Selected Acts of the 2020 Virginia General Assembly

Compiled by
The Virginia Department of State Police

This volume of Selected Acts contains legislation passed by the 2020 Session of the Virginia General Assembly that is relevant to criminal law and highway safety. Additional copies of this reference guide may be found at the Virginia State Police website at: http://www.vsp.state.va.us/FormsPublications.shtm.

EXPLANATIONS WHICH MAY BE HELPFUL IN STUDYING THESE ACTS:

1. *Italicized* words indicate new language.

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

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

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

5. Effective date - All Acts, other than those containing an emergency clause or those specifying a delayed effective date, become law on July 1, 2020. Note that different portions of a bill may carry different effective dates.

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

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

8. Additional information on legislation may be found at: https://lis.virginia.gov/ and the Virginia State Police website at www.vsp.state.va.us.

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TRAFFIC – FULL TEXT

Holding handheld personal communications devices while driving a motor vehicle. Prohibits any person from holding a handheld personal communications device while driving a motor vehicle. Current law prohibits (i) the reading of any email or text message and manually entering letters or text in such a device as a means of communicating and (ii) holding a personal communications device while driving in a work zone. The bill expands the exemptions to include handheld personal communications devices that are being held and used (a) as an amateur radio or a citizens band radio or (b) for official Department of Transportation or traffic incident management services. The bill has a delayed effective date of January 1, 2021. This bill incorporates **HB 377, HB 387, HB 512,** and **HB 1672** and is identical to **SB 160.**

CHAPTER 250

*An Act to amend and reenact § **46.2-868** of the Code of Virginia, to amend the Code of Virginia by adding in Article 1 of Chapter 8 of Title 46.2 a section numbered **46.2-818.2**, and to repeal § **46.2-1078.1** of the Code of Virginia, relating to holding handheld personal communication devices while driving a motor vehicle; report.*

[H 874]
Approved March 10, 2020

Be it enacted by the General Assembly of Virginia:

1. That § **46.2-868** of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 1 of Chapter 8 of Title 46.2 a section numbered **46.2-818.2** as follows:

§ 46.2-818.2. Use of handheld personal communications devices in certain motor vehicles; exceptions; penalty.

A. It is unlawful for any person, while driving a moving motor vehicle on the highways in the Commonwealth, to hold a handheld personal communications device.

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

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

2. An operator who is lawfully parked or stopped;

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

4. The use of an amateur or a citizens band radio; or

*5. The operator of any Department of Transportation vehicle or vehicle operated pursuant to the Department of Transportation safety service patrol program or pursuant to a contract with the Department of Transportation for, or that includes, traffic incident management services as defined in subsection B of § **46.2-920.1** during the performance of traffic incident management services.*

C. A violation of this section is a traffic infraction punishable, for a first offense, by a fine of $125 and, for a second or subsequent offense, by a fine of $250. If a violation of this section occurs in a highway work zone, it shall be punishable by a mandatory fine of $250.

D. For the purposes of this section:

"Emergency vehicle" means:

1. Any law-enforcement vehicle operated by or under the direction of a federal, state, or local law-enforcement officer while engaged in the performance of official duties;

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

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

4. Any emergency medical services vehicle designed or used for the principal purpose of supplying resuscitation or emergency relief where human life is endangered;

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

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

*7. Any vehicle authorized to be equipped with alternating, blinking, or flashing red or red and white secondary warning lights pursuant to § **46.2-1029.2**.*

"Highway work zone" means a construction or maintenance area that is located on or beside a highway and is marked by appropriate warning signs with attached flashing lights or other traffic control devices indicating that work is in progress.

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

§ **46.2-868**. Reckless driving; penalties.

A. Every person convicted of reckless driving under the provisions of this article is guilty of a Class 1 misdemeanor.

B. Every person convicted of reckless driving under the provisions of this article who, when he committed the offense, (i) was driving without a valid operator's license due to a suspension or revocation for a moving violation and, (ii) as the sole and proximate result of his reckless driving, caused the death of another, is guilty of a Class 6 felony.

C. The punishment for every person convicted of reckless driving under the provisions of this article who, when he committed the offense, was in violation of ~~§~~ **46.2-1078.1** *§* ***46.2-818.2*** shall include a mandatory minimum fine of $250.

2. That § **46.2-1078.1** of the Code of Virginia is repealed.

3. That the provisions of this act shall become effective on January 1, 2021.

4. That the Virginia Association of Chiefs of Police and DRIVE SMART Virginia shall create training and educational materials on the implementation and enforcement of this act to be made available to law-enforcement agencies.

5. That DRIVE SMART Virginia and other traffic safety organizations shall develop and provide educational materials to the public regarding the provisions of this act prior to its effective date.

6. That the Chairmen of the Senate Committee on the Judiciary and the House Committee for Courts of Justice shall annually request the Office of the Executive Secretary to report all of the citations issued pursuant to the provisions of this act and, to the extent available, the relevant demographic characteristics of those persons issued a citation.

Reckless driving; exceeding speed limit. Raises the threshold for per se reckless driving for speeding from driving in excess of 80 miles per hour to driving in excess of 85 miles per hour. The threshold for per se reckless driving for speeding for driving at or more than 20 miles per hour in excess of the speed limit remains unchanged. The bill also provides that any person who drives a motor vehicle at a speed in excess of 80 miles per hour but below 86 miles per hour on any highway in the Commonwealth having a maximum speed limit of 65 miles per hour shall be subject to an additional fine of $100. This bill incorporates **HB 1374** and is identical to **SB 63.**

CHAPTER 444

*An Act to amend and reenact §§ **46.2-862** and **46.2-878.3** of the Code of Virginia, relating to reckless driving; exceeding speed limit.*

[H 885]
Approved March 25, 2020

Be it enacted by the General Assembly of Virginia:

1. That §§ **46.2-862** and **46.2-878.3** of the Code of Virginia are amended and reenacted as follows:

§ **46.2-862**. Exceeding speed limit.

A person ~~shall be~~ *is* guilty of reckless driving who drives a motor vehicle on the highways in the Commonwealth (i) at a speed of ~~twenty~~ *20* miles per hour or more in excess of the applicable maximum speed limit or (ii) in excess of ~~eighty~~ *85* miles per hour regardless of the applicable maximum speed limit.

§ **46.2-878.3**. Prepayment of fines for violations of speed limits.

Except as otherwise provided in this section, the Traffic Infractions and Uniform Fine Schedule adopted by the Supreme Court for prepayment of fines shall, in all instances where prepayment of a fine is permitted, include a fine of $6 per mile-per-hour in excess of posted speed limits provided for in this article. However, such Traffic Infractions and Uniform Fine Schedule shall include a fine of $7 per mile-per-hour in excess of posted speed limits for a violation of §§ **46.2-873** and **46.2-878.1** and $8 per mile-per-hour in excess of posted speed limits for a violation of § **46.2-878.2**. *Any person who drives a motor vehicle at a speed in excess of 80 miles per hour but below 86 miles per hour on any highway in the Commonwealth having a maximum speed limit of 65 miles per hour shall be subject to an additional fine of $100.*

Smoking in motor vehicle with a minor present. Expands the group in the presence of whom it is illegal to smoke in a motor vehicle from minors under the age of eight to minors under the age of 15.

CHAPTER 972

*An Act to amend and reenact § **46.2-810.1** of the Code of Virginia, relating to smoking in motor vehicle with a minor present.*

[H 578]

Approved April 9, 2020

Be it enacted by the General Assembly of Virginia:

1. That § **46.2-810.1** of the Code of Virginia is amended and reenacted as follows:

§ **46.2-810.1**. Smoking in vehicle with a minor present; civil penalty.

A. For the purposes of this section, "smoke" means to carry or hold any lighted pipe, cigar, or cigarette of any kind or any other lighted smoking equipment or to light or inhale or exhale smoke from a pipe, cigar, or cigarette of any kind or any other lighted smoking equipment.

B. It is unlawful for a person to smoke in a motor vehicle, whether in motion or at rest, when a minor under the age of ~~eight~~ *15* is present in the motor vehicle. A violation of this section is punishable by a civil penalty of $100 to be paid into the state treasury and credited to the Literary Fund. No demerit points shall be assigned under Article 19 (§ **46.2-489** et seq.) of Chapter 3 and no court costs shall be assessed for a violation of this section. A violation of this section may be charged on the uniform traffic summons form.

C. No citation for a violation of this section shall be issued unless the officer issuing such citation has cause to stop or arrest the driver of such motor vehicle for the violation of some other provision of this Code or local ordinance relating to the operation, ownership, or maintenance of a motor vehicle or any criminal statute.

