the Tax Commissioner with
2377 information obtained from local tax returns and other information pertaining to the income, sales
2378 and property of any person, firm or corporation licensed to do business in that locality.

2379 2. This section shall not prohibit the Department from disclosing whether a person, firm,
2380 or corporation is registered as a retail sales and use tax dealer pursuant to Chapter 6 (§ 58.1-

2381 600 et seq.) or whether a certificate of registration number relating to such tax is valid.
2382 Additionally, notwithstanding any other provision of law, the Department is hereby authorized to
2383 make available the names and certificate of registration numbers of dealers who are currently
2384 registered for retail sales and use tax.

2385 3. This section shall not prohibit the Department from disclosing information to
2386 nongovernmental entities with which the Department has entered into a contract to provide
2387 services that assist it in the administration of refund processing or other services related to its
2388 administration of taxes.

2389 4. This section shall not prohibit the Department from disclosing information to taxpayers
2390 regarding whether the taxpayer's employer or another person or entity required to withhold on
2391 behalf of such taxpayer submitted withholding records to the Department for a specific taxable
2392 year as required pursuant to subdivision C 1 of §58.1-478.

2393 C. Notwithstanding the provisions of subsection A or B or any other provision of this
2394 title, the Tax Commissioner is authorized to (i) divulge tax information to any commissioner of
2395 the revenue, director of finance or other similar collector of county, city or town taxes who, for
2396 the performance of his official duties, requests the same in writing setting forth the reasons for
2397 such request; (ii) provide to the Commissioner of the Department of Social Services, upon
2398 written request, information on the amount of income, filing status, number and type of
2399 dependents, and whether a federal earned income tax credit has been claimed as reported by
2400 persons on their state income tax returns who have applied for public assistance or social
2401 services benefits as defined in § 63.2-100; (iii) provide to the chief executive officer of the
2402 designated student loan guarantor for the Commonwealth of Virginia, upon written request, the
2403 names and home addresses of those persons identified by the designated guarantor as having
2404 delinquent loans guaranteed by the designated guarantor; (iv) provide current address
2405 information upon request to state agencies and institutions for their confidential use in
2406 facilitating the collection of accounts receivable, and to the clerk of a circuit or district court for
2407 their confidential use in facilitating the collection of fines, penalties and costs imposed in a
2408 proceeding in that court; (v) provide to the Commissioner of the Virginia Employment
2409 Commission, after entering into a written agreement, such tax information as may be necessary
2410 to facilitate the collection of unemployment taxes and overpaid benefits; (vi) provide to the
2411 Virginia Alcoholic Beverage Control Authority, upon entering into a written agreement, such tax
2412 information as may be necessary to facilitate the collection of state and local taxes and the
2413 administration of the alcoholic beverage control laws; (vii) provide to the Director of the
2414 Virginia Lottery such tax information as may be necessary to identify those lottery ticket retailers
2415 who owe delinquent taxes; (viii) provide to the Department of the Treasury for its confidential
2416 use such tax information as may be necessary to facilitate the location of owners and holders of
2417 unclaimed property, as defined in § 55-210.2; (ix) provide to the State Corporation Commission,
2418 upon entering into a written agreement, such tax information as may be necessary to facilitate the
2419 collection of taxes and fees administered by the Commission; (x) provide to the Executive
2420 Director of the Potomac and Rappahannock Transportation Commission for his confidential use
2421 such tax information as may be necessary to facilitate the collection of the motor vehicle fuel
2422 sales tax; (xi) provide to the Commissioner of the Department of Agriculture and Consumer
2423 Services such tax information as may be necessary to identify those applicants for registration as
2424 a supplier of charitable gaming supplies who have not filed required returns or who owe

2425 delinquent taxes; (xii) provide to the Department of Housing and Community Development for
2426 its confidential use such tax information as may be necessary to facilitate the administration of
2427 the remaining effective provisions of the Enterprise Zone Act (§ 59.1-270 et seq.), and the
2428 Enterprise Zone Grant Program (§ 59.1-538 et seq.); (xiii) provide current name and address
2429 information to private collectors entering into a written agreement with the Tax Commissioner,
2430 for their confidential use when acting on behalf of the Commonwealth or any of its political
2431 subdivisions; however, the Tax Commissioner is not authorized to provide such information to a
2432 private collector who has used or disseminated in an unauthorized or prohibited manner any such
2433 information previously provided to such collector; (xiv) provide current name and address
2434 information as to the identity of the wholesale or retail dealer that affixed a tax stamp to a
2435 package of cigarettes to any person who manufactures or sells at retail or wholesale cigarettes
2436 and who may bring an action for injunction or other equitable relief for violation of Chapter 10.1,
2437 Enforcement of Illegal Sale or Distribution of Cigarettes Act; (xv) provide to the Commissioner
2438 of Labor and Industry, upon entering into a written agreement, such tax information as may be
2439 necessary to facilitate the collection of unpaid wages under § 40.1-29; (xvi) provide to the
2440 Director of the Department of Human Resource Management, upon entering into a written
2441 agreement, such tax information as may be necessary to identify persons receiving workers'
2442 compensation indemnity benefits who have failed to report earnings as required by §65.2-712;
2443 (xvii) provide to any commissioner of the revenue, director of finance, or any other officer of any
2444 county, city, or town performing any or all of the duties of a commissioner of the revenue and to
2445 any dealer registered for the collection of the Communications Sales and Use Tax, a list of the
2446 names, business addresses, and dates of registration of all dealers registered for such tax; (xviii)
2447 provide to the Executive Director of the Northern Virginia Transportation Commission for his
2448 confidential use such tax information as may be necessary to facilitate the collection of the motor
2449 vehicle fuel sales tax; (xix) provide to the Commissioner of Agriculture and Consumer Services
2450 the name and address of the taxpayer businesses licensed by the Commonwealth that identify
2451 themselves as subject to regulation by the Board of Agriculture and Consumer Services pursuant
2452 to §3.2-5130; (xx) provide to the developer or the economic development authority of a tourism
2453 project authorized by § 58.1-3851.1, upon entering into a written agreement, tax information
2454 facilitating the repayment of gap financing; ~~and~~ (xxi) provide to the Virginia Retirement System
2455 and the Department of Human Resource Management, after entering into a written agreement,
2456 such tax information as may be necessary to facilitate the enforcement of subdivision C 4 of
2457 § 9.1-401; and (xxii) provide to the Commissioner of the Department of Motor Vehicles
2458 information sufficient to verify that an applicant for a driver privilege card or permit under
2459 § 46.2-328.2 reported income from Virginia sources, as defined in § 58.1-302, on an individual
2460 income tax return filed with the Commonwealth within the preceding 12 months. The Tax
2461 Commissioner is further authorized to enter into written agreements with duly constituted tax
2462 officials of other states and of the United States for the inspection of tax returns, the making of
2463 audits, and the exchange of information relating to any tax administered by the Department of
2464 Taxation. Any person to whom tax information is divulged pursuant to this section shall be
2465 subject to the prohibitions and penalties prescribed herein as though he were a tax official.

2466 D. Notwithstanding the provisions of subsection A or B or any other provision of this
2467 title, the commissioner of revenue or other assessing official is authorized to (i) provide, upon
2468 written request stating the reason for such request, the chief executive officer of any county or
2469 city with information furnished to the commissioner of revenue by the Tax Commissioner
2470 relating to the name and address of any dealer located within the county or city who paid sales

Comment [A70]: Authorizing limited disclosure of information to DMV.

2471 and use tax, for the purpose of verifying the local sales and use tax revenues payable to the
2472 county or city; (ii) provide to the Department of Professional and Occupational Regulation for its
2473 confidential use the name, address, and amount of gross receipts of any person, firm or entity
2474 subject to a criminal investigation of an unlawful practice of a profession or occupation
2475 administered by the Department of Professional and Occupational Regulation, only after the
2476 Department of Professional and Occupational Regulation exhausts all other means of obtaining
2477 such information; and (iii) provide to any representative of a condominium unit owners'
2478 association, property owners' association or real estate cooperative association, or to the owner
2479 of property governed by any such association, the names and addresses of parties having a
2480 security interest in real property governed by any such association; however, such information
2481 shall be released only upon written request stating the reason for such request, which reason shall
2482 be limited to proposing or opposing changes to the governing documents of the association, and
2483 any information received by any person under this subsection shall be used only for the reason
2484 stated in the written request. The treasurer or other local assessing official may require any
2485 person requesting information pursuant to clause (iii) of this subsection to pay the reasonable
2486 cost of providing such information. Any person to whom tax information is divulged pursuant to
2487 this subsection shall be subject to the prohibitions and penalties prescribed herein as though he
2488 were a tax official.

2489 Notwithstanding the provisions of subsection A or B or any other provisions of this title,
2490 the treasurer or other collector of taxes for a county, city or town is authorized to provide
2491 information relating to any motor vehicle, trailer or semitrailer obtained by such treasurer or
2492 collector in the course of performing his duties to the commissioner of the revenue or other
2493 assessing official for such jurisdiction for use by such commissioner or other official in
2494 performing assessments.

2495 This section shall not be construed to prohibit a local tax official from imprinting or
2496 displaying on a motor vehicle local license decal the year, make, and model and any other legal
2497 identification information about the particular motor vehicle for which that local license decal is
2498 assigned.

2499 E. Notwithstanding any other provisions of law, state agencies and any other
2500 administrative or regulatory unit of state government shall divulge to the Tax Commissioner or
2501 his authorized agent, upon written request, the name, address, and social security number of a
2502 taxpayer, necessary for the performance of the Commissioner's official duties regarding the
2503 administration and enforcement of laws within the jurisdiction of the Department of Taxation.
2504 The receipt of information by the Tax Commissioner or his agent which may be deemed
2505 taxpayer information shall not relieve the Commissioner of the obligations under this section.

2506 F. Additionally, it shall be unlawful for any person to disseminate, publish, or cause to be
2507 published any confidential tax document which he knows or has reason to know is a confidential
2508 tax document. A confidential tax document is any correspondence, document, or tax return that
2509 is prohibited from being divulged by subsection A, B, C, or D and includes any document
2510 containing information on the transactions, property, income, or business of any person, firm, or
2511 corporation that is required to be filed with any state official by § 58.1-512. This prohibition
2512 shall not apply if such confidential tax document has been divulged or disseminated pursuant to a

2513 provision of law authorizing disclosure. Any person violating the provisions of this subsection is
2514 guilty of a Class 1 misdemeanor.

2515 **§ 59.1-442. Sale of purchaser information; notice required.**

Comment [A71]: From the Personal Information Privacy Act, which applies to merchants' use of customer information.

2516 A. No merchant, without giving notice to the purchaser, shall sell to any third person
2517 information which concerns the purchaser and which is gathered in connection with the sale,
2518 rental or exchange of tangible personal property to the purchaser at the merchant's place of
2519 business. Notice required by this section may be by the posting of a sign or any other reasonable
2520 method. If requested by a purchaser not to sell such information, the merchant shall not do so.
2521 No merchant shall sell any information gathered solely as the result of any customer payment by
2522 personal check, credit card, or where the merchant records the number of the customer's driver's
2523 license number or other document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 or the
2524 comparable law of another jurisdiction. This subsection shall not be construed as authorizing a
2525 merchant to sell to a third person any information concerning a purchaser if the sale or
2526 dissemination of the information is prohibited pursuant to § 59.1-443.3.

Comment [A72]: Amended to include all driver's licenses, permits, driver privilege cards, and special identification cards issued by Virginia and by other states and countries.

2527 B. For the purposes of this section and § 59.1-443.3, "merchant" means any person or
2528 entity engaged in the sale of goods from a fixed retail location in Virginia.