Yielding the right-of-way to pedestrians; stopping. Clarifies the duties of vehicle drivers to stop when yielding to pedestrians at (i) clearly marked crosswalks, whether at midblock or at the end of any block; (ii) any regular pedestrian crossing included in the prolongation of the lateral boundary lines of the adjacent sidewalk at the end of a block; or (iii) any intersection when the driver is approaching on a highway where the maximum speed limit is not more than 35 miles per hour. The bill also prohibits the driver of another vehicle approaching such stopped vehicle from an adjacent lane or from behind from overtaking and passing the stopped vehicle. The bill contains technical amendments.

CHAPTER 1031

*An Act to amend and reenact § **46.2-924** of the Code of Virginia, relating to yielding the right-of-way to pedestrians; stopping.*

[H 1705]

Approved April 10, 2020

Be it enacted by the General Assembly of Virginia:

1. That § **46.2-924** of the Code of Virginia is amended and reenacted as follows:

§ **46.2-924**. Drivers to stop for pedestrians; installation of certain signs; penalty.

A. The driver of any vehicle on a highway shall yield the right-of-way to any pedestrian crossing such highway *by stopping and remaining stopped until such pedestrian has passed the lane in which the vehicle is stopped*:

1. At any clearly marked crosswalk, whether at ~~mid-block~~ *midblock* or at the end of any block;

2. At any regular pedestrian crossing included in the prolongation of the lateral boundary lines of the adjacent sidewalk at the end of a block; *or*

3. At any intersection when the driver is approaching on a highway ~~or street~~ where the ~~legal maximum~~ speed ~~does not exceed~~ *limit is not more than* 35 miles per hour.

B. *When a vehicle is stopped pursuant to subsection A, the driver of any other vehicle approaching from an adjacent lane or from behind the stopped vehicle shall not overtake and pass such stopped vehicle.*

C. Notwithstanding the provisions of subsection A, at intersections or crosswalks where the movement of traffic is being regulated by law-enforcement officers or traffic control devices, the driver shall yield according to the direction of the law-enforcement officer or device.

No pedestrian shall enter or cross an intersection in disregard of approaching traffic.

The drivers of vehicles entering, crossing, or turning at intersections shall change their course, slow down, or stop if necessary to permit pedestrians to cross such intersections safely and expeditiously.

Pedestrians crossing highways at intersections shall at all times have the right-of-way over vehicles making turns into the highways being crossed by the pedestrians.

~~C.~~ *D.* The governing body of Arlington County, Fairfax County, Loudoun County and any town therein, the City of Alexandria, the City of Fairfax, the City of Falls Church, and the Town of Ashland may by ordinance provide

for the installation and maintenance of highway signs at marked crosswalks specifically requiring operators of motor vehicles, at the locations where such signs are installed, to yield the right-of-way to pedestrians crossing or attempting to cross the highway. Any operator of a motor vehicle who fails at such locations to yield the right-of-way to pedestrians as required by such signs shall be guilty of a traffic infraction punishable by a fine of no less than $100 or more than $500. The Department of Transportation shall develop criteria for the design, location, and installation of such signs. The provisions of this section shall not apply to any limited access highway.

~~D.~~ *E.* Where a shared-use path crosses a highway at a clearly marked crosswalk and there are no traffic control signals at such crossing, the local governing body may by ordinance require pedestrians, cyclists, and any other users of such shared-used path to come to a complete stop prior to entering such crosswalk. Such local ordinance may provide for a fine not to exceed $100 for violations. Any locality adopting such an ordinance shall install and maintain stop signs, consistent with standards adopted by the Commonwealth Transportation Board and to the extent necessary in coordination with the Department of Transportation. At such crosswalks, no user of such shared-use path shall enter the crosswalk in disregard of approaching traffic.

~~E.~~ *F.* A locality adopting an ordinance under subsection ~~D~~ *E* shall coordinate the enforcement and placement of any stop signs affecting a shared-use path owned and operated by a park authority formed under Chapter 57 (§ **15.2-5700** et seq.) of Title 15.2 with such authority.

Voluntary registry for people with disability that impairs communication; vehicle registration. Authorizes an individual with a disability that can impair communication to voluntarily indicate such disability on his application for registration of a motor vehicle. The bill requires the Department of Motor Vehicles to share this indication with criminal justice agencies.

CHAPTER 786

*An Act to amend the Code of Virginia by adding a section numbered **46.2-600.1**, relating to people with disabilities that can impair communication; vehicle registration.*

[H 1666]
Approved April 7, 2020

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered **46.2-600.1** as follows:

*§ **46.2-600.1**. Indication of special communication needs.*

*A. As used in this section, "disability that can impair communication" means a condition with symptoms that can impair the ability of a person with such condition to receive, send, process, or comprehend concepts or verbal, nonverbal, or graphic symbol systems, including autism spectrum disorders as defined in § **38.2-3418.17** and hearing loss.*

B. The Department shall include on the application for registration of a motor vehicle an option for the vehicle owner to, if applicable, voluntarily indicate that he has a disability that can impair communication. Any application on which the applicant indicates that he has such a disability shall be accompanied by a certification signed by a licensed physician that such individual has a disability that can impair communication.

*C. Any vehicle owner with a driver's license indicator authorized pursuant to subsection K of § **46.2-342** or special identification card indicator authorized pursuant to subsection L of § **46.2-345** shall be eligible for the registration indicator. Vehicle owners with a driver's license indicator or special identification card indicator may apply to the Department for a registration indicator in a manner prescribed by the Commissioner.*

*D. Notwithstanding the provisions of § **46.2-208**, the Department shall provide information regarding vehicle registrants who have indicated, pursuant to subsection B or C, that they have a disability that can impair communication with employees and agents of criminal justice agencies as defined in § **9.1-101**. The Department shall confirm the presence or absence of a registration indicator indicating that the registrant has a disability that can impair communication, but it shall not provide information about the type of health condition or disability that the registrant has.*

Department of Motor Vehicles; sex designation. Requires the Department of Motor Vehicles to offer any applicant the option to mark "male," "female," or "non-binary" when designating the applicant's sex on an application for a driver's license or special identification card.

CHAPTER 544

*An Act to amend and reenact §§ **46.2-323**, **46.2-341.12**, as it is currently effective and as it may become effective, **46.2-345**, and **46.2-345.2** of the Code of Virginia, relating to Department of Motor Vehicles; sex designation.*

[S 246]
Approved March 31, 2020

Be it enacted by the General Assembly of Virginia:

1. That §§ **46.2-323**, **46.2-341.12**, as it is currently effective and as it may become effective, **46.2-345**, and **46.2-345.2** of the Code of Virginia are amended and reenacted as follows:

§ **46.2-323**. Application for driver's license; proof of completion of driver education program; penalty.

A. Every application for a driver's license, temporary driver's permit, learner's permit, or motorcycle learner's permit shall be made on a form prescribed by the Department and the applicant shall write his usual signature in ink in the space provided on the form. The form shall include notice to the applicant of the duty to register with the Department of State Police as provided in Chapter 9 (§ **9.1-900** et seq.) of Title 9.1, if the applicant has been convicted of an offense for which registration with the Sex Offender and Crimes Against Minors Registry is required.

B. Every application shall state the full legal name, year, month, and date of birth, social security number, sex, and residence address of the applicant; whether or not the applicant has previously been licensed as a driver and, if so, when and by what state, and whether or not his license has ever been suspended or revoked and, if so, the date of and reason for such suspension or revocation. *Applicants shall be permitted to choose between "male," "female," or "non-binary" when designating the applicant's sex on the driver's license application form.* The Department, as a condition for the issuance of any driver's license, temporary driver's permit, learner's permit, or motorcycle learner's permit shall require the surrender of any driver's license or, in the case of a motorcycle learner's permit, a motorcycle license issued by another state and held by the applicant. The applicant shall also answer any questions on the application form or otherwise propounded by the Department incidental to the examination. The applicant may also be required to present proof of identity, residency, and social security number or non-work authorized status, if required to appear in person before the Department to apply.

The Commissioner shall require that each application include a certification statement to be signed by the applicant under penalty of perjury, certifying that the information presented on the application is true and correct.

If the applicant fails or refuses to sign the certification statement, the Department shall not issue the applicant a driver's license, temporary driver's permit, learner's permit or motorcycle learner's permit.

Any applicant who knowingly makes a false certification or supplies false or fictitious evidence shall be punished as provided in § **46.2-348**.

C. Every application for a driver's license shall include a photograph of the applicant supplied under arrangements made by the Department. The photograph shall be processed by the Department so that the photograph can be made part of the issued license.

D. Notwithstanding the provisions of § **46.2-334**, every applicant for a driver's license who is under 18 years of age shall furnish the Department with satisfactory proof of his successful completion of a driver education program approved by the State Department of Education.

E. Every application for a driver's license submitted by a person less than 18 years old and attending a public school in the Commonwealth shall be accompanied by a document, signed by the applicant's parent or legal guardian, authorizing the principal, or his designee, of the school attended by the applicant to notify the juvenile and domestic relations district court within whose jurisdiction the minor resides when the applicant has had 10 or more unexcused absences from school on consecutive school days.

F. The Department shall electronically transmit application information to the Department of State Police, in a format approved by the State Police, for comparison with information contained in the Virginia Criminal Information Network and National Crime Information Center Convicted Sexual Offender Registry Files, at the time of issuance of a driver's license, temporary driver's permit, learner's permit, or motorcycle learner's permit. Whenever it appears from the records of the State Police that a person has failed to comply with the duty to register or reregister pursuant to Chapter 9 (§ **9.1-900** et seq.) of Title 9.1, the State Police shall promptly investigate and, if there is probable cause to believe a violation has occurred, obtain a warrant or assist in obtaining an indictment charging a violation of § **18.2-472.1** in the jurisdiction in which the person made application of licensure.

§ **46.2-341.12**. (For expiration date, see Acts 2019, c. 750, cl. 3) Application for commercial driver's license or commercial learner's permit.

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

1. Full legal name;

2. Current mailing and residential addresses;

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

4. Year, month, and date of birth;

5. Social security number;

6. Domicile or, if not domiciled in the Commonwealth, proof of status as a member of the active duty military, military reserves, National Guard, active duty United States Coast Guard, or Coast Guard Auxiliary pursuant to 49 U.S.C. § 31311(a)(12); and

7. Any other information required on the application form.

Applicants shall be permitted to choose between "male," "female," or "non-binary" when designating the applicant's sex on the commercial driver's license or commercial learner's permit application form.

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

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

1. A consent to release driving record information;

2. Certifications that:

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

b. He either meets the state qualification requirements established pursuant to § **52-8.4**, or he is exempt from or is not subject to such requirements;

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

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

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

3. Other certifications required by the Department;

4. Any evidence required by the Department to establish proof of identity, citizenship or lawful permanent residency, domicile, and social security number notwithstanding the provisions of § **46.2-328.1** and pursuant to 49 C.F.R. Part 383;

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

6. An unexpired employment authorization document (EAD) issued by the U.S. Citizenship and Immigration Services (USCIS) or an unexpired foreign passport accompanied by an approved Form I-94 documenting the applicant's most recent admittance into the United States for persons applying for a nondomiciled commercial driver's license or nondomiciled commercial learner's permit.

C. Every application for a commercial driver's license shall include a photograph of the applicant supplied under arrangements made therefor by the Department in accordance with § **46.2-323**.

D. The Department shall disqualify any commercial driver for a period of one year when the records of the Department clearly show to the satisfaction of the Commissioner that such person has made a material false

statement on any application or certification made for a commercial driver's license or commercial learner's permit. The Department shall take such action within 30 days after discovering such falsification.

E. (For expiration date, see Acts 2019, c. 750, cl. 2) The Department shall review the driving record of any person who applies for a Virginia commercial driver's license or commercial learner's permit, for the renewal or reinstatement of such license or permit or for an additional commercial classification or endorsement, including the driving record from all jurisdictions where, during the previous 10 years, the applicant was licensed to drive any type of motor vehicle. Such review shall include checking the photograph on record whenever the applicant or holder appears in person to renew, upgrade, transfer, reinstate, or obtain a duplicate commercial driver's license or to renew, upgrade, reinstate, or obtain a duplicate commercial learner's permit. If appropriate, the Department shall incorporate information from such other jurisdictions' records into the applicant's Virginia driving record, and shall make a notation on the applicant's driving record confirming that such review has been completed and the date it was completed. The Department's review shall include research through the Commercial Driver License Information System established pursuant to the Commercial Motor Vehicle Safety Act and the National Driver Register Problem Driver Pointer System in addition to the driver record maintained by the applicant's previous jurisdictions of licensure. This research shall be completed prior to the issuance, renewal, transfer, or reinstatement of a commercial driver's license or additional commercial classification or endorsement.

The Department shall verify the name, date of birth, and social security number provided by the applicant with the information on file with the Social Security Administration for initial issuance of a commercial learner's permit or transfer of a commercial driver's license from another state. The Department shall make a notation in the driver's record confirming that the necessary verification has been completed and noting the date it was done. The Department shall also make a notation confirming that proof of citizenship or lawful permanent residency has been presented and the date it was done.

E. (For effective date, see Acts 2019, c. 750, cl. 2) The Department shall review the driving record of any person who applies for a Virginia commercial driver's license or commercial learner's permit, for the renewal or reinstatement of such license or permit or for an additional commercial classification or endorsement, including the driving record from all jurisdictions where, during the previous 10 years, the applicant was licensed to drive any type of motor vehicle. Such review shall include checking the photograph on record whenever the applicant or holder appears in person to renew, upgrade, transfer, reinstate, or obtain a duplicate commercial driver's license or to renew, upgrade, reinstate, or obtain a duplicate commercial learner's permit. If appropriate, the Department shall incorporate information from such other jurisdictions' records into the applicant's Virginia driving record, and shall make a notation on the applicant's driving record confirming that such review has been completed and the date it was completed. The Department's review shall include (i) research through the Commercial Driver License Information System established pursuant to the Commercial Motor Vehicle Safety Act and the National Driver Register Problem Driver Pointer System in addition to the driver record maintained by the applicant's previous jurisdictions of licensure and (ii) requesting information from the Drug and Alcohol Clearinghouse in accordance with 49 C.F.R. § 382.725. This research shall be completed prior to the issuance, renewal, transfer, or reinstatement of a commercial driver's license or additional commercial classification or endorsement.

The Department shall verify the name, date of birth, and social security number provided by the applicant with the information on file with the Social Security Administration for initial issuance of a commercial learner's permit or transfer of a commercial driver's license from another state. The Department shall make a notation in the driver's record confirming that the necessary verification has been completed and noting the date it was done.

The Department shall also make a notation confirming that proof of citizenship or lawful permanent residency has been presented and the date it was done.

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

G. Every existing holder of a commercial driver's license or commercial learner's permit who certifies that he will operate a commercial motor vehicle in non-excepted interstate or intrastate commerce shall provide the Department with an original or certified copy of a medical examiner's certificate prepared by a medical examiner as defined in 49 C.F.R. § 390.5. Upon receipt of an appropriate medical examiner's certificate, the Department shall post a certification status of "certified" and any other necessary information on the record of the driver on the Commercial Driver's License Information System. If an existing holder of a commercial driver's license fails to provide the Department with a medical certificate as required by this subsection, the Department shall post a certification status of "noncertified" on the record of the driver on the Commercial Driver's License Information System and initiate a downgrade of his commercial driver's license as defined in 49 C.F.R. § 383.5.

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

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

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

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

§ **46.2-341.12**. (For effective date, see Acts 2019, c. 750, cl. 3) Application for commercial driver's license or commercial learner's permit.

A. No entry-level driver shall be eligible to (i) apply for a Virginia Class A or Class B commercial driver's license for the first time, (ii) upgrade to a Class A or Class B commercial driver's license for the first time, or (iii) apply for a hazardous materials, passenger, or school bus endorsement for the first time, unless he has completed an entry-level driver training course related to the license, classification, or endorsement he is applying for and the training is provided by a training provider. An individual is not required to complete an entry-level driver training course related to the license, classification, or endorsement he is applying for if he is exempted from such requirements under 49 C.F.R. § 380.603.

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

1. Full legal name;

2. Current mailing and residential addresses;

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

4. Year, month, and date of birth;

5. Social security number;

6. Domicile or, if not domiciled in the Commonwealth, proof of status as a member of the active duty military, military reserves, National Guard, active duty United States Coast Guard, or Coast Guard Auxiliary pursuant to 49 U.S.C. § 31311(a)(12); and

7. Any other information required on the application form.

Applicants shall be permitted to choose between "male," "female," or "non-binary" when designating the applicant's sex on the commercial driver's license or commercial learner's permit application form.