2529 **§ 59.1-443.3. Scanning information from driver's license or identification card;**
2530 **retention, sale, or dissemination of information.**

Comment [A73]: From the Personal Information Privacy Act, which applies to merchants' use of customer information.

2531 A. No merchant may scan the machine-readable zone of a driver's license or other
2532 document issued by the Department of Motor Vehicles issued identification card or driver's
2533 license under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2, except for the following purposes:

Comment [A74]: Amended here and throughout to include all driver's licenses, permits, driver privilege cards, and special identification cards.

2534 1. To verify authenticity of the identification card or driver's license or other document or
2535 to verify the identity of the individual if the individual pays for goods or services with a method
2536 other than cash, returns an item, or requests a refund or an exchange;

2537 2. To verify the individual's age when providing age-restricted goods or services to the
2538 individual if there is a reasonable doubt of the individual having reached 18 years of age or
2539 older;

2540 3. To prevent fraud or other criminal activity if the individual returns an item or requests
2541 a refund or an exchange and the merchant uses a fraud prevention service company or system.
2542 Information collected by scanning an individual's identification card or driver's license or other
2543 document pursuant to this subdivision shall be limited to the individual's name, address, date of
2544 birth, and the number of the driver's license number or identification card number
2545 document;

2546 4. To comply with a requirement imposed on the merchant by state or federal law;

2547 5. To provide to a check services company regulated by the federal Fair Credit Reporting
2548 Act, (15 U.S.C. § 1681 et seq.), that receives information obtained from an individual's

2549 | ~~identification card or~~ driver's license or other document to administer or enforce a transaction or
2550 to prevent fraud or other criminal activity; or

2551 6. To complete a transaction permitted under the Gramm-Leach-Bliley Act, (15 U.S.C. §
2552 6801 et seq.), or the federal Fair Credit Reporting Act, (15 U.S.C. § 1681 et seq.).

2553 B. No merchant shall retain any information obtained from a scan of the machine-
2554 | readable zone of an individual's ~~identification card or~~ driver's license or other document except
2555 as permitted in subdivision A 3, 4, 5, or 6.

2556 C. No merchant shall sell or disseminate to a third party any information obtained from a
2557 | scan of the machine-readable zone of an individual's ~~identification card or~~ driver's license or
2558 | other document for any marketing, advertising, or promotional purpose. This subsection shall not
2559 prohibit a merchant from disseminating to a third party any such information for a purpose
2560 described in subdivision A 3, 4, 5, or 6.

2561 D. Any waiver of a provision of this section is contrary to public policy and is void and
2562 unenforceable.

2563 **§ 63.2-1916. Notice of administrative support order; contents; hearing;**
2564 **modification.**

Comment [A75]: Relating to child support enforcement.

2565 The Commissioner may proceed against a noncustodial parent whose support debt has
2566 accrued or is accruing based upon subrogation to, assignment of, or authorization to enforce a
2567 support obligation. Such obligation may be created by a court order for support of a child or
2568 child and spouse or decree of divorce ordering support of a child or child and spouse. In the
2569 absence of such a court order or decree of divorce, the Commissioner may, pursuant to this
2570 chapter, proceed against a person whose support debt has accrued or is accruing based upon
2571 payment of public assistance or who has a responsibility for the support of any dependent child
2572 or children and their custodial parent. The administrative support order shall also provide that
2573 support shall continue to be paid for any child over the age of 18 who is (i) a full-time high
2574 school student, (ii) not self-supporting, and (iii) living in the home of the parent seeking or
2575 receiving child support, until such child reaches the age of 19 or graduates from high school,
2576 whichever comes first. The Commissioner shall initiate proceedings by issuing notice containing
2577 the administrative support order which shall become effective unless timely contested. The
2578 notice shall be served upon the debtor (a) in accordance with the provisions of § 8.01-296, 8.01-
2579 327 or 8.01-329 or (b) by certified mail, return receipt requested, or by electronic means, or the
2580 debtor may accept service by signing a formal waiver. A copy of the notice shall be provided to
2581 the obligee. The notice shall include the following:

2582 1. A statement of the support debt or obligation accrued or accruing and the basis and
2583 authority under which the assessment of the debt or obligation was made. The initial
2584 administrative support order shall be effective on the date of service and the first monthly
2585 payment shall be due on the first of the month following the date of service and the first of each
2586 month thereafter. A modified administrative support order shall be effective the date that notice
2587 of the review is served on the nonrequesting party, and the first monthly payment shall be due on
2588 the first day of the month following the date of such service and on the first day of each month

2589 thereafter. In addition, an amount shall be assessed for the partial month between the effective
2590 date of the order and the date that the first monthly payment is due. The assessment for the initial
2591 partial month shall be prorated from the effective date through the end of that month, based on
2592 the current monthly obligation. All payments are to be credited to current support obligations
2593 first, with any payment in excess of the current obligation applied to arrearages, if any;

2594 2. A statement of the name, date of birth, and last four digits of the social security number
2595 of the child or children for whom support is being sought;

2596 3. A statement that support shall continue to be paid for any child over the age of 18 who
2597 is (i) a full-time high school student, (ii) not self-supporting, and (iii) living in the home of the
2598 party seeking or receiving child support, until such child reaches the age of 19 or graduates from
2599 high school, whichever comes first;

2600 4. A demand for immediate payment of the support debt or obligation or, in the
2601 alternative, a demand that the debtor file an answer with the Commissioner within 10 days of the
2602 date of service of the notice stating his defenses to liability;

2603 5. If known, the full name, date of birth, and last four digits of the social security number
2604 of each parent of the child; however, when a protective order has been issued or the Department
2605 otherwise finds reason to believe that a party is at risk of physical or emotional harm from the
2606 other party, only the name of the party at risk shall be included in the order;

2607 6. A statement that if no answer is made on or before 10 days from the date of service of
2608 the notice, the administrative support order shall be final and enforceable, and the support debt
2609 shall be assessed and determined subject to computation, and is subject to collection action;

2610 7. A statement that the debtor may be subject to mandatory withholding of income, the
2611 interception of state or federal tax refunds, interception of payments due to the debtor from the
2612 Commonwealth, notification of arrearage information to consumer reporting agencies, passport
2613 denial or suspension, or incarceration and that the debtor's property will be subject to lien and
2614 foreclosure, distraint, seizure and sale, an order to withhold and deliver, or withholding of
2615 income;

2616 8. A statement that the parents shall keep the Department informed regarding access to
2617 health insurance coverage and health insurance policy information and a statement that health
2618 care coverage shall be required for the parents' dependent children if available at reasonable cost
2619 as defined in § 63.2-1900, or pursuant to subsection A of § 63.2-1903. If a child is enrolled in
2620 Department-sponsored health care coverage, the Department shall collect the cost of the
2621 coverage pursuant to subsection E of § 20-108.2;

2622 9. A statement of each party's right to appeal and the procedures applicable to appeals
2623 from the decision of the Commissioner;

2624 10. A statement that the obligor's income shall be immediately withheld to comply with
2625 this order unless the obligee, or the Department, if the obligee is receiving public assistance, and
2626 obligor agree to an alternative arrangement;

2627 11. A statement that any determination of a support obligation under this section creates a
2628 judgment by operation of law and as such is entitled to full faith and credit in any other state or
2629 jurisdiction;

2630 12. A statement that each party shall give the Department written notice of any change in
2631 his address, including email address, or phone number, including cell phone number, within 30
2632 days;

2633 13. A statement that each party shall keep the Department informed of the name,
2634 telephone number and address of his current employer;

2635 14. A statement that if any arrearages for child support, including interest or fees, exist at
2636 the time the youngest child included in the order emancipates, payments shall continue in the
2637 total amount due (current support plus amount applied toward arrearages) at the time of
2638 emancipation until all arrearages are paid;

2639 15. A statement that a petition may be filed for suspension of any license, certificate,
2640 registration, or other authorization to engage in a profession, trade, business, occupation, or
2641 recreational activity issued by the Commonwealth to a parent as provided in § 63.2-1937 upon a
2642 delinquency for a period of 90 days or more or in amount of \$5,000 or more. The order shall
2643 indicate whether either or both parents currently hold such an authorization and, if so, the type of
2644 authorization held;

2645 16. A statement that the Department of Motor Vehicles may suspend or refuse to renew
2646 the driver's license driving privileges of any person upon receipt of notice from the Department
2647 of Social Services that the person (i) is delinquent in the payment of child support by 90 days or
2648 in an amount of \$5,000 or more or (ii) has failed to comply with a subpoena, summons, or
2649 warrant relating to paternity or child support proceedings; and

Comment [A76]: Amended to include all driver's licenses, permits, and driver privilege cards.

2650 17. A statement that on and after July 1, 1994, the Department of Social Services, as
2651 provided in §63.2-1921 and in accordance with § 20-108.2, may initiate a review of the amount
2652 of support ordered by any court.

2653 If no answer is received by the Commissioner within 10 days of the date of service or
2654 acceptance, the administrative support order shall be effective as provided in the notice. The
2655 Commissioner may initiate collection procedures pursuant to this chapter, Chapter 11 (§ 16.1-
2656 226 et seq.) of Title 16.1 or Title 20. The debtor and the obligee have 10 days from the date of
2657 receipt of the notice to file an answer with the Commissioner to exercise the right to an
2658 administrative hearing.

2659 Any changes in the amount of the administrative order must be made pursuant to this
2660 section. In no event shall an administrative hearing alter or amend the amount or terms of any
2661 court order for support or decree of divorce ordering support. No administrative support order
2662 may be retroactively modified, but may be modified from the date that notice of the review has
2663 been served on the nonrequesting party. Notice of each review shall be served on the
2664 nonrequesting party (1) in accordance with the provisions of § 8.01-296, 8.01-327, or 8.01-329,
2665 (2) by certified mail, return receipt requested, (3) by electronic means, or (4) by the
2666 nonrequesting party executing a waiver. The existence of an administrative order shall not

2667 preclude either an obligor or obligee from commencing appropriate proceedings in a juvenile and
2668 domestic relations district court or a circuit court.

2669 **§ 63.2-1941. Additional enforcement remedies.**

Comment [A77]: Relating to child support enforcement.

2670 In addition to its other enforcement remedies, the Division of Child Support Enforcement
2671 is authorized to:

2672 1. Attach unemployment benefits through the Virginia Employment Commission
2673 pursuant to § 60.2-608 and workers' compensation benefits through the Workers' Compensation
2674 Commission pursuant to § 65.2-531; and

2675 2. Suspend an individual's driver's licensed driving privileges pursuant to § 46.2-320.1.

Comment [A78]: Amended to include all driver's licenses, permits, and driver privilege cards.

2676 **2. That the provisions of this act shall become effective January 1, 2018.**

2677 **3. That no later than December 1, 2018, the Department of Motor Vehicles shall report to**
2678 **the Chairmen of the House and Senate Transportation Committees regarding**
2679 **implementation of the provisions of this act.**

Report to the Chairman of the
Transportation Committee of the Virginia
House of Delegates Pursuant to HB 695,
HB 987, HB 1082, HB 1316, and SB 390

Driving Credentials for Resident
Immigrants

Department of Motor Vehicles
November 2016

Appendices

Appendix 1



COMMONWEALTH OF VIRGINIA

HOUSE OF DELEGATES

RICHMOND

RONALD JOHN A. "RON" VILLANUEVA

POST OFFICE BOX 61005
VIRGINIA BEACH, VIRGINIA 23466

TWENTY-FIRST DISTRICT

COMMITTEE ASSIGNMENTS:
TRANSPORTATION (CHAIRMAN)
COURTS OF JUSTICE
COMMERCE AND LABOR

February 23, 2016

Commissioner Richard D. Holcomb
Virginia Department of Motor Vehicles
2300 West Broad Street
Richmond, Virginia 23269

Dear Commissioner Holcomb:

As you are aware, Delegate Bloxom's HB 1316 addressed the issue of providing driver privilege cards to the approximately 260,000 undocumented immigrants residing in Virginia. In addition, HB 1316, along with bills introduced by Delegate Kory (HB 695), Delegate Lopez (HB 987), and Delegate Boysko (HB 1082), expanded the number of legally present immigrants allowed to apply for a limited duration driver's license. As became clear in subcommittee discussions, the issues covered by HB 1316 could have significant impacts on highway safety, motor vehicle insurance, law enforcement, and economic growth. In order to determine the best possible solutions to these issues, more information is needed concerning the populations involved and the potential effects on the Commonwealth.

As such, I respectfully request that the Department of Motor Vehicles study the potential impact should the Commonwealth allow immigrant residents, including legally present individuals and undocumented individuals, to apply for a driving credential. I request that the Department of Motor Vehicles convene a working group of stakeholders to participate in the study.

As this issue impacts numerous groups, I ask that the group of stakeholders include a broad spectrum of partners such as: immigrant community representatives; highway safety advocates; law enforcement; insurance industry representatives; human trafficking prevention advocates; agricultural industry representatives; economic and social research institutions; Virginia judicial representatives and other agencies. If the Department identifies

other relevant stakeholders, I ask that they be included as well. In addition, please inform me as to the dates when the group meets so that I may be able to attend. Further, I ask that Delegate Bloxom be our Legislative Liaison.

I request that the working group examine existing research and data on providing driving credentials to legal and undocumented immigrants, and identify the Virginia residents who may be affected by the opportunity to apply for a driving credential. The working group should also identify any potential impacts on the Commonwealth, particularly in the areas of highway safety, insurance, law enforcement, and economic opportunity.

In addition, the working group should examine the impact in other states that have provided driving credentials to similarly situated immigrants. I request that you report back to the House Committee on Transportation in October of 2016 with the results of the study and any working group's recommendations. As part of the report, the working group should provide for each item it proposes an analysis of the feasibility and the cost to the Commonwealth. The report should also include any proposed legislation that would be necessary in order to implement the recommendations.

Thank you for your leadership and I look forward to working with you as we move Virginia forward.

Sincerely,

A handwritten signature in blue ink that reads "Ron Villanueva". The signature is fluid and cursive, with the first name "Ron" being particularly prominent.

Chairman Ron Villanueva
State Delegate, 21st House District



COMMONWEALTH OF VIRGINIA
HOUSE OF DELEGATES
RICHMOND

RONALD JOHN A. "RON" VILLANUEVA
POST OFFICE BOX 61005
VIRGINIA BEACH, VIRGINIA 23466

TWENTY-FIRST DISTRICT

COMMITTEE ASSIGNMENTS:
TRANSPORTATION (CHAIRMAN)
COMMERCE AND LABOR
SCIENCE AND TECHNOLOGY

Commissioner Rick Holcomb
Virginia DMV
2300 W. Broad Street
Richmond, VA 23269

October 25, 2016

Dear Commissioner Holcomb:

On February 23, 2016, I requested that the Department of Motor Vehicles study the potential impact should the Commonwealth allow immigrant residents, including legally present individuals and undocumented individuals, to apply for a driving credential. In response, the Department of Motor Vehicles convened a working group of stakeholders to participate in the study, including: immigrant community representatives; highway safety advocates; law enforcement; insurance industry representatives; human trafficking prevention advocates; agricultural industry representatives; economic and social research institutions; Virginia judicial representatives and other agencies.

The stakeholders examined existing research and data on providing driving credentials to legal and undocumented immigrants, and identified the Virginia residents who may be affected by the opportunity to apply for a driving credential. The stakeholders also identified potential impacts on the Commonwealth, particularly in the areas of highway safety, insurance, law enforcement, and economic opportunity. Finally, the stakeholders examined the impact in other states that have provided driving credentials to similarly situated immigrants.

I originally requested that you provide the results of the study and any stakeholder recommendations in October of 2016. However, due to changes to the October 19 Joint House and Senate Transportation meeting's agenda, I request that you report back to the House Committee on Transportation in November of 2016. The report should include any proposed legislation that would be necessary in order to implement the recommendations.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron Villanueva".

Chairman Ron Villanueva
State Delegate, 21st House District

16100903D

HOUSE BILL NO. 695

Offered January 13, 2016

Prefiled January 11, 2016

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A BILL to amend and reenact § 46.2-328.1 of the Code of Virginia, relating to issuance of licenses, permits, and special identification cards to certain aliens.

Patron—Kory

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-328.1 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-328.1. Licenses, permits and special identification cards to be issued only to United States citizens, legal permanent resident aliens, or holders of valid unexpired nonimmigrant visas; persons having been granted "withholding of removal"; exceptions; renewal, duplication, or reissuance.

A. Notwithstanding any other provision of this title, except as provided in subsection G of § 46.2-345, the Department shall not issue an original license, permit, or special identification card to any applicant who has not presented to the Department, with the application, valid documentary evidence that the applicant is either (i) a citizen of the United States, (ii) a legal permanent resident of the United States, or (iii) a conditional resident alien of the United States.

B. Notwithstanding the provisions of subsection A and the provisions of §§ 46.2-330 and 46.2-345, an applicant who presents in person valid documentary evidence of (i) a valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry into the United States, (ii) a pending or approved application for asylum in the United States, (iii) entry into the United States in refugee status, (iv) a pending or approved application for temporary protected status in the United States, (v) approved deferred action status, ~~or~~ (vi) a pending application for adjustment of status to legal permanent residence status or conditional resident status, or (vii) his having been granted "withholding of removal" under 8 U.S.C. § 1231(b)(3) or 8 C.F.R. § 1208.16(c) may be issued a temporary license, permit, or special identification card. Such temporary license, permit, or special identification card shall be valid only during the period of time of the applicant's authorized stay in the United States or if there is no definite end to the period of authorized stay, a period of one year. No license, permit, or special identification card shall be issued if an applicant's authorized stay in the United States is less than 30 days from the date of application. Any temporary license, permit, or special identification card issued pursuant to this subsection shall clearly indicate that it is temporary and shall state the date that it expires. Such a temporary license, permit, or identification card may be renewed only upon presentation of valid documentary evidence that the status by which the applicant qualified for the temporary license, permit, or special identification has been extended by ~~the United States Immigration and Naturalization Service~~ U.S. Immigration and Customs Enforcement or the ~~Bureau of~~ U.S. Citizenship and Immigration Services of the Department of Homeland Security.

C. Any license or special identification card for which an application has been made for renewal, duplication or reissuance shall be presumed to have been issued in accordance with the provisions of subsection A, provided that, at the time the application is made, (i) the license or special identification card has not expired or been cancelled, suspended or revoked or (ii) the license or special identification card has been canceled or suspended as a result of the applicant having been placed under medical review by the Department pursuant to § 46.2-322. The requirements of subsection A shall apply, however, to a renewal, duplication or reissuance if the Department is notified by a local, state or federal government agency that the individual seeking such renewal, duplication or reissuance is neither a citizen of the United States nor legally in the United States.

D. The Department shall cancel any license, permit, or special identification card that it has issued to an individual if it is notified by a federal government agency that the individual is neither a citizen of the United States nor legally present in the United States.

E. For any applicant who presents a document pursuant to this section proving legal presence other than citizenship, the Department shall record and provide to the State Board of Elections monthly the applicant's document number, if any, issued by an agency or court of the United States government.

16102483D

HOUSE BILL NO. 987

Offered January 13, 2016

Prefiled January 12, 2016

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A *BILL to amend and reenact § 46.2-328.1 of the Code of Virginia, relating to issuance of licenses, permits, and special identification cards to certain aliens.*

Patrons—Lopez and Krizek

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-328.1 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-328.1. Licenses, permits and special identification cards to be issued only to United States citizens, legal permanent resident aliens, or holders of valid unexpired nonimmigrant visas; persons having been granted "withholding of removal"; exceptions; renewal, duplication, or reissuance.

A. Notwithstanding any other provision of this title, except as provided in subsection G of § 46.2-345, the Department shall not issue an original license, permit, or special identification card to any applicant who has not presented to the Department, with the application, valid documentary evidence that the applicant is either (i) a citizen of the United States, (ii) a legal permanent resident of the United States, or (iii) a conditional resident alien of the United States.

B. Notwithstanding the provisions of subsection A and the provisions of §§ 46.2-330 and 46.2-345, an applicant who presents in person valid documentary evidence of (i) a valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry into the United States, (ii) a pending or approved application for asylum in the United States, (iii) entry into the United States in refugee status, (iv) a pending or approved application for temporary protected status in the United States, (v) approved deferred action status, ~~or~~ (vi) a pending application for adjustment of status to legal permanent residence status or conditional resident status, *or (vii) his having been granted "withholding of removal" under 8 U.S.C. § 1231(b)(3) or 8 C.F.R. § 1208.16(c)* may be issued a temporary license, permit, or special identification card. Such temporary license, permit, or special identification card shall be valid only during the period of time of the applicant's authorized stay in the United States or if there is no definite end to the period of authorized stay, a period of one year. No license, permit, or special identification card shall be issued if an applicant's authorized stay in the United States is less than 30 days from the date of application. Any temporary license, permit, or special identification card issued pursuant to this subsection shall clearly indicate that it is temporary and shall state the date that it expires. Such a temporary license, permit, or identification card may be renewed only upon presentation of valid documentary evidence that the status by which the applicant qualified for the temporary license, permit, or special identification has been extended by ~~the United States Immigration and Naturalization Service~~ *U.S. Immigration and Customs Enforcement* or the ~~Bureau of~~ *U.S. Citizenship and Immigration Services* of the Department of Homeland Security.

C. Any license or special identification card for which an application has been made for renewal, duplication or reissuance shall be presumed to have been issued in accordance with the provisions of subsection A, provided that, at the time the application is made, (i) the license or special identification card has not expired or been cancelled, suspended or revoked or (ii) the license or special identification card has been canceled or suspended as a result of the applicant having been placed under medical review by the Department pursuant to § 46.2-322. The requirements of subsection A shall apply, however, to a renewal, duplication or reissuance if the Department is notified by a local, state or federal government agency that the individual seeking such renewal, duplication or reissuance is neither a citizen of the United States nor legally in the United States.

D. The Department shall cancel any license, permit, or special identification card that it has issued to an individual if it is notified by a federal government agency that the individual is neither a citizen of the United States nor legally present in the United States.

E. For any applicant who presents a document pursuant to this section proving legal presence other than citizenship, the Department shall record and provide to the State Board of Elections monthly the applicant's document number, if any, issued by an agency or court of the United States government.

16103947D

HOUSE BILL NO. 1082

Offered January 13, 2016

Prefiled January 13, 2016

A *BILL to amend and reenact §§ 18.2-268.1, 46.2-203.2, 46.2-328.1, and 46.2-330 of the Code of Virginia, relating to Department of Motor Vehicles; issue driving privilege card to applicants granted a period of stay authorized by the Attorney General of the United States.*

Patrons—Boysko, Kory, Carr and Krizek

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-268.1, 46.2-203.2, 46.2-328.1, and 46.2-330 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-268.1. Chemical testing to determine alcohol or drug content of blood; definitions.

As used in §§ 18.2-268.2 through 18.2-268.12, unless the context clearly indicates otherwise:

The phrase "alcohol or drug" means alcohol, a drug or drugs, or any combination of alcohol and a drug or drugs.

The phrase "blood or breath" means either or both.