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

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

1. A consent to release driving record information;

2. Certifications that:

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

b. He either meets the state qualification requirements established pursuant to § **52-8.4**, or he is exempt from or is not subject to such requirements;

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

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

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

3. Other certifications required by the Department;

4. Any evidence required by the Department to establish proof of identity, citizenship or lawful permanent residency, domicile, and social security number notwithstanding the provisions of § **46.2-328.1** and pursuant to 49 C.F.R. Part 383;

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

6. An unexpired employment authorization document (EAD) issued by the U.S. Citizenship and Immigration Services (USCIS) or an unexpired foreign passport accompanied by an approved Form I-94 documenting the applicant's most recent admittance into the United States for persons applying for a nondomiciled commercial driver's license or nondomiciled commercial learner's permit.

D. Every application for a commercial driver's license shall include a photograph of the applicant supplied under arrangements made therefor by the Department in accordance with § **46.2-323**.

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

F. (For expiration date, see Acts 2019, c. 750, cl. 2) The Department shall review the driving record of any person who applies for a Virginia commercial driver's license or commercial learner's permit, for the renewal or reinstatement of such license or permit or for an additional commercial classification or endorsement, including the driving record from all jurisdictions where, during the previous 10 years, the applicant was licensed to drive any type of motor vehicle. Such review shall include checking the photograph on record whenever the applicant or holder appears in person to renew, upgrade, transfer, reinstate, or obtain a duplicate commercial driver's license or to renew, upgrade, reinstate, or obtain a duplicate commercial learner's permit. If appropriate, the Department shall incorporate information from such other jurisdictions' records into the applicant's Virginia driving record, and shall make a notation on the applicant's driving record confirming that such review has been completed and the date it was completed. The Department's review shall include research through the Commercial Driver License Information System established pursuant to the Commercial Motor Vehicle Safety Act and the National Driver Register Problem Driver Pointer System in addition to the driver record maintained by the applicant's previous jurisdictions of licensure. This research shall be completed prior to the issuance, renewal, transfer, or reinstatement of a commercial driver's license or additional commercial classification or endorsement.

The Department shall verify the name, date of birth, and social security number provided by the applicant with the information on file with the Social Security Administration for initial issuance of a commercial learner's permit or transfer of a commercial driver's license from another state. The Department shall make a notation in the driver's record confirming that the necessary verification has been completed and noting the date it was done. The Department shall also make a notation confirming that proof of citizenship or lawful permanent residency has been presented and the date it was done.

F. (For effective date, see Acts 2019, c. 750, cl. 2) The Department shall review the driving record of any person who applies for a Virginia commercial driver's license or commercial learner's permit, for the renewal or reinstatement of such license or permit or for an additional commercial classification or endorsement, including the driving record from all jurisdictions where, during the previous 10 years, the applicant was licensed to drive any type of motor vehicle. Such review shall include checking the photograph on record whenever the applicant or holder appears in person to renew, upgrade, transfer, reinstate, or obtain a duplicate commercial driver's license or to renew, upgrade, reinstate, or obtain a duplicate commercial learner's permit. If appropriate, the Department shall incorporate information from such other jurisdictions' records into the applicant's Virginia driving record, and shall make a notation on the applicant's driving record confirming that such review has been completed and the date it was completed. The Department's review shall include (i) research through the Commercial Driver License Information System established pursuant to the Commercial Motor Vehicle Safety Act and the National Driver Register Problem Driver Pointer System in addition to the driver record maintained by the applicant's previous jurisdictions of licensure and (ii) requesting information from the Drug and Alcohol Clearinghouse in accordance with 49 C.F.R. § 382.725. This research shall be completed prior to the issuance, renewal, transfer, or reinstatement of a commercial driver's license or additional commercial classification or endorsement.

The Department shall verify the name, date of birth, and social security number provided by the applicant with the information on file with the Social Security Administration for initial issuance of a commercial learner's permit or transfer of a commercial driver's license from another state. The Department shall make a notation in the driver's record confirming that the necessary verification has been completed and noting the date it was done. The Department shall also make a notation confirming that proof of citizenship or lawful permanent residency has been presented and the date it was done.

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

H. Every existing holder of a commercial driver's license or commercial learner's permit who certifies that he will operate a commercial motor vehicle in non-excepted interstate or intrastate commerce shall provide the Department with an original or certified copy of a medical examiner's certificate prepared by a medical examiner as defined in 49 C.F.R. § 390.5. Upon receipt of an appropriate medical examiner's certificate, the Department shall post a certification status of "certified" and any other necessary information on the record of the driver on the Commercial Driver's License Information System. If an existing holder of a commercial driver's license fails

to provide the Department with a medical certificate as required by this subsection, the Department shall post a certification status of "noncertified" on the record of the driver on the Commercial Driver's License Information System and initiate a downgrade of his commercial driver's license as defined in 49 C.F.R. § 383.5.

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

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

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

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

§ **46.2-345**. Issuance of special identification cards; fee; confidentiality; penalties.

A. On the application of any person who is a resident of the Commonwealth or the parent or legal guardian of any such person who is under the age of 15, the Department shall issue a special identification card to the person, provided that:

1. Application is made on a form prescribed by the Department and includes the applicant's full legal name; year, month, and date of birth; social security number; sex; and residence address*. Applicants shall be permitted to choose between "male," "female," or "non-binary" when designating the applicant's sex on the application form*;

2. The applicant presents, when required by the Department, proof of identity, legal presence, residency, and social security number or non-work authorized status;

3. The Department is satisfied that the applicant needs an identification card or the applicant shows he has a bona fide need for such a card; and

4. The applicant does not hold a driver's license, commercial driver's license, temporary driver's permit, learner's permit, motorcycle learner's permit, or special identification card without a photograph.

Persons 70 years of age or older may exchange a valid Virginia driver's license for a special identification card at no fee. Special identification cards subsequently issued to such persons shall be subject to the regular fees for special identification cards.

B. The fee for the issuance of an original, duplicate, reissue, or renewal special identification card is $2 per year, with a $10 minimum fee. Persons 21 years old or older may be issued a scenic special identification card for an additional fee of $5.

C. Every special identification card shall expire on the applicant's birthday at the end of the period of years for which a special identification card has been issued. At no time shall any special identification card be issued for less than three nor more than eight years, except under the provisions of subsection B of § **46.2-328.1** and except that those cards issued to children under the age of 15 shall expire on the child's sixteenth birthday. Notwithstanding these limitations, the Commissioner may extend the validity period of an expiring card if (i) the Department is unable to process an application for renewal due to circumstances beyond its control, (ii) the extension has been authorized under a directive from the Governor, and (iii) the card was not issued as a temporary special identification card under the provisions of subsection B of § **46.2-328.1**. However, in no event shall the validity period be extended more than 90 days per occurrence of such conditions. Any special identification card issued to a person required to register pursuant to Chapter 9 (§ **9.1-900** et seq.) of Title 9.1 shall expire on the applicant's birthday in years which the applicant attains an age equally divisible by five. For each person required to register pursuant to Chapter 9 of Title 9.1, the Department may not waive the requirement that each such person shall appear for each renewal or the requirement to obtain a photograph in accordance with subsection C of § **46.2-323**.

D. A special identification card issued under this section may be similar in size, shape, and design to a driver's license, and include a photograph of its holder, but the card shall be readily distinguishable from a driver's license and shall clearly state that it does not authorize the person to whom it is issued to drive a motor vehicle. Every applicant for a special identification card shall appear in person before the Department to apply for a renewal, duplicate or reissue unless specifically permitted by the Department to apply in another manner.

E. Special identification cards, for persons at least 15 years old but less than 21 years old, shall be immediately and readily distinguishable from those issued to persons 21 years old or older. Distinguishing characteristics shall include unique design elements of the document and descriptors within the photograph area to identify persons who are at least 15 years old but less than 21 years old. These descriptors shall include the month, day, and year when the person will become 21 years old.

F. Special identification cards for persons under age 15 shall bear a full face photograph. The special identification card issued to persons under age 15 shall be readily distinguishable from a driver's license and from other special identification cards issued by the Department. Such cards shall clearly indicate that it does not authorize the person to whom it is issued to drive a motor vehicle.

G. Unless otherwise prohibited by law, a valid Virginia driver's license shall be surrendered upon application for a special identification card without the applicant's having to present proof of legal presence as required by § **46.2-328.1** if the Virginia driver's license is unexpired and it has not been revoked, suspended, or cancelled. The special identification card shall be considered a reissue and the expiration date shall be the last day of the month of the surrendered driver's license's month of expiration.