"Chief police officer" means the sheriff in any county not having a chief of police, the chief of police of any county having a chief of police, the chief of police of the city, or the sergeant or chief of police of the town in which the charge will be heard, or their authorized representatives.

"Department" means the Department of Forensic Science.

"Director" means the Director of the Department of Forensic Science.

"License" means any driver's license, temporary driver's license, *driving privilege card*, or instruction permit authorizing the operation of a motor vehicle upon the highways.

"Ordinance" means a county, city or town ordinance.

§ 46.2-203.2. Emergency contact information program.

A. As used in this section, "emergency contact" means a person 18 years of age or older whom the customer may designate to be contacted by a law-enforcement officer in an emergency situation.

B. The Department may establish an emergency contact information program to assist law-enforcement personnel in emergency situations. To establish such a program, a person who currently holds a learner's permit, temporary driver's license, driver's license, *driving privilege card*, commercial driver's license, or special identification card issued by the Department or completes an application for the same may voluntarily submit emergency contact information for inclusion in his customer record with the Department. Such emergency contact information may include the name, relationship to the customer, address, and telephone number for an individual the customer designates as a contact in the event of an emergency situation.

C. Any person voluntarily submitting emergency contact information to the Department for inclusion in the applicant's customer record is responsible for maintaining current emergency contact information with the Department. Each applicant submitting emergency contact information to the Department shall certify in his application that he has notified the person he has designated as an emergency contact that such information will be supplied to the Department. The Department shall provide a method by which applicants submitting emergency contact information to the Department may submit such information electronically pursuant to § 46.2-216.1. Customers may add, modify, or delete information at any time. Such modifications or deletions will overwrite all previously provided information.

D. In the event of an emergency situation, the Department shall make emergency contact information in customer records electronically available to a law-enforcement officer who in the exercise of his official duties requires assistance in reaching a customer's emergency contact. Emergency contact information provided to the Department by the customer shall only be disclosed as permitted in this section and shall not be considered a public record subject to disclosure under the Freedom of Information Act and shall not be subject to disclosure by court order or other means of discovery.

E. In the absence of gross negligence or willful misconduct, the Department, its employees, and law-enforcement officers shall be immune from any civil or criminal liability in connection with the maintenance and use of emergency contact information voluntarily provided by customers for use in an emergency situation.

§ 46.2-328.1. Licenses, permits, and special identification cards to be issued only to United States citizens, legal permanent resident aliens, holders of valid unexpired nonimmigrant visas, or those having been granted a period of stay; exceptions; renewal, duplication, or reissuance.

INTRODUCED

HB1082

59 A. Notwithstanding any other provision of this title, except as provided in subsection G of
 60 § 46.2-345, the Department shall not issue an original license, permit, or special identification card to
 61 any applicant who has not presented to the Department, with the application, valid documentary
 62 evidence that the applicant is either (i) a citizen of the United States, (ii) a legal permanent resident of
 63 the United States, or (iii) a conditional resident alien of the United States.

64 B. Notwithstanding the provisions of subsection A and the provisions of §§ 46.2-330 and 46.2-345,
 65 an applicant who presents in person valid documentary evidence of (i) a valid, unexpired nonimmigrant
 66 visa or nonimmigrant visa status for entry into the United States, (ii) a pending or approved application
 67 for asylum in the United States, (iii) entry into the United States in refugee status, (iv) a pending or
 68 approved application for temporary protected status in the United States, (v) approved deferred action
 69 status, or (vi) a pending application for adjustment of status to legal permanent residence status or
 70 conditional resident status, may be issued a temporary license, permit, or special identification card.
 71 Such temporary license, permit, or special identification card shall be valid only during the period of
 72 time of the applicant's authorized stay in the United States or if there is no definite end to the period of
 73 authorized stay a period of one year. No license, permit, or special identification card shall be issued if
 74 an applicant's authorized stay in the United States is less than 30 days from the date of application. Any
 75 temporary license, permit, or special identification card issued pursuant to this subsection shall clearly
 76 indicate that it is temporary and shall state the date that it expires. Such a temporary license, permit, or
 77 identification card may be renewed only upon presentation of valid documentary evidence that the status
 78 by which the applicant qualified for the temporary license, permit, or special identification has been
 79 extended by the United States *Citizenship and Immigration and Naturalization Service* or the Bureau of
 80 *Citizenship and Immigration Services* of the Department of Homeland Security.

81 C. *An applicant who does not meet the requirements for a driver's license under subsection A or B,*
 82 *but who presents in person valid documentary evidence of having been granted a period of stay*
 83 *authorized by the Attorney General of the United States, may be issued a driving privilege card. Such*
 84 *driving privilege card shall be subject to the same requirements and conditions and shall confer the*
 85 *same rights, privileges, and obligations with respect to the operation of a motor vehicle as a temporary*
 86 *license issued under subsection B. The fee for a driving privilege card shall be the same as the fee for a*
 87 *temporary license issued under subsection B.*

88 ~~C~~-D. Any license or special identification card for which an application has been made for renewal,
 89 duplication or reissuance shall be presumed to have been issued in accordance with the provisions of
 90 subsection A, provided that, at the time the application is made, (i) the license or special identification
 91 card has not expired or been cancelled, suspended or revoked or (ii) the license or special identification
 92 card has been canceled or suspended as a result of the applicant having been placed under medical
 93 review by the Department pursuant to § 46.2-322. The requirements of subsection A shall apply,
 94 however, to a renewal, duplication or reissuance if the Department is notified by a local, state or federal
 95 government agency that the individual seeking such renewal, duplication or reissuance is neither a
 96 citizen of the United States nor legally in the United States.

97 ~~D~~-E. The Department shall cancel any license, permit, or special identification card that it has issued
 98 to an individual if it is notified by a federal government agency that the individual is neither a citizen of
 99 the United States nor legally present in the United States.

100 ~~E~~-F. For any applicant who presents a document pursuant to this section proving legal presence
 101 other than citizenship, the Department shall record and provide to the State Board of Elections monthly
 102 the applicant's document number, if any, issued by an agency or court of the United States government.

103 **§ 46.2-330. Expiration and renewal of licenses; examinations required.**

104 A. Every driver's license shall expire on the applicant's birthday at the end of the period of years for
 105 which a driver's license has been issued. At no time shall any driver's license be issued for more than
 106 eight years. Thereafter the driver's license shall be renewed on or before the birthday of the licensee and
 107 shall be valid for a period not to exceed eight years except as otherwise provided by law. Any driver's
 108 license issued to a person age 75 or older shall be issued for a period not to exceed five years.
 109 Notwithstanding these limitations, the Commissioner may extend the validity period of an expiring
 110 license if (i) the Department is unable to process an application for renewal due to circumstances
 111 beyond its control, (ii) the extension has been authorized under a directive from the Governor, and (iii)
 112 the license was not issued as a temporary driver's license *or a driving privilege card* under the
 113 provisions of subsection B *or C* of § 46.2-328.1. However, in no event shall the validity period be
 114 extended more than 90 days per occurrence of such conditions. In determining the number of years for
 115 which a driver's license shall be renewed, the Commissioner shall take into consideration the
 116 examinations, conditions, requirements, and other criteria provided under this title that relate to the
 117 issuance of a license to operate a vehicle. Any driver's license issued to a person required to register
 118 pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 shall expire on the applicant's birthday in years
 119 which the applicant attains an age equally divisible by five.

120 B. Within one year prior to the date shown on the driver's license as the date of expiration, the

121 Department shall send notice, to the holder thereof, at the address shown on the records of the
122 Department in its driver's license file, that his license will expire on a date specified therein, whether he
123 must be reexamined, and when he may be reexamined. Nonreceipt of the notice shall not extend the
124 period of validity of the driver's license beyond its expiration date. The license holder may request the
125 Department to send such renewal notice to an email or other electronic address, upon provision of such
126 address to the Department.

127 Any driver's license may be renewed by application after the applicant has taken and successfully
128 completed those parts of the examination provided for in §§ 46.2-311, and 46.2-325, and the Virginia
129 Commercial Driver's License Act (§ 46.2-341.1 et seq.), including vision and written tests, other than the
130 parts of the examination requiring the applicant to drive a motor vehicle. All drivers applying in person
131 for renewal of a license shall take and successfully complete the examination each renewal year. Every
132 applicant for a renewal shall appear in person before the Department, unless specifically notified by the
133 Department that renewal may be accomplished in another manner as provided in the notice. Applicants
134 who are required to appear in person before the Department to apply for a renewal may also be required
135 to present proof of identity, legal presence, residency, and social security number or non-work
136 authorized status.

137 C. Notwithstanding any other provision of this section, the Commissioner, in his discretion, may
138 require any applicant for renewal to be fully examined as provided in §§ 46.2-311, and 46.2-325, and
139 the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.). Furthermore, if the applicant is less
140 than 75 years old, the Commissioner may waive the vision examination for any applicant for renewal of
141 a driver's license which is not a commercial driver's license, and the requirement or the taking of the
142 written test as provided in subsection B of this section, § 46.2-325 and the Virginia Commercial Driver's
143 License Act (§ 46.2-341.1 et seq.), for any applicant for renewal who is at least 21 years old. Such
144 written test shall not be waived for an applicant less than 21 years old if such applicant's driver's license
145 record on file with the Department contains a record of one or more convictions for any offense
146 reportable under §§ 46.2-382, 46.2-382.1, and 46.2-383. However, in no case shall there be any waiver
147 of the vision examination for applicants for renewal of a commercial driver's license or of the
148 knowledge test required by the Virginia Commercial Driver's License Act for the hazardous materials
149 endorsement on a commercial driver's license. No driver's license or learner's permit issued to any
150 person who is 75 years old or older shall be renewed unless the applicant for renewal appears in person
151 and either (i) passes a vision examination or (ii) presents a report of a vision examination, made within
152 90 days prior thereto by an ophthalmologist or optometrist, indicating that the applicant's vision meets or
153 exceeds the standards contained in § 46.2-311.

154 D. Every applicant for renewal of a driver's license, whether renewal shall or shall not be dependent
155 on any examination of the applicant, shall appear in person before the Department to apply for renewal,
156 unless specifically notified by the Department that renewal may be accomplished in another manner as
157 provided in the notice.

158 E. This section shall not modify the provisions of § 46.2-221.2.

159 F. 1. The Department shall electronically transmit application information, including a photograph, to
160 the Department of State Police, in a format approved by the State Police, for comparison with
161 information contained in the Virginia Criminal Information Network and National Crime Information
162 Center Convicted Sexual Offender Registry Files, at the time of the renewal of a driver's license.
163 Whenever it appears from the records of the State Police that a person has failed to comply with the
164 duty to register or reregister pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, the State Police shall
165 promptly investigate and, if there is probable cause to believe a violation has occurred, obtain a warrant
166 or assist in obtaining an indictment charging a violation of § 18.2-472.1 in the jurisdiction in which the
167 person last registered or reregistered or in the jurisdiction where the person made application for
168 licensure. The Department of State Police shall electronically transmit to the Department, in a format
169 approved by the Department, for each person required to register pursuant to Chapter 9 of Title 9.1,
170 registry information consisting of the person's name, all aliases that he has used or under which he may
171 have been known, his date of birth and social security number as set out in § 9.1-903.

172 2. For each person required to register pursuant to Chapter 9 of Title 9.1, the Department may not
173 waive the requirement that each such person shall appear for each renewal or the requirement to obtain
174 a photograph in accordance with subsection C of § 46.2-323.