H. Any personal information, as identified in § **2.2-3801**, which is retained by the Department from an application for the issuance of a special identification card is confidential and shall not be divulged to any person, association, corporation, or organization, public or private, except to the legal guardian or the attorney of the applicant or to a person, association, corporation, or organization nominated in writing by the applicant, his

legal guardian, or his attorney. This subsection shall not prevent the Department from furnishing the application or any information thereon to any law-enforcement agency.

I. Any person who uses a false or fictitious name or gives a false or fictitious address in any application for an identification card or knowingly makes a false statement or conceals a material fact or otherwise commits a fraud in any such application shall be guilty of a Class 2 misdemeanor. However, where the name or address is given, or false statement is made, or fact is concealed, or fraud committed, with the intent to purchase a firearm or where the identification card is obtained for the purpose of committing any offense punishable as a felony, a violation of this section shall constitute a Class 4 felony.

J. The Department shall utilize the various communications media throughout the Commonwealth to inform Virginia residents of the provisions of this section and to promote and encourage the public to take advantage of its provisions.

K. The Department shall electronically transmit application information to the Department of State Police, in a format approved by the State Police, for comparison with information contained in the Virginia Criminal Information Network and National Crime Information Center Convicted Sexual Offender Registry Files, at the time of issuance of a special identification card. Whenever it appears from the records of the State Police that a person has failed to comply with the duty to register or reregister pursuant to Chapter 9 (§ **9.1-900** et seq.) of Title 9.1, the State Police shall promptly investigate and, if there is probable cause to believe a violation has occurred, obtain a warrant or assist in obtaining an indictment charging a violation of § **18.2-472.1** in the jurisdiction in which the person made application for the special identification card.

L. When requested by the applicant, the applicant's parent if the applicant is a minor, or the applicant's guardian, and upon presentation of a signed statement by a licensed physician confirming the applicant's condition, the Department shall indicate on the applicant's special identification card that the applicant has any condition listed in subsection K of § **46.2-342** or that the applicant is blind or vision impaired.

§ **46.2-345.2**. Issuance of special identification cards without photographs; fee; confidentiality; penalties.

A. On the application of any person with a sincerely held religious belief prohibiting the taking of a photograph who is a resident of the Commonwealth and who is at least 15 years of age, the Department shall issue a special identification card without a photograph to the person, provided that:

1. Application is made on a form prescribed by the Department and includes the applicant's full legal name; year, month, and date of birth; social security number; sex; and residence address. *Applicants shall be permitted to choose between "male," "female," or "non-binary" when designating the applicant's sex on the application form*;

2. The applicant presents, when required by the Department, proof of identity, legal presence, residency, and social security number or non-work authorized status;

3. The applicant presents an approved and signed U.S. Department of the Treasury Internal Revenue Service (IRS) Form 4029 or if such applicant is a minor, the applicant's parent or legal guardian presents an approved and signed IRS Form 4029; and

4. The applicant does not hold a driver's license, commercial driver's license, temporary driver's permit, learner's permit, motorcycle learner's permit, or special identification card.

B. The fee for the issuance of an original, duplicate, or reissue special identification card without a photograph is $10 per year, with a $20 minimum fee.

C. Every special identification card without a photograph shall expire on the applicant's birthday at the end of the period of years for which a special identification card without a photograph has been issued. At no time shall any special identification card without a photograph be issued for more than eight years. Notwithstanding these limitations, the Commissioner may extend the validity period of an expiring card if (i) the Department is unable to process an application for re-issue due to circumstances beyond its control or (ii) the extension has been authorized under a directive from the Governor. However, in no event shall the validity period be extended more than 90 days per occurrence of such conditions.

D. A special identification card without a photograph issued under this section may be similar in size, shape, and design to a driver's license and shall not include a photograph of its holder. The card shall be readily distinguishable from a driver's license and shall clearly state that federal limits apply, that the card is not valid identification to vote, and that the card does not authorize the person to whom it is issued to drive a motor vehicle. Every applicant for a special identification card without a photograph shall appear in person before the Department to apply for a duplicate or reissue unless specifically permitted by the Department to apply in another manner.

E. Unless otherwise prohibited by law, a valid Virginia driver's license or special identification card shall be surrendered for a special identification card without a photograph without the applicant's having to present proof of legal presence as required by § **46.2-328.1** if the Virginia driver's license or special identification card is unexpired and has not been revoked, suspended, or canceled. The special identification card without a photograph shall be considered a reissue, and the expiration date shall be the last day of the month of the surrendered driver's license's or special identification card's month of expiration.

F. Any personal information, as identified in § **2.2-3801**, that is retained by the Department from an application for the issuance of a special identification card without a photograph is confidential and shall not be divulged to any person, association, corporation, or organization, public or private, except to the legal guardian or the attorney of the applicant or to a person, association, corporation, or organization nominated in writing by the applicant, his legal guardian, or his attorney. This subsection shall not prevent the Department from furnishing the application or any information thereon to any law-enforcement agency.

G. Any person who uses a false or fictitious name or gives a false or fictitious address in any application for a special identification card without a photograph or knowingly makes a false statement or conceals a material fact or otherwise commits a fraud in any such application is guilty of a Class 2 misdemeanor. However, where the special identification card without a photograph is obtained for the purpose of committing any offense punishable as a felony, a violation of this section shall constitute a Class 4 felony.

H. When requested by the applicant, the applicant's parent if the applicant is a minor, or the applicant's guardian, and upon presentation of a signed statement by a licensed physician confirming the applicant's condition, the Department shall indicate on the applicant's special identification card without a photograph that the applicant has any condition listed in subsection K of § **46.2-342**.

I. Unless the Code specifies that a photograph is required, a special identification card without a photograph shall be treated as a special identification card.

Vehicles used for agricultural and farm purposes; other uses. Authorizes the use of vehicles exempt from vehicle registration and used exclusively for agricultural or horticultural purposes to transport the vehicle owner between his residence and the land where such agricultural or horticultural activities take place. The bill clarifies that farm use of vehicles registered as farm motor vehicles includes transport between the operator's residence and the farm.

CHAPTER 781

*An Act to amend and reenact §§ **46.2-665** and **46.2-698**, as it is currently effective and as it may become effective, of the Code of Virginia, relating to vehicles used for agricultural and farm purposes; other uses.*

[H 193]
Approved April 7, 2020

Be it enacted by the General Assembly of Virginia:

1. That §§ **46.2-665** and **46.2-698**, as it is currently effective and as it may become effective, of the Code of Virginia are amended and reenacted as follows:

§ **46.2-665**. Vehicles used for agricultural or horticultural purposes.

A. No person shall be required to obtain the registration certificate, license plates, or decals for or pay a registration fee for any motor vehicle, trailer, or semitrailer used exclusively for agricultural or horticultural purposes on lands owned or leased by the vehicle's owner.

B. This exemption shall only apply to (i) pickup or panel trucks, (ii) sport utility vehicles, (iii) vehicles having a gross vehicle weight rating greater than 7,500 pounds, and (iv) trailers and semitrailers that are not operated on or over any public highway in the Commonwealth for any purpose other than:

1. Crossing a highway;

2. Operating along a highway for a distance of no more than 75 miles from one part of the owner's land to another, irrespective of whether the tracts adjoin;

3. Taking the vehicle or attached fixtures to and from a repair shop for repairs;

4. Taking another vehicle exempt from registration under any provision of §§ **46.2-664** through **46.2-668** or **46.2-672**, or any part or subcomponent of such a vehicle, to or from a repair shop for repairs, including return trips;

5. Operating along a highway to and from a refuse disposal facility for the purpose of disposing of trash and garbage generated on a farm;~~ or~~

6. Operating along a highway for a distance of no more than 75 miles for the purpose of obtaining supplies for agricultural or horticultural purposes, seeds, fertilizers, chemicals, or animal feed and returning*; or*

7. Transporting the vehicle's owner between his residence and the lands being used for agricultural or horticultural purposes.

C. Any law-enforcement officer may require any person operating a vehicle, trailer, or semitrailer and claiming the exemption provided pursuant to this section to provide, upon request, the address of the lands owned or leased by the vehicle's owner for agricultural or horticultural purposes *and the address of the residence address of the vehicle's owner*. If such address is unavailable or unknown, the law-enforcement officer may require such person to provide the real property parcel identification number of such lands.

§ **46.2-698**. (Contingent expiration date) Fees for farm vehicles.

A. The fees for registration of farm motor vehicles having gross weights of 7,500 pounds or more, when such vehicles are used exclusively for farm use as defined in this section, shall be one-half of the fee per 1,000 pounds of gross weight for private carriers as calculated under the provisions of § **46.2-697**, as in effect on January 1, 2019 and notwithstanding the provisions of subsection C of § **46.2-697.2**, and one-half of the fee for overload permits under § **46.2-1128**, but the annual registration fee to be paid for each farm vehicle shall not be less than $15.

B. A farm motor vehicle is used exclusively for farm use:

1. When owned by a person who is engaged either as an owner, renter, or operator of a farm of a size reasonably requiring the use of such vehicle or vehicles and when such vehicle is:

a. Used in the transportation of agricultural products of the farm he is working to market, or to other points for sale or processing, or when used to transport materials, tools, equipment, or supplies which are to be used or consumed on the farm he is working, or when used for any other transportation incidental to the regular operation of such farm;

b. Used in transporting forest products, including forest materials originating on a farm or incident to the regular operation of a farm, to the farm he is working or transporting for any purpose forest products which originate on the farm he is working; or

c. Used in the transportation of farm produce, supplies, equipment, or materials to a farm not worked by him, pursuant to a mutual cooperative agreement.

2. When the nonfarm use of such motor vehicle is limited to the personal use of the owner and his immediate family in attending church or school, securing medical treatment or supplies,~~ or~~ securing other household or family necessities*, or traveling between the operator's residence and the farm*.

C. As used in this section, the term "farm" means one or more areas of land used for the production, cultivation, growing, or harvesting of agricultural products, but does not include a tree farm that is not also a nursery or Christmas tree farm, unless it is part of what otherwise is a farm. As used in this section, the term "agricultural products" means any nursery plants; Christmas trees; horticultural, viticultural, and other cultivated plants and crops; aquaculture; dairy; livestock; poultry; bee; or other farm products.

D. The first application for registration of a vehicle under this section shall be made on forms provided by the Department and shall include:

1. The location and acreage of each farm on which the vehicle to be registered is to be used;

2. The type of agricultural commodities, poultry, dairy products or livestock produced on such farms and the approximate amounts produced annually;

3. A statement, signed by the vehicle's owner, that the vehicle to be registered will only be used for one or more of the purposes specified in subsection B; and

4. Other information required by the Department.

The above information is not required for the renewal of a vehicle's registration under this section.

E. The Department shall issue appropriately designated license plates for those motor vehicles registered under this section. The manner in which such license plates are designated shall be at the discretion of the Commissioner.

F. The owner of a farm vehicle shall inform the Commissioner within 30 days or at the time of his next registration renewal, whichever comes first, when such vehicle is no longer used exclusively for farm use as defined in this section, and shall pay the appropriate registration fee for the vehicle based on its type of operation. It shall constitute a Class 2 misdemeanor to: (i) operate or to permit the operation of any farm motor vehicle for which the fee for registration and license plates is herein prescribed on any highway in the Commonwealth without first having paid the prescribed registration fee; or (ii) operate or permit the operation of any motor vehicle, registered under this section, for purposes other than as provided under subsection B; or (iii) operate as a for-hire vehicle.

G. Nothing in this section shall affect the exemptions of agricultural and horticultural vehicles under §§ **46.2-664** through **46.2-670**.

H. Notwithstanding other provisions of this section, vehicles licensed under this section may be used by volunteer emergency medical services personnel and volunteer firefighters in responding to emergency calls, in reporting for regular duty, and in attending emergency medical services agency or fire company meetings and drills.

§ **46.2-698**. (Contingent effective date) Fees for farm vehicles.

A. The fees for registration of farm motor vehicles having gross weights of 7,500 pounds or more, when such vehicles are used exclusively for farm use as defined in this section, shall be one-half of the fee per 1,000 pounds of gross weight for private carriers as calculated under the provisions of § **46.2-697** and one-half of the fee for overload permits under § **46.2-1128**, but the annual registration fee to be paid for each farm vehicle shall not be less than $15.

B. A farm motor vehicle is used exclusively for farm use:

1. When owned by a person who is engaged either as an owner, renter, or operator of a farm of a size reasonably requiring the use of such vehicle or vehicles and when such vehicle is:

a. Used in the transportation of agricultural products of the farm he is working to market, or to other points for sale or processing, or when used to transport materials, tools, equipment, or supplies which are to be used or

consumed on the farm he is working, or when used for any other transportation incidental to the regular operation of such farm;

b. Used in transporting forest products, including forest materials originating on a farm or incident to the regular operation of a farm, to the farm he is working or transporting for any purpose forest products which originate on the farm he is working; or

c. Used in the transportation of farm produce, supplies, equipment, or materials to a farm not worked by him, pursuant to a mutual cooperative agreement.

2. When the nonfarm use of such motor vehicle is limited to the personal use of the owner and his immediate family in attending church or school, securing medical treatment or supplies, ~~or~~ securing other household or family necessities*, or traveling between the operator's residence and the farm*.

C. As used in this section, the term "farm" means one or more areas of land used for the production, cultivation, growing, or harvesting of agricultural products, but does not include a tree farm that is not also a nursery or Christmas tree farm, unless it is part of what otherwise is a farm. As used in this section, the term "agricultural products" means any nursery plants; Christmas trees; horticultural, viticultural, and other cultivated plants and crops; aquaculture; dairy; livestock; poultry; bee; or other farm products.

D. The first application for registration of a vehicle under this section shall be made on forms provided by the Department and shall include:

1. The location and acreage of each farm on which the vehicle to be registered is to be used;

2. The type of agricultural commodities, poultry, dairy products or livestock produced on such farms and the approximate amounts produced annually;

3. A statement, signed by the vehicle's owner, that the vehicle to be registered will only be used for one or more of the purposes specified in subsection B; and

4. Other information required by the Department.

The above information is not required for the renewal of a vehicle's registration under this section.

E. The Department shall issue appropriately designated license plates for those motor vehicles registered under this section. The manner in which such license plates are designated shall be at the discretion of the Commissioner.

F. The owner of a farm vehicle shall inform the Commissioner within 30 days or at the time of his next registration renewal, whichever comes first, when such vehicle is no longer used exclusively for farm use as defined in this section, and shall pay the appropriate registration fee for the vehicle based on its type of operation. It shall constitute a Class 2 misdemeanor to: (i) operate or to permit the operation of any farm motor vehicle for which the fee for registration and license plates is herein prescribed on any highway in the Commonwealth without first having paid the prescribed registration fee; or (ii) operate or permit the operation of any motor vehicle, registered under this section, for purposes other than as provided under subsection B; or (iii) operate as a for-hire vehicle.

G. Nothing in this section shall affect the exemptions of agricultural and horticultural vehicles under §§ **46.2-664** through **46.2-670**.

H. Notwithstanding other provisions of this section, vehicles licensed under this section may be used by volunteer emergency medical services personnel and volunteer firefighters in responding to emergency calls, in reporting for regular duty, and in attending emergency medical services agency or fire company meetings and drills.

Signals; overtaking vehicle. Removes the requirement that the driver of an overtaking vehicle use his lights or an audible method to signal to the driver of a slower vehicle to move to the right. The bill does not change the requirement that the slower-moving vehicle move to the right for an overtaking vehicle.

CHAPTER 815

*An Act to amend and reenact §§ **46.2-842** and **46.2-842.1** of the Code of Virginia, relating to signals; overtaking vehicle.*

[H 1066]
Approved April 7, 2020

Be it enacted by the General Assembly of Virginia:

1. That §§ **46.2-842** and **46.2-842.1** of the Code of Virginia are amended and reenacted as follows:

§ **46.2-842**. Driver to give way to overtaking vehicle.

Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle ~~on audible signal~~ and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle. Any over-width, or slow-moving vehicle as defined by § **46.2-1081** shall be removed from the roadway at the nearest suitable location when necessary to allow traffic to pass.

§ **46.2-842.1**. Drivers to give way to certain overtaking vehicles on divided highways.

It shall be unlawful to fail to give way to overtaking traffic when driving a motor vehicle to the left and abreast of another motor vehicle on a divided highway. ~~On audible or light signal, the~~ *The* driver of the overtaken vehicle shall move to the right to allow the overtaking vehicle to pass as soon as the overtaken vehicle can safely do so. A violation of this section shall not be construed as negligence per se in any civil action.