1 **HOUSE BILL NO. 1082**

2 **AMENDMENT IN THE NATURE OF A SUBSTITUTE**

3 (Patron Prior to Substitute—Delegate Boysko)

4 *A BILL to amend and reenact § 46.2-328.1 of the Code of Virginia, relating to relating to*
5 *issuance of licenses, permits, and special identification cards to aliens.*

6 **Be it enacted by the General Assembly of Virginia:**

7 **1. That § 46.2-328.1 of the Code of Virginia is amended and reenacted as follows:**

8 **§ 46.2-328.1. Licenses, permits, and special identification cards to be issued only to**
9 **United States citizens, legal permanent resident aliens, holders of valid unexpired**
10 **nonimmigrant visas, or those having been granted a period of stay; exceptions; renewal,**
11 **duplication, or reissuance.**

12 A. Notwithstanding any other provision of this title, except as provided in subsection G
13 of § 46.2-345, the Department shall not issue an original license, permit, or special identification
14 card to any applicant who has not presented to the Department, with the application, valid
15 documentary evidence that the applicant is either (i) a citizen of the United States, (ii) a legal
16 permanent resident of the United States, or (iii) a conditional resident alien of the United States.

17 B. Notwithstanding the provisions of subsection A and the provisions of §§ 46.2-330 and
18 46.2-345, an applicant who presents in person valid documentary evidence ~~of (i) a valid,~~
19 ~~unexpired nonimmigrant visa or nonimmigrant visa status for entry into the United States, (ii) a~~
20 ~~pending or approved application for asylum in the United States, (iii) entry into the United States~~
21 ~~in refugee status, (iv) a pending or approved application for temporary protected status in the~~
22 ~~United States, (v) approved deferred action status, or (vi) a pending application for adjustment of~~
23 ~~status to legal permanent residence status or conditional resident status, that the applicant is~~
24 authorized under federal immigration law to be in the United States may be issued a temporary
25 license, permit, or special identification card. Such temporary license, permit, or special
26 identification card shall be valid only during the period of time of the applicant's authorized stay
27 in the United States or if there is no definite end to the period of authorized stay a period of one

28 year. No license, permit, or special identification card shall be issued if an applicant's authorized
29 stay in the United States is less than 30 days from the date of application. Any temporary license,
30 permit, or special identification card issued pursuant to this subsection shall clearly indicate that
31 it is temporary and shall state the date that it expires. Such a temporary license, permit, or
32 identification card may be renewed only upon presentation of valid documentary evidence that
33 the status by which the applicant qualified for the temporary license, permit, or special
34 identification has been extended by ~~the United States~~ Citizenship and Immigration and
35 ~~Naturalization Service or the Bureau of Citizenship and Immigration Services of the Department~~
36 of Homeland Security.

37 C. Any license or special identification card for which an application has been made for
38 renewal, duplication or reissuance shall be presumed to have been issued in accordance with the
39 provisions of subsection A, provided that, at the time the application is made, (i) the license or
40 special identification card has not expired or been cancelled, suspended or revoked or (ii) the
41 license or special identification card has been canceled or suspended as a result of the applicant
42 having been placed under medical review by the Department pursuant to § 46.2-322. The
43 requirements of subsection A shall apply, however, to a renewal, duplication or reissuance if the
44 Department is notified by a local, state or federal government agency that the individual seeking
45 such renewal, duplication or reissuance is neither a citizen of the United States nor legally in the
46 United States.

47 D. The Department shall cancel any license, permit, or special identification card that it
48 has issued to an individual if it is notified by a federal government agency that the individual is
49 neither a citizen of the United States nor legally present in the United States.

50 E. For any applicant who presents a document pursuant to this section proving legal
51 presence other than citizenship, the Department shall record and provide to the State Board of
52 Elections monthly the applicant's document number, if any, issued by an agency or court of the
53 United States government.

16104122D

HOUSE BILL NO. 1316

Offered January 21, 2016

3 A *BILL to amend and reenact § 46.2-328.1 of the Code of Virginia, relating to temporary driver's*
 4 *licenses.*

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 Patron—Bloxom

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 7 Referred to Committee on Transportation
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9 **Be it enacted by the General Assembly of Virginia:**

10 **1. That § 46.2-328.1 of the Code of Virginia is amended and reenacted as follows:**

11 **§ 46.2-328.1. Licenses, permits and special identification cards to be issued only to United States**
 12 **citizens, legal permanent resident aliens, or holders of valid unexpired nonimmigrant visas;**
 13 **exceptions; renewal, duplication, or reissuance.**

14 A. Notwithstanding any other provision of this title, except as provided in subsection G of
 15 § 46.2-345, the Department shall not issue an original license, permit, or special identification card to
 16 any applicant who has not presented to the Department, with the application, valid documentary
 17 evidence that the applicant is either (i) a citizen of the United States, (ii) a legal permanent resident of
 18 the United States, or (iii) a conditional resident alien of the United States.

19 B. Notwithstanding the provisions of subsection A and the provisions of §§ 46.2-330 and 46.2-345,
 20 an applicant who presents in person valid documentary evidence of (i) a valid, unexpired nonimmigrant
 21 visa or nonimmigrant visa status for entry into the United States, (ii) a pending or approved application
 22 for asylum in the United States, (iii) entry into the United States in refugee status, (iv) a pending or
 23 approved application for temporary protected status in the United States, (v) approved deferred action
 24 status, or (vi) a pending application for adjustment of status to legal permanent residence status or
 25 conditional resident status, may be issued a temporary license, permit, or special identification card.
 26 Such temporary license, permit, or special identification card shall be valid only during the period of
 27 time of the applicant's authorized stay in the United States or if there is no definite end to the period of
 28 authorized stay a period of one year. No license, permit, or special identification card shall be issued if
 29 an applicant's authorized stay in the United States is less than 30 days from the date of application. Any
 30 temporary license, permit, or special identification card issued pursuant to this subsection shall clearly
 31 indicate that it is temporary and shall state the date that it expires. Such a temporary license, permit or
 32 identification card may be renewed only upon presentation of valid documentary evidence that the status
 33 by which the applicant qualified for the temporary license, permit or special identification has been
 34 extended by the United States Immigration and Naturalization Service or the Bureau of Citizenship and
 35 Immigration Services of the Department of Homeland Security.

36 *The Department may also issue a temporary driver's license pursuant to this subsection to an*
 37 *applicant who (a) has established residency in the Commonwealth, (b) has filed an income tax return*
 38 *with the Commonwealth, (c) has registered with the Department of Homeland Security, and (d) either*
 39 *demonstrates proof of a policy or policies of motor vehicle liability insurance that have been obtained*
 40 *and are in full force for the year such temporary license is valid or pays the uninsured motor vehicle*
 41 *fee pursuant to § 46.2-706. Such fee shall be disposed of as provided for in § 46.2-710. Such temporary*
 42 *license shall be valid for one year from the date of issuance and shall state "NOT FOR FEDERAL*
 43 *IDENTIFICATION, VOTING, OR PUBLIC BENEFIT PURPOSES" in conspicuous, bold print on the*
 44 *face of such temporary license.*

45 C. Any license or special identification card for which an application has been made for renewal,
 46 duplication or reissuance shall be presumed to have been issued in accordance with the provisions of
 47 subsection A, provided that, at the time the application is made, (i) the license or special identification
 48 card has not expired or been cancelled, suspended or revoked or (ii) the license or special identification
 49 card has been canceled or suspended as a result of the applicant having been placed under medical
 50 review by the Department pursuant to § 46.2-322. The requirements of subsection A shall apply,
 51 however, to a renewal, duplication or reissuance if the Department is notified by a local, state or federal
 52 government agency that the individual seeking such renewal, duplication or reissuance is neither a
 53 citizen of the United States nor legally in the United States.

54 D. The Department shall cancel any license, permit, or special identification card that it has issued to
 55 an individual if it is notified by a federal government agency that the individual is neither a citizen of
 56 the United States nor legally present in the United States.

57 E. For any applicant who presents a document pursuant to this section proving legal presence other
 58 than citizenship, the Department shall record and provide to the State Board of Elections monthly the

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59 applicant's document number, if any, issued by an agency or court of the United States government.

16105110D

SENATE BILL NO. 390

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Transportation
on February 3, 2016)

(Patron Prior to Substitute—Senator Surovell)

A BILL to amend and reenact § 46.2-328.1 of the Code of Virginia, relating to temporary visitor's driver's licenses.

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-328.1 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-328.1. Licenses, permits and special identification cards to be issued only to United States citizens, legal permanent resident aliens, or holders of valid unexpired nonimmigrant visas; exceptions; renewal, duplication, or reissuance.

A. Notwithstanding any other provision of this title, except as provided in subsection G of § 46.2-345, the Department shall not issue an original license, permit, or special identification card to any applicant who has not presented to the Department, with the application, valid documentary evidence that the applicant is either (i) a citizen of the United States, (ii) a legal permanent resident of the United States, or (iii) a conditional resident alien of the United States.

B. Notwithstanding the provisions of subsection A and the provisions of §§ 46.2-330 and 46.2-345, an applicant who presents in person valid documentary evidence of (i) a valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry into the United States, (ii) a pending or approved application for asylum in the United States, (iii) entry into the United States in refugee status, (iv) a pending or approved application for temporary protected status in the United States, (v) approved deferred action status, or (vi) a pending application for adjustment of status to legal permanent residence status or conditional resident status, may be issued a temporary license, permit, or special identification card. Such temporary license, permit, or special identification card shall be valid only during the period of time of the applicant's authorized stay in the United States or if there is no definite end to the period of authorized stay a period of one year. No license, permit, or special identification card shall be issued if an applicant's authorized stay in the United States is less than 30 days from the date of application. Any temporary license, permit, or special identification card issued pursuant to this subsection shall clearly indicate that it is temporary and shall state the date that it expires. Such a temporary license, permit or identification card may be renewed only upon presentation of valid documentary evidence that the status by which the applicant qualified for the temporary license, permit or special identification has been extended by the United States Immigration and Naturalization Service or the Bureau of Citizenship and Immigration Services of the Department of Homeland Security.

C. Any license or special identification card for which an application has been made for renewal, duplication or reissuance shall be presumed to have been issued in accordance with the provisions of subsection A, provided that, at the time the application is made, (i) the license or special identification card has not expired or been cancelled, suspended or revoked or (ii) the license or special identification card has been canceled or suspended as a result of the applicant having been placed under medical review by the Department pursuant to § 46.2-322. The requirements of subsection A shall apply, however, to a renewal, duplication or reissuance if the Department is notified by a local, state or federal government agency that the individual seeking such renewal, duplication or reissuance is neither a citizen of the United States nor legally in the United States.

D. 1. The Department may issue a temporary visitor's driver's license or permit to an applicant who is unable to present valid documentary evidence as required under subsection A or B if such applicant (i) has resided in the Commonwealth for more than one year and (ii) has filed an income tax return with the Commonwealth or has been claimed as a dependent by an individual who has filed an income tax return with the Commonwealth. A temporary license or permit issued pursuant to this subsection shall be valid for one year from the date of issuance and shall state "NOT FOR FEDERAL USE" in conspicuous, bold print on the face of such temporary license or permit.

2. The Department may issue, upon application by the holder of a valid, unexpired temporary visitor's driver's license or permit issued by the Department, another such license or permit that shall become effective upon the expiration of the previously issued license or permit.

3. The fee for a temporary visitor's driver's license or permit shall be \$53, except for a license or permit issued D 2, for which the fee shall be \$20.

E. The Department shall cancel any license, permit, or special identification card that it has issued to an individual if it is notified by a federal government agency that the individual is neither a citizen of the United States nor legally present in the United States.

E.—F. For any applicant who presents a document pursuant to this section proving legal presence

SENATE SUBSTITUTE

SB390S1

60 other than citizenship, the Department shall record and provide to the State Board of Elections monthly
61 the applicant's document number, if any, issued by an agency or court of the United States government.
62 **2. That the provisions of this act shall become effective on July 1, 2017.**

Appendix 2

Virginia 2016 Legislation Relating to Driving Credentials for Immigrants

Bill	Name of credential	Groups eligible
Current Law	Driver's license (limited duration)	<p>This includes six categories of legally present individuals:</p> <ul style="list-style-type: none"> • those with an unexpired visa, • asylees or those who have a pending application for asylum; • refugees; • those in temporary protected status (TPS) or those who have a pending application for TPS; • those who have been granted deferred action; and • those with a pending green card application.
HB 695 (Kory) (identical to HB 987)	Driver's license (limited duration)	<p>Adds to current law, aliens who present proof of being in withholding of removal.</p> <p>Individuals are granted withholding of removal, because they are generally in situations similar to asylees and refugees, in that the U.S. government has determined that the individual's life or freedom would be threatened if returned to their home country because of the individual's race, religion, nationality, membership in a particular social group, or political opinion.</p> <ul style="list-style-type: none"> • This includes individuals granted withholding of removal under the Convention Against Torture Act, and whom the U.S. government has determined have been tortured in their home country or risk being tortured in their home country if removed from the U.S.
HB 987 (Lopez) (identical to HB 695)	Driver's license (limited duration)	<p>Adds to current law, aliens who present proof of being in withholding of removal.</p> <p>Individuals are granted withholding of removal, because they are generally in situations similar to asylees and refugees, in that the U.S. government has determined that the individual's life or freedom would be threatened in their home country because of the individual's race, religion, nationality, membership in a particular social group, or political opinion.</p> <ul style="list-style-type: none"> • This includes individuals granted withholding of removal under the Convention Against Torture Act, and whom the U.S. government has determined have been tortured in their home country or risk being tortured in their home country if removed from the U.S.
HB 1082 (Boysko) (Unpublished Substitute adopted in Subcommittee)	Driver's license (limited duration)	<p>Aliens who present proof of being authorized under federal immigration law to be in the U.S., but who are not currently eligible for a limited duration driver's license. Among the excluded in current law:</p> <ul style="list-style-type: none"> • Battered spouses, parents and children who have been granted relief under the Violence Against Women Act. • Victims of severe forms of human trafficking, where the trafficking was one of the central reasons for the individual's presence in the U.S. • Those who have been granted withholding of removal, because removal from the United States would threaten their lives or freedom. <ul style="list-style-type: none"> ○ This includes individuals granted withholding of removal under the Convention Against Torture Act, and whom the U.S. government has determined have been tortured in their home country or risk being tortured in their home country if removed from the U.S. • Parolees. "Parole" simply means that an individual is authorized by federal immigration authorities to be in the United States for urgent humanitarian reasons or for a significant public benefit, without being formally admitted into the country. Many Cubans immigrants over the past 50 years were paroled into the U.S. Another group of individuals who are in a "Parole"

		status are those allowed to remain in the United States in order to assist law enforcement with ongoing criminal investigations. DMV periodically receives requests from law enforcement agencies to issue driver's licenses to aliens in a "Parole" status who need to be able to drive a vehicle in order to help them but has no authority to do so.
HB 1316 (Bloxom) (Unpublished Substitute adopted in subcommittee)	Driver's license (limited duration) Driving Privilege Card/permit (one year duration)	<p>I. HB 1316 allows everyone legally present within the United States to apply for a limited duration driver's license. This includes everyone currently eligible, as well as, the following groups (among others):</p> <ul style="list-style-type: none"> • Battered spouses, parents and children who have been granted relief under the Violence Against Women Act. • Victims of severe forms of human trafficking, where the trafficking was one of the central reasons for the individual's presence in the U.S. • Those who have been granted withholding of removal, because removal from the United States would threaten their lives or freedom. • Parolees. "Parole" simply means that an individual is authorized by federal immigration authorities to be in the United States for urgent humanitarian reasons or for a significant public benefit, without being formally admitted into the country. Many Cubans immigrants over the past 50 years were paroled into the U.S. Another group of individuals who are in "Parole" status are those allowed to remain in the United States in order to assist law enforcement with ongoing criminal investigations. DMV periodically receives requests from law enforcement agencies to issue driver's licenses to aliens in a "Parole" status who need to be able to drive a vehicle in order to help them but has no authority to do so. <p>II. HB 1316 authorizes DMV to issue a driving privilege card or permit to an individual who cannot present proof of legal presence as required under current law for a driver's license or permit, but who</p> <ul style="list-style-type: none"> • Has filed a Virginia income tax return, or been claimed as a dependent on a Virginia income tax return, or had Virginia income tax withheld • Has not violated the insurance requirements set forth in Article 8 of Chapter 6 of Title 46.2 • Meets all other requirements for issuance of a driver's license or permit (including residency, testing, photograph on credential, etc.)
SB 390 (Surovell) (Unpublished Substitute adopted in Subcommittee)	Temporary visitor's driver's license	<p>The bill authorizes DMV to issue a temporary visitor's driver's license or permit to an individual who cannot present proof of legal presence as required under current law for a driver's license or permit, but who has</p> <ul style="list-style-type: none"> • Resided in Virginia for at least 1 year • Filed a Virginia income tax return, or been claimed as a dependent on a Virginia income tax return

Appendix 3

List of Stakeholders

Name	Agency, Company, or Association
Brad Copenhaver	Virginia Agribusiness Council
Andrew Smith	Virginia Farm Bureau
Beatriz Amberman	Virginia Coalition of Latino Organizations
Demas Boudreaux	Hispanic Chamber of Commerce & Virginia Coalition of Latino Organizations
Tamar Jones	Dyer Immigration Law Group
Tram Nguyen	New Virginia Majority & Coalition of Asian Pacific Americans of Virginia
Laura Goren	The Commonwealth Institute for Fiscal Analysis
Father Jack Podsiadlo, S. J.	Sacred Heart Center
Patrick McKenna	Virginia Beach Justice Initiative
Margie Del Castillo	Drive Virginia Forward Coalition
Rodrigo Velasquez	Virginia Latina Advocacy Network; Drive Forward Coalition
Luis Angel Aguilar	CASA
Dana Schrad	Virginia Chiefs of Police Association
John Jones	Virginia Sheriff's Association
Sheriff Lenny Millholland	Virginia Sheriff's Association, Frederick
Lt. Warren Gosnell	Virginia Sheriff's Association, Frederick
Capt. Danny Glick	Virginia State Police
Capt. Ronnie Maxey	Virginia State Police
Capt. A.J. Gordon	Chiefs of Police, Henrico
Lt. Robert Marland	Chiefs of Police, Richmond
Joe Lerch	Virginia Municipal League
Beau Blevins	Virginia Association of Counties
Chris LaGow	Nationwide, Chubb, PCI, AIG
Kevin Logan	Virginia Farm Bureau
Jacqueline Stone	McGuire Woods/State Farm
Martha Meade	AAA
Janet Brooking	DriveSmart
Rich Jacobs	DriveSmart
Jillian Blake	American Immigration Lawyers Association
Karl Hade	Supreme Court of Virginia
Ms. LaBravia J. Jenkins	Virginia Association of Commonwealth's Attorneys
Janet Baugh	Office of the Attorney General
Gordon Wilkins	Judicial Liaison
John M. Weiland	Criminal Defense Attorney
Craig Burns	Dept. of Taxation
Michael Palmer	Dept. of Taxation
Lee Mikelson	Dept. of Taxation
Mathew Bruning	Virginia Bankers Association

List of Stakeholders

Valerie Braxton-Williams	Virginia Employment Commission
Chris Delta	Aide to Delegate Kory
Erik Johnston	Governor's Office
Lisette Carbajal	Governor's Office

Appendix 4



Ms. Janet Smoot
Virginia Department of Motor Vehicles
2300 W Broad Street
Richmond, VA 23269

September 27, 2016

Dear Ms. Smoot:

Thank you for the opportunity to comment on the final report from the Driver Privilege Card Stakeholder Study. This report came out of months of hard work and excellent research, preparation and coordination by DMV staff. We are honored to be a part of the diverse group of stakeholders that included community organizations, research and policy leaders, business representatives, law enforcement and public safety leaders.

In discussing how to extend driving privileges to more individuals in Virginia, the working group wrestled with many questions related to identity verification, residency requirements, safety and security, and privacy. Public safety and community trust were central to all discussions.

While we are disappointed that the recommendations do not include extending driver privilege cards to dependents and those who are unable to provide proof of income by filing a Virginia income tax return – many of whom are caregivers for their families, we understand the challenges of including these categories.

Immigrants across Virginia are eager to more fully participate and contribute to Virginia's vibrant economy. Therefore, they are willing to come forward to apply for driving privileges with the understanding that their information no longer would be private and may be shared with other government agencies.

We are pleased that the final report captures the depth and breadth of the working group conversations. This final report provides stakeholders, policy makers, and agencies with the information needed to move forward to improve road safety for all Virginians.

We look forward to continuing to work with you and other stakeholders to implement the findings of this study.

Sincerely,

Tram Nguyen
Co-executive Director
New Virginia Majority

SIN BARRERAS/WITHOUT BARRIERS INC.

Sept. 27, 2016

Sin Barreras is a Charlottesville NGO dedicated to helping Hispanic immigrants adjust to full life in the United States, and contribute to U.S. civil society through their hard work, their cultural and linguistic heritage, and their desire for a better life for their children.

Through numerous workshops and conversations, Sin Barreras is convinced that driver's licenses for all Virginian no matter one's immigrant status is *the* Number One issue for Charlottesville Hispanics. We know by name friends deported for two convictions of running a stop sign or minor speeding while driving without a license; and we attest to hundreds of law-abiding, hard-working family breadwinners who drive to work every day terrified of their next interaction with the Police for fear of such an outcome. We have numerous clients who have prepared Powers of Attorney transferring their children's care to neighbors if such a thing were to take place. This is a terrible way to drive that brings additional risks to all Virginians on the road—as well as a terrible way to live.

For these reasons, Sin Barreras congratulates the Chairman of the Transportation Committee of the Virginia House of Delegate, the Honorable Ron Villanueva, for his commissioning an in-depth study of the driver's license issue for all Virginians. We also congratulate the Department of Motor Vehicles for its coherent, comprehensive proposal to the Chairman how to move this issue forward. In general terms and in many specific areas, we find the document contains many powerful, well-argued recommendations.

We nevertheless have grave concerns regarding the proposal that allows Driver Privilege Card (DPC) data to be shared with other government agencies (p.30). We concur with minority stakeholders' opinion that allowing non-DMV officials to access the information in these files could make it very easy for any government entity to easily identify every undocumented resident in Virginia. Sin Barreras is not even sure we will recommend our people to apply for DPC status, so easy does this provision make them identifiable as undocumented. Does not the effectiveness of the DPC initiative depend on rock-solid assurances these people's data will not be shared with immigration enforcement officials?

Congratulations again to Chairman Villanueva and the DMV for a fine start in improving the fear-filled daily lives of many of our friends and colleagues. We earnestly encourage re-consideration of the provision to allow other government entities' access to these data.

Sin Barreras/Without Barriers Board of Director



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22906

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THE
COMMONWEALTH
INSTITUTE

*Building a Prosperous
Virginia for All*

September 27, 2016

Ms. Janet Smoot
Division of Governmental Affairs
Department of Motor Vehicles
2300 West Broad St.
Richmond, VA 23269

Dear Ms. Smoot,

Thank you for the opportunity to comment on the Driver Privilege Card Stakeholder Study report, for the extensive process of gathering information and input during this study, and for all the excellent work by DMV staff to prepare this report. By bringing together diverse stakeholders, including public safety leaders, business representatives, research organizations, and members of community organizations, this study process has built on Virginia's long tradition of thoughtful dialogue and careful deliberation.