Electric power-assisted bicycles. Amends the definition of "electric power-assisted bicycle" to include three classes of such bicycles, based upon the type of motor and the maximum miles per hour that the motor is capable of propelling the bicycle. The bill also provides that electric power-assisted bicycles and operators are afforded the same rights and privileges as bicycles and operators and limits local and state regulation of the operation of such electric power-assisted bicycles to certain bicycle paths, shared-use paths, and trails. The bill requires manufacturers and distributors of electric power-assisted bicycles to include (i) on each electric power-assisted bicycle, a label indicating certain technical specifications and (ii) on each class three electric power-assisted bicycle, a miles-per-hour speedometer. The bill requires persons operating or riding on a class three electric power-assisted bicycle to wear a helmet. This bill is identical to **SB 871.**

CHAPTER 59

*An Act to amend and reenact §§ **46.2-100** and **46.2-908.1** of the Code of Virginia and to amend the Code of Virginia by adding a section numbered **46.2-904.1**, relating to electric power-assisted bicycles.*

[H 543]
Approved March 2, 2020

Be it enacted by the General Assembly of Virginia:

1. That §§ **46.2-100** and **46.2-908.1** of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered **46.2-904.1** as follows:

§ **46.2-100**. Definitions.

As used in this title, unless the context requires a different meaning:

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

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

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

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

"Automobile transporter" means any tractor truck, lowboy, vehicle, or combination, including vehicles or combinations that transport motor vehicles on their power unit, designed and used exclusively for the transportation of motor vehicles or used to transport cargo or general freight on a backhaul pursuant to the provisions of 49 U.S.C. § 31111(a)(1).

"Bicycle" means a device propelled solely by human power, upon which a person may ride either on or astride a regular seat attached thereto, having two or more wheels in tandem, including children's bicycles, except a toy vehicle intended for use by young children. For purposes of Chapter 8 (§ **46.2-800** et seq.), a bicycle shall be a vehicle while operated on the highway.

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

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

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

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

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

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

"Commission" means the State Corporation Commission.

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

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

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

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

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

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

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

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

"Electric personal assistive mobility device" means a self-balancing two-nontandem-wheeled device that is designed to transport only one person and powered by an electric propulsion system that limits the device's maximum speed to 15 miles per hour or less. For purposes of Chapter 8 (§ **46.2-800** et seq.), an electric personal assistive mobility device shall be a vehicle when operated on a highway.

"Electric personal delivery device" means an electrically powered device that (i) is operated on sidewalks, shared-use paths, and crosswalks and intended primarily to transport property; (ii) weighs less than 50 pounds, excluding cargo; (iii) has a maximum speed of 10 miles per hour; and (iv) is equipped with technology to allow for operation of the device with or without the active control or monitoring of a natural person.

"Electric personal delivery device operator" means an entity or its agent who exercises direct physical control or monitoring over the navigation system and operation of an electric personal delivery device. For the purposes of this definition, "agent" means a person not less than 16 years of age charged by an entity with the responsibility of navigating and operating an electric personal delivery device. "Electric personal delivery device operator" does not include (i) an entity or person who requests the services of an electric personal delivery device to transport property or (ii) an entity or person who only arranges for and dispatches the requested services of an electric personal delivery device.

"Electric power-assisted bicycle" means a vehicle that travels on not more than three wheels in contact with the ground and is equipped with (i) pedals that allow propulsion by human power*, (ii) a seat for the use of the rider,* and ~~(ii)~~ *(iii)* an electric motor with an input of no more than ~~1,000~~ *750* watts ~~that reduces the pedal effort required of the rider and ceases to provide assistance when the bicycle reaches a speed of no more than 20 miles per hour~~. *Electric power-assisted bicycles shall be classified as follows:*

1. "Class one" means an electric power-assisted bicycle equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the bicycle reaches a speed of 20 miles per hour;

2. "Class two" means an electric power-assisted bicycle equipped with a motor that may be used exclusively to propel the bicycle and that ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour; and

3. "Class three" means an electric power-assisted bicycle equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour.

For the purposes of Chapter 8 (§ **46.2-800** et seq.), an electric power-assisted bicycle shall be a vehicle when operated on a highway.

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

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

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

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

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

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

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

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

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

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

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

lines of every way or place used for purposes of vehicular travel on any property owned, leased, or controlled by the United States government and located in the Commonwealth.

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

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

"Law-enforcement officer" means any officer authorized to direct or regulate traffic or to make arrests for violations of this title or local ordinances authorized by law. For the purposes of access to law-enforcement databases regarding motor vehicle registration and ownership only, "law-enforcement officer" also includes city and county commissioners of the revenue and treasurers, together with their duly designated deputies and employees, when such officials are actually engaged in the enforcement of §§ **46.2-752**, **46.2-753**, and **46.2-754** and local ordinances enacted thereunder.

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

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

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

"Manufactured home" means a structure subject to federal regulation, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. "Manufactured home" does not include a park model recreational vehicle, which is a vehicle that is (i) designed and marketed as temporary living quarters for recreational, camping, travel, or seasonal use; (ii) not permanently affixed to real property for use as a permanent dwelling; (iii) built on a single chassis mounted on wheels; and (iv) certified by the manufacturer as complying with the American National Standards Institute (ANSI) A119.5 Park Model Recreational Vehicle Standard.

"Military surplus motor vehicle" means a multipurpose or tactical vehicle that was manufactured by or under the direction of the United States Armed Forces for off-road use and subsequently authorized for sale to civilians.

"Military surplus motor vehicle" does not include specialized mobile equipment as defined in § **46.2-700**, trailers, or semitrailers.

"Moped" means every vehicle that travels on not more than three wheels in contact with the ground that (i) has a seat that is no less than 24 inches in height, measured from the middle of the seat perpendicular to the ground; (ii) has a gasoline, electric, or hybrid motor that (a) displaces 50 cubic centimeters or less or (b) has an input of 1500 watts or less; (iii) is power-driven, with or without pedals that allow propulsion by human power; and (iv) is not operated at speeds in excess of 35 miles per hour. "Moped" does not include *an electric power-assisted bicycle or* a motorized skateboard or scooter. For purposes of this title, a moped shall be a motorcycle when operated at speeds in excess of 35 miles per hour. For purposes of Chapter 8 (§ **46.2-800** et seq.), a moped shall be a vehicle while operated on a highway.

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

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

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

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

"Motorized skateboard or scooter" means every vehicle, regardless of the number of its wheels in contact with the ground, that (i) is designed to allow an operator to sit or stand, (ii) has no manufacturer-issued vehicle identification number, (iii) is powered in whole or in part by an electric motor, (iv) weighs less than 100 pounds, and (iv) has a speed of no more than 20 miles per hour on a paved level surface when powered solely by the electric motor. "Motorized skateboard or scooter" includes vehicles with or without handlebars but does not include "electric personal assistive mobility devices *or electric power-assisted bicycles*."

"Nonresident" means every person who is not domiciled in the Commonwealth, except: (i) any foreign corporation that is authorized to do business in the Commonwealth by the State Corporation Commission shall be a resident of the Commonwealth for the purpose of this title; in the case of corporations incorporated in the Commonwealth but doing business outside the Commonwealth, only such principal place of business or branches located within the Commonwealth shall be dealt with as residents of the Commonwealth; (ii) a person who becomes engaged in a gainful occupation in the Commonwealth for a period exceeding 60 days shall be a resident for the purposes of this title except for the purposes of Chapter 3 (§ **46.2-300** et seq.); (iii) a person, other than (a) a nonresident student as defined in this section or (b) a person who is serving a full-time church

service or proselyting mission of not more than 36 months and who is not gainfully employed, who has actually resided in the Commonwealth for a period of six months, whether employed or not, or who has registered a motor vehicle, listing an address in the Commonwealth in the application for registration, shall be deemed a resident for the purposes of this title, except for the purposes of the Virginia Commercial Driver's License Act (§ **46.2-341.1** et seq.).

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

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

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

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

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

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

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

"Pickup or panel truck" means (i) every motor vehicle designed for the transportation of property and having a registered gross weight of 7,500 pounds or less or (ii) every motor vehicle registered for personal use, designed to transport property on its own structure independent of any other vehicle, and having a registered gross weight in excess of 7,500 pounds but not in excess of 10,000 pounds.

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

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

"Replica vehicle" means every vehicle of a type required to be registered under this title not fully constructed by a licensed manufacturer but either constructed or assembled from components. Such components may be from a single vehicle, multiple vehicles, a kit, parts, or fabricated components. The kit may be made up of "major components" as defined in § **46.2-1600**, a full body, or a full chassis, or a combination of these parts. The vehicle shall resemble a vehicle of distinctive name, line-make, model, or type as produced by a licensed manufacturer or manufacturer no longer in business and is not a reconstructed or specially constructed vehicle as herein defined.