We believe this report accurately captures the discussion by the diverse stakeholders and the extensive research by DMV staff into access to driving cards in Virginia and other states, and will usefully inform future discussion of this topic by the public and General Assembly.

This includes accurately reflecting the strong consensus among stakeholders to extend access to limited duration licenses to all individuals who a federal court or federal agency having jurisdiction over immigration has authorized to be in the United States.

Virginia now also has the information needed to move forward in improving road safety by making sure all Virginia drivers, regardless of immigration status, are appropriately trained, tested, licensed, and insured. Furthermore, as shown by the findings in the report, access to lawfully driving has important consequences for the ability of individuals to maintain employment that appropriately uses their skills and experience.

We look forward to continuing to work with you and the other stakeholders to implement the findings of this study and build a better commonwealth for all.

Sincerely,

A handwritten signature in black ink, appearing to read 'Laura Goren'.

Laura Goren
Research Director
The Commonwealth Institute for Fiscal Analysis



VIRGINIA COALITION OF LATINO ORGANIZATIONS

vacolao@gmail.com

Tuesday, September 27, 2016

Commissioner Richard D. Holcomb
Virginia Department of Motor Vehicles 2300 West Broad Street
Richmond, Virginia 23269

Re: Driver Privilege Card Stakeholder Study report

Dear Mr. Commissioner Holcomb:

The Virginia Coalition of Latino Organizations (VACOLAO) is a statewide coalition of community-based organizations, citizens and residents of Virginia. The Coalition represents the interests of Latino/Hispanic community residents in the Commonwealth of Virginia, and we value the opportunity to participate in the stakeholder study group.

We are writing to you about the Driver Privilege Card Stakeholder Study Report that will be sent to the Chairman of the Transportation Committee of the Virginia House of Delegates Pursuant to HB 695, HB 987, HB 1082, HB 1316, and SB 390.

First of all, we would like to congratulate Delegate Ron Villanueva, Chairman of the Transportation Committee of the House of Delegates, for requesting this study on the potential impact of allowing immigrant residents to apply for driver's credentials regardless of their immigration status. As Commissioner of the Virginia Department of Motor Vehicles, we also would like to thank you for conducting this study in an inclusive manner by reaching out to a broad cross-section of stakeholders.

The lack of a driver's license for undocumented immigrants has been harmful for members of our community who have been criminalized for engaging in otherwise lawful activities including taking their children to school or attending their houses of worship. This issue is a priority issue for us and we are glad that it is being addressed.

As stated above, VACOLAO has been pleased with the completed report as well as the manner in which the study was conducted. Nevertheless we would like to highlight our concerns over the data sharing portion of the study. Specifically, we are concerned over the sharing of card holder's information among government entities operating in our state. We understand that current Virginia law allows for the sharing of card holder information including immigration status with government agencies when requested. Allowing the sharing of sensitive information like a card holder's immigration status needs to be part of a rigorous discussion including the potential need for legislative safeguards over how and when such information may be shared as has been implemented in other jurisdictions where undocumented immigrants have been authorized to obtain driver's licenses.



VIRGINIA COALITION OF LATINO ORGANIZATIONS

vacolao@gmail.com

VACOLAO intends to be part of the coming discussion over the issues addressed in this report.

Once again, we would like to thank you Chairman Holcomb for the taking this important step toward addressing the suffering of thousands of Latinos and immigrants residing in the Commonwealth of Virginia.

Sincerely,

Edgar Aranda-Yanoc, LLM
Chair
Board of Director
Virginia Coalition of Latino Organizations (VACOLAO)

Beatriz Amberman
Vice-Chair
Board of Directors
VACOLAO

From: Patrick McKenna [<mailto:pm.justice.vb@gmail.com>]

Sent: Tuesday, September 27, 2016 7:08 PM

To: Smoot, Janet (DMV)

Subject: Re: FW: Driver Privilege Card Study - Report and legislation - Feedback due today

Dear Janet:

Thank you for forwarding this information for review and comment. It is appreciated. While I understand that my comments are coming just after close of business, I am hoping that they may be taken into consideration regarding the proposed legislation.

First, I would note that the recommendations appear to accurately reflect the work of the Stakeholder via the various committee meetings. I am also in agreement with most of the legislative amendments being proposed. That being said I believe there is a problem with creating new definitions for "driver's license" under three separate code sections that includes the limited "Driver's Privilege Card" ("DPC") as it is inconsistent with the Stakeholder recommendations that it is not such and mirrors comments of a number of stakeholders that, in fact, the allowance of DPC's will lead to them being treated in the same manner and fashion as driver's licenses. The inclusion of DPC's under the definition of driver's licenses renders ineffective the other numerous amendments throughout the various code sections that lists driver's license *or other document issued under Chapter 3 (§ 46.2-300 et 417 seq.) of Title 46.2 or the comparable law of another jurisdiction*. Accordingly, if a definition for "driver's license" is needed, which frankly I am not sure why it is given the other amendments and that the language of the new DPC code section is clear on its face as being separate and a part from a driver's license, then the definition for "driver's license" should refer to a driver's license only and a separate definition should be created for the DPC.

Please feel free to contact me should you have any questions regarding the above and thank you to you and the other dedicated staff at the DMV who worked so diligently on pulling this information together.

May you have a great rest of your week.

Sincerely,

Patrick J. McKenna, Esq.
Attorney & Counselor at Law
Director & Co-Founder, VBJI
P.O. Box 3018
Chesapeake, VA 23327
Toll Free: 877-227-2321
Cell: 757-717-1027
Fax: 888-503-6097

From: Braxton-Williams, Valerie (VEC)

Sent: Tuesday, September 27, 2016 2:11 PM

To: Smoot, Janet (DMV)

Subject: RE: Driver Privilege Card Study - Report and legislation - Feedback due today

Good afternoon, Janet. I do not have any questions. Great job. I am thankful to have been afforded the opportunity serve on the study group. Each meeting was very efficiently conducted and with an atmosphere of equal inclusiveness for all stakeholders.

I look forward to future opportunities to work with the incredible staff at DMV.

My best.

Valerie



October 18, 2016

Ms. Janet Smoot
Virginia Department of Motor Vehicles
2300 W Broad Street
Richmond, VA 23269

RE: CASA Comments to Driving Credentials for Resident Immigrants Report

Dear Ms. Smoot,

Thank you very much for the opportunity to comment on the report of stakeholder discussions and decisions regarding expansion of licensure for Virginia immigrants. While we take issue with some recommendations set out in the report, the DMV must be applauded on having staffed an inclusive and comprehensive process of research and engagement with multiple critical sectors including law enforcement, the judiciary, the business and advocacy community, and the insurance industry.

There are three areas of concern that we seek to address in our brief letter:

- a) The issue of currently eligible immigration statuses and limited term licenses

We urge the DMV to significantly revisit both the current practice of issuance of licenses to lawfully present immigrants and consider an appropriate treatment of immigrants with no discernable termination date. Under the current statute, immigrants with deferred action are eligible for a limited term license. However, immigrants that have been granted a Stay of Deportation, a form of deferred action, are currently denied licenses. Several statuses both included in the current list of approved statuses¹ as well as two statuses on the new list of statuses in proposed legislation² arguably hold a permanent status in that their status does not have an end date. The vast majority of immigrants that are refugees, asylees, or granted withholding or suspension of deportation will never lose that status unless, like a legal permanent resident, they commit a disqualifying crime and the government moves to deport them. We imagine that for those statuses that currently qualify for a limited-term license, the DMV is

¹ Approved application for asylum and entry into the country with refugee status.

² Those granted cancellation of removal or suspension of deportation.

utilizing the expiration date on the employment authorization which is typically one year. Requiring holders of a non-terminating status to return each year to renew their license is unfairly burdensome on the driver and a waste of administrative resources. Indeed, under REAL ID, some of those statuses are explicitly included in the list of statuses that qualify for full-time licenses.

b) Language Access

While clearly not an issue restricted to immigrant licensure, the manner of dealing with drivers that don't speak English was a matter of robust debate among the stakeholders. Accordingly, it seems important to revisit this issue.

As you know, the DMV's responsibility to provide access to Limited-English Proficient individuals is clear under Title VI of the Civil Rights Act of 1964, 42 U.S.C. sec. 2000d and DOT implementing regulations at 49 C.F.R. Part 21³. Indeed, the Department of Justice is currently suing the Hawai'i Department of Transportation for failure to provide access to testing and application services for drivers licenses to speakers of other languages. Important to the debate in Virginia, the DOJ has argued in pleadings that to assert that licensure be denied to non-English speakers on the basis of road safety is obviated by the fact that Hawai'i, like Virginia, provides alternate licensing processes to those that can neither read or write. In describing the current process, it appears that the DMV has proactively translated the knowledge exam into a robust set of languages however the Title VI framework requires a fact-based analysis of which languages are chosen that we can only assume that the DMV has conducted because it is not described. We are concerned, however, that the current practice of cancelling applications of those deemed to have significant language barriers is unlawful and urge the DMV to analyze whether that practice complies with its obligations under Title VI.

c) Dependents

Perhaps the most serious of the recommendations of the report, and the matter that most impacts CASA's thousands of members that would seek to apply for a Virginia Driver Privilege Card, is the exclusion of dependents from qualifying.

As the DMV correctly notes, several states across the country have required evidence of the filing of state income taxes to qualify for a Driver Privilege Card. In most states, the inclusion of that requirement has been based less on evidencing an immigrant's investment in the state and more to ensure a greater likelihood that an applicant is truly a resident of the state.

Still, if measuring economic contribution was the critical factor for the stakeholders, dependents in Virginia are actually earning up to \$11,950 a year, clearly above the floor of \$1 in income established by the task force as measuring economic contributions to the state. The task force recommended excluding dependents because they are not individually listed on the Virginia tax

³ Hereinafter "Title VI"

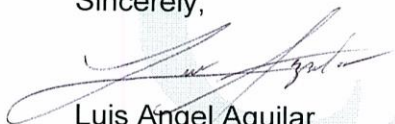
form, however this is easily remedied by an applicant bringing in both their state and federal tax forms, the latter of which does require the listing of each dependent.

The exclusion of dependents from licensure has a significant impact on immigrant youth, family care providers, and more. Research from both Oregon and New Jersey underscore the significant impact that lack of licensure has on earnings and this is a particularly bitter pill for youth working to attend college, an education for which they do not qualify for financial assistance. CASA has gathered member testimony from women caregivers whose lack of licensure kept them physically isolated in abusive relationships, unable to even attend court proceedings to obtain orders of protection.

Given that tax “dependents” in Virginia are potentially earning significant amounts of money and the easy administrative fix to properly identifying dependents through the federal tax returns, we urge the DMV to revisit the exclusion of dependents from qualifying for drivers privilege cards.

In closing, we wish to again applaud Chairman Villanueva for initiating this study, the great work of the DMV in conducting it, and the participation of all stakeholders in a thorough process. We look forward to continuing engagement on this issue to ensure that the Virginia economy is benefitted by the contributions of immigrant drivers across the Commonwealth.

Sincerely,



Luis Angel Aguilar
Advocacy and Elections Specialist
CASA



COMMONWEALTH OF VIRGINIA

Colonel W. S. (Steve) Flaherty
Superintendent

(804) 674-2000

DEPARTMENT OF STATE POLICE

7700 Midlothian Turnpike, Richmond, VA 23235

(804) 674-2000

Lt. Colonel Tracy S. Russillo
Deputy Superintendent

November 7, 2016

Richard D. Holcomb, Commissioner
Virginia Department of Motor Vehicles
2300 West Broad Street
Richmond, Virginia 23269

Dear Commissioner Holcomb:

I have been briefed by Captain F. Daniel Glick concerning the results of the recent Driving Credential for Residents Committee which was commissioned by House Transportation Chairman Ron Villanueva. I appreciate the great challenge you have been given as well as the effort your staff and this committee has put forward. While I understand the intent of the committee was not to address the merits of Driver Privilege Cards (DPC), I would like to express some concerns related to a portion of the report outlining the issuance of DPCs to undocumented immigrants. As you are aware, the safety of our citizens and visitors must be the highest priority of all our government institutions.

The vast majority of individuals seeking this type of credential has no ill will and is simply looking to improve their lives. That being said, there is a proven and clear nexus between identity theft and terrorism making driver privilege cards enticing to those wishing to commit criminal or terrorist acts in the Commonwealth. Law enforcement agencies have always had concerns about the issuance of identity credentials without adequate verification of identity. Driver privilege cards, once obtained are a perfect "breeder" document for establishing a false identity.

Terrorists depend on stolen and fraudulent documents to conceal their identity while giving them the ability to move freely and access potential targets. In the recent horrific terrorist attacks in Paris, France, some of the perpetrators were aided by stolen and fraudulent documents. We need to make it harder for terrorists to falsify their identities, and prevent them from acquiring valuable identity documents. It is my belief that the issuance of DPCs in the Commonwealth, while well intentioned, could pose a significant risk to public safety for the above reasons.

I hope you find this information helpful and I wish you and your organization all the best in future.

Sincerely,

W.S. Flaherty
Superintendent

WSF/FDG/vmb

Appendix 5

Study Structure

Study Stakeholder Team

Working Committees

Fiscal Impact

Scott Cummings
Linda Ford

Impact on
Insurance
Coverage

Millicent Ford
Tonya Blaine

Impact on
Highway Safety

John Saunders
Lori Rice

Impact on Law
Enforcement

Sharon Brown
Brad Berg

Appendix 6

Statutes Not Amended in the Driver Privilege Card Legislation

Title	Sections	Reasoning
Title 2 – Administration of Government	2.2-3801	The language in this statute is broad enough to include DPCs as currently written.
	2.2-3808	This statute deals with agency-issued identification cards issued prior to July 1, 2003, which is not applicable to DPCs.
Title 4.1 – Alcoholic Beverage Control	4.1-304	The language in this statute is broad enough to include DPCs as currently written.
Title 6.2 – Financial Institutions and Services	6.2-2107.1	The language in this statute is broad enough to include DPCs as currently written.
Title 8.01 – Civil Remedies and Procedures	8.01-345; 8.01-353.1	These statutes deal with jury service. Only U.S. citizens can serve on juries; therefore, DPCs should not be included.
Title 15.2 – Counties, Cities and Towns	15.2-1705	This statute discusses job qualifications for certain positions open only to U.S. citizens. DPCs should not be included.
Title 16.1 – Courts Not of Record	16.1-278.5; 16.2-278.8; 16.2-278.9; 16.1-291; 16.2-292; 16.2-334	Section 16.1-228 Definitions was amended. “Driver’s license” was defined to encompass all DMV documents authorizing operation of a motor vehicle, including DPCs.
Title 18.2 – Crimes and Offenses Generally	18.2-36.1; 18.2-51.4; 18.2-186.3; 18.2-186.6; 18.2-204.2; 18.2-251; 18.2-259.1; 18.2-266.1; 18.2-268.4; 18.2-270.1; 18.2-271; 18.2-271.1; 18.2-272; 18.2-308.2:2; 18.2-371.2;	Section 18.2-6 Meaning of Certain Terms was amended. “Driver’s license” was defined to encompass all DMV documents authorizing operation of a motor vehicle, including DPCs.
Title 19.2 – Criminal Procedure	19.2-80.1; 19.2-270.3; 19.2-349;	The language in this statute is broad enough to include DPCs as currently written.
Title 20 – Domestic Relations	20-88.53	The language in this statute is broad enough to include DPCs as currently written.
Title 22.1 – Education	22.1-178	This statute references an examination prescribed by 46.2-339, which requires a commercial driver’s license. An undocumented immigrant is not eligible for a

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		commercial driver's license under federal law, so DPCs should not be included.
Title 23.1 – Institutions of Higher Education; Other Educational and Cultural Institutions	23.1-502; 23.1-506	The language in this statute is broad enough to include DPCs as currently written.
Title 24.2 – Elections	24.2-955.2; 24.2-957; 24.2-958	The language in these statutes is broad enough to include DPCs. Since these statutes deal only with political advertising, there is no reason to specifically exclude DPCs.
Title 30 – General Assembly	30-133	The statute does not limit the Auditor of Public Accounts from requesting or the DMV from providing information on credentials in addition to regular driver's licenses.
	30-231.2	This statute refers to the legal presence requirements for a driver's license. DPCs should not be included.
Title 32.1 - Health	32.1-291.4; 32.1-291.5;	Section 32.1-291.2 Definitions was amended. "Driver's license" was defined to encompass all DMV documents authorizing operation of a motor vehicle, including driver privilege cards. Any following sections in 32.1-291 with the term "driver's license" will apply to driver privilege cards without additional amendment.
	32.1-292.2	The language in this statute is broad enough to include driver privilege cards without amendment.
Title 38.2 – Insurance	38.2-1800.1	The language in this statute is broad enough to include driver privilege cards without amendment.
Title 40.1 – Labor and Employment	40.1-100	The language in this statute is broad enough to include driver privilege cards without amendment.
Title 46.2 –	46.2-100; 46.2-102; 46.2-104; 46.2-	The new § 46.2-328.2 states that for

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<p>Motor Vehicles</p>	<p>105.1; 46.2-105.2; 46.2-200; 46.2-203; 46.2-203.1; 46.2-203.2; 46.2-204; 46.2-208; 46.2-209; 46.2-214.2; 46.2-214.4; 46.2-216.1; 46.2-217; 46.2-221; 46.2-221.1; 46.2-221.2; 46.2-300; 46.2-301; 46.2-301.1; 46.2-302; 46.2-303; 46.2-305; 46.2-306; 46.2-307; 46.2-308; 46.2-310; 46.2-311; 46.2-312; 46.2-313; 46.2-314; 46.2-315; 46.2-316; 46.2-317; 46.2-318; 46.2-319; 46.2-320; 46.2-320.1; 46.2-320.2; 46.2-321; 46.2-322; 46.2-323; 46.2-323.01; 46.2-323.1; 46.2-324; 46.2-324.1; 46.2-325; 46.2-326; 46.2-327; 46.2-328; 46.2-329; 46.2-334; 46.2-334.001; 46.2-334.01; 46.2-334.02; 46.2-334.1; 46.2-335.2; 46.2-336; 46.2-337; 46.2-339; 46.2-340;</p>	<p>the purposes of Title 46.2, any mention of driver's license applies to driver privilege cards, unless driver privilege cards are explicitly excluded.</p>
	<p>46.2-341.4; 46.2-341.6; 46.2-341.8; 46.2-341.9; 46.2-341.10; 46.2-341.10:1; 46.2-341.12; 46.2-341.14:2; 46.2-341.14:3; 46.2-341.14:5; 46.2-341.20; 46.2-341.18:3; 46.2-341.20:4; 46.2-341.26:2; 46.2-341.26:4;</p>	<p>These statutes deal with commercial driver's licenses. According to federal law, undocumented immigrants are not eligible for a commercial driver's license.</p>
	<p>46.2-342; 46.2-344; 46.2-345; 46.2-346; 46.2-347; 46.2-348; 46.2-355.1; 46.2-356; 46.2-357; 46.2-358; 46.2-359; 46.2-360; 46.2-361; 46.2-363; 46.2-364; 46.2-369; 46.2-370; 46.2-382; 46.2-383; 46.2-384; 46.2-386; 46.2-389; 46.2-390; 46.2-390.1; 46.2-91; 46.2-391.01; 46.2-391.1; 46.2-391.2; 46.2-391.4; 46.2-392; 46.2-393; 46.2-394; 46.2-395; 46.2-396; 46.2-396.1; 46.2-397; 46.2-398; 46.2-398.1; 46.2-399; 46.2-400; 46.2-402; 46.2-403; 46.2-408; 46.2-410; 46.2-410.1; 46.2-411; 46.2-411.1; 46.2-412; 46.2-413; 46.2-414; 46.2-415; 46.2-416; 46.2-416.1; 46.2-417; 46.2-421; 46.2-422; 46.2-423; 46.2-424; 46.2-425; 46.2-427; 46.2-430; 46.2-434; 46.2-437; 46.2-459; 46.2-460; 46.2-462;</p>	<p>The new § 46.2-328.2 states that for the purposes of Title 46.2, any mention of driver's license applies to driver privilege cards, unless driver privilege cards are explicitly excluded.</p>
	<p>46.2-483</p>	<p>This statute codifies the Driver's License Compact, an agreement between Virginia and over 40 other states concerning driver's license information. A member state cannot</p>

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		amend the Compact without the other members' approval.
	46.2-488; 46.2-489; 46.2-490.1; 46.2-491; 46.2-494; 46.2-498; 46.2-499; 46.2-501; 46.2-506; 46.2-678; 46.2-706; 46.2-707; 46.2-407.1; 46.2-708; 46.2-709; 46.2-749.105; 46.2-800.2; 46.2-810; 46.2-817; 46.2-818; 46.2-819.2; 46.2-833; 46.2-865; 46.2-865.1; 46.2-882; 46.2-894; 46.2-901; 46.2-908.3; 46.2-913; 46.2-916.3; 46.2-919; 46.2-938; 46.2-943; 46.2-944; 46.2-945; 46.2-946; 46.2-1078.1; 46.2-1086; 46.2-1110; 46.2-1154; 46.2-1190.3; 46.2-1190.4; 46.2-1191; 46.2-1206; 46.2-1254; 46.2-1906; 46.2-1608.1; 46.2-1705; 46.2-1707; 46.2-2099.49; 46.2-2099.53; 46.2-2900; 46.2-2901; 46.2-2903; 46.2-2906; 46.2-2906; 46.2-2907; 46.2-2908; 46.2-2910	The new § 46.2-328.2 states that for the purposes of Title 46.2, any mention of driver's license applies to driver privilege cards, unless driver privilege cards are explicitly excluded.
Title 47.1 – Notaries and Out of State Commissioners	47.1-2; 47.1-14	The language in these statutes is broad enough to include driver privilege cards without amendment.
Title 52 – Police (State)	52-9	The language in this statute is broad enough to include driver privilege cards without amendment.
Title 54.1 – Professions and Occupations	54.1-3420.1; 54.1-4009; 54.1-4010; 54.1-4101	The language in these statutes is broad enough to include driver privilege cards without amendment.
Title 55 – Property and Conveyances	55-284.4; 55-394.4	The language in these statutes is broad enough to include driver privilege cards without amendment.
Title 59.1 – Trade and Commerce	59.1-120; 59.1-136.3; 59.1-444.3	The language in these statutes is broad enough to include driver privilege cards without amendment.
Title 63.2 – Welfare (Social Services)	63.2-905.3; 63.2-908; 63.2-1250;	The language in these statutes is broad enough to include driver privilege cards without amendment.
	63.2-1716	This section references Chapter 3 of Title 46.2 regarding driver's licenses. The new § 46.2-328.2 includes driver privilege cards; therefore no amendment is needed to this section.
Title 64.2 – Will, Trusts, and	64.2-2105	The language in this statute is broad enough to include driver privilege

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Fiduciaries		cards without amendment.
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