"Residence district" means the territory contiguous to a highway, not comprising a business district, where 75 percent or more of the property abutting such highway, on either side of the highway, for a distance of 300 feet or more along the highway consists of land improved for dwelling purposes, or is occupied by dwellings, or consists of land or buildings in use for business purposes, or consists of territory zoned residential or territory in residential subdivisions created under Chapter 22 (§ **15.2-2200** et seq.) of Title 15.2.

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

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

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

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

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

"Shared-use path" means a bikeway that is physically separated from motorized vehicular traffic by an open space or barrier and is located either within the highway right-of-way or within a separate right-of-way. Shared-

use paths may also be used by pedestrians, skaters, users of wheel chairs or wheel chair conveyances, joggers, and other nonmotorized users and electric personal delivery devices.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Truck" means every motor vehicle designed to transport property on its own structure independent of any other vehicle and having a registered gross weight in excess of 7,500 pounds. "Truck" does not include any pickup or panel truck.

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

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

"Vehicle" means every device in, on or by which any person or property is or may be transported or drawn on a highway, except electric personal delivery devices and devices moved by human power or used exclusively on stationary rails or tracks. For the purposes of Chapter 8 (§ **46.2-800** et seq.), bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, motorized skateboards or scooters, and mopeds shall be vehicles while operated on a highway.

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

"Wheel chair or wheel chair conveyance" means a chair or seat equipped with wheels, typically used to provide mobility for persons who, by reason of physical disability, are otherwise unable to move about as pedestrians. "Wheel chair or wheel chair conveyance" includes both three-wheeled and four-wheeled devices. So long as it is

operated only as provided in § **46.2-677**, a self-propelled wheel chair or self-propelled wheel chair conveyance shall not be considered a motor vehicle.

*§ **46.2-904.1**. Electric power-assisted bicycles.*

A. Except as otherwise provided in this section, an electric power-assisted bicycle or an operator of an electric power-assisted bicycle shall be afforded all the rights and privileges, and be subject to all of the duties, of a bicycle or the operator of a bicycle. An electric power-assisted bicycle is a vehicle to the same extent as is a bicycle.

B. An electric power-assisted bicycle or person operating an electric power-assisted bicycle is not subject to the provisions of this Code relating to requirements for driver's licenses, registration, certificates of title, financial responsibility, off-highway motorcycles, and license plates.

C. 1. On and after January 1, 2021, manufacturers and distributors of electric power-assisted bicycles shall permanently affix a label, in a prominent location, to each electric power-assisted bicycle that they manufacture or distribute. The label shall contain the classification number, top assisted speed, and motor wattage of the electric power-assisted bicycle and shall be printed in Arial font in at least nine-point type.

2. An electric power-assisted bicycle shall comply with equipment and manufacturing requirements for bicycles adopted by the U.S. Consumer Product Safety Commission, 16 C.F.R. Part 1512.

3. All class three electric power-assisted bicycles shall be equipped with a speedometer that displays the speed the bicycle is traveling in miles per hour.

D. No person shall tamper with or modify an electric power-assisted bicycle so as to change the motor-powered speed capability or engagement of an electric power-assisted bicycle, unless the label required by subdivision C 1 is replaced after modification.

E. An electric power-assisted bicycle shall operate in a manner such that the electric motor is disengaged or ceases to function when the rider stops pedaling or when the brakes are applied.

F. Except as set forth in this subsection, an electric power-assisted bicycle may be ridden in places where bicycles are allowed, including streets, highways, roads, shoulders, bicycle lanes, and bicycle or shared-use paths.

1. Following notice and a public hearing, a locality or state agency having jurisdiction over a bicycle or shared-use path may prohibit the operation of class one or class two electric power-assisted bicycles on such path, if it finds that such a restriction is necessary for public safety or compliance with other laws.

2. A locality or state agency having jurisdiction over a bicycle or shared-use path may prohibit the operation of class three electric power-assisted bicycles on such path.

3. A locality or state agency having jurisdiction over a trail may regulate the use of electric power-assisted bicycles on such trail. For purposes of this subdivision, "trail" means a trail that is specifically designated as nonmotorized and that has a natural surface tread that is made by clearing and grading the native soil with no added surfacing materials.

G. Each operator and passenger of a class three electric power-assisted bicycle shall wear a properly fitted and fastened bicycle helmet that meets the current standards provided by either the U.S. Consumer Product Safety Commission or the American Society for Testing and Materials International. Failure to wear a helmet shall not constitute negligence, be considered in mitigation of damages of whatever nature, be admissible in evidence, or be the subject of comment by counsel in any action for the recovery of damages arising out of the operation, ownership, or maintenance of a class three electric power-assisted bicycle, nor shall anything in this section change any existing law, rule, or procedure pertaining to any civil action, nor shall this section bar any claim that otherwise exists.

§ **46.2-908.1**. Electric personal assistive mobility devices, electric personal delivery devices, electrically powered toy vehicles, electric power-assisted bicycles, and motorized skateboards or scooters.

All electric personal assistive mobility devices, electric personal delivery devices, electrically powered toy vehicles, and electric power-assisted bicycles shall be equipped with spill-proof, sealed, or gelled electrolyte batteries. No person shall at any time or at any location operate (i) an electric personal assistive mobility device ~~or an electric power-assisted bicycle~~ at a speed faster than 25 miles per hour, (ii) a motorized skateboard or scooter at a speed faster than 20 miles per hour, or (iii) an electric personal delivery device at a speed faster than 10 miles per hour. No person shall operate a skateboard or scooter that would otherwise meet the definition of a motorized skateboard or scooter but is capable of speeds greater than 20 miles per hour at a speed greater than 20 miles per hour. No person less than 14 years old shall drive any electric personal assistive mobility device, motorized skateboard or scooter, or *class three* electric power-assisted bicycle unless under the immediate supervision of a person who is at least 18 years old.

An electric personal assistive mobility device may be operated on any highway with a maximum speed limit of 25 miles per hour or less. An electric personal assistive mobility device shall only operate on any highway authorized by this section if a sidewalk is not provided along such highway or if operation of the electric personal assistive mobility device on such sidewalk is prohibited pursuant to § **46.2-904**. Nothing in this section shall prohibit the operation of an electric personal assistive mobility device, electric personal delivery device, or motorized skateboard or scooter in the crosswalk of any highway where the use of such crosswalk is authorized for pedestrians, bicycles, or electric power-assisted bicycles.

Operation of electric personal assistive mobility devices, motorized skateboards or scooters, electrically powered toy vehicles, bicycles, and electric power-assisted bicycles is prohibited on any Interstate Highway System component except as provided by the section.

The Commonwealth Transportation Board may authorize the use of bicycles or motorized skateboards or scooters on an Interstate Highway System Component provided the operation is limited to bicycle or pedestrian facilities that are barrier separated from the roadway and automobile traffic and such component meets all applicable safety requirements established by federal and state law.

Department of Motor Vehicles; driver's license eligibility. Authorizes the Department of Motor Vehicles to issue a limited-duration driver's license, permit, or special identification card to an applicant with a valid, unexpired Employment Authorization Document.

CHAPTER 981

*An Act to amend and reenact § **46.2-328.1** of the Code of Virginia, relating to Department of Motor Vehicles; driver's license eligibility.*

[S 761]

Approved April 9, 2020

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, *or (vii) a valid, unexpired Employment Authorization Document* may be issued a~~ temporary~~ *limited-duration* license, permit, or special identification card. Such~~ temporary~~ *limited-duration* 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~~ *limited-duration* license, permit, or special identification card issued pursuant to this subsection shall clearly indicate that it is~~ temporary~~ *valid for a limited period* and shall state the date that it expires. Such a~~ temporary~~ *limited-duration* license, permit*,* or *special* identification card may be renewed only upon presentation of valid documentary evidence that the status by which the applicant qualified for the ~~temporary~~ *limited-duration* 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 having jurisdiction over immigration*.

C. Any license*, permit,* 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*, permit,* or special identification card has not expired or been cancelled, suspended*,* or revoked or (ii) the license*, permit,* 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.

Driving after forfeiture of license. Specifies that a person is guilty of an offense of driving or operating a motor vehicle (i) after his driver's license has been revoked for certain offenses; (ii) in violation of the terms of a restricted license; (iii) without an ignition interlock system if one is required; or (iv) if the person's license had been restricted, suspended, or revoked for certain driving under the influence offenses, with a blood alcohol content of 0.02 percent or more, only if such person was driving or operating the motor vehicle on a highway, as defined in Title 46.2, Motor Vehicles.

CHAPTER 1019

*An Act to amend and reenact § **18.2-272** of the Code of Virginia, relating to driving after forfeiture of license.*

[S 798]
Approved April 9, 2020

Be it enacted by the General Assembly of Virginia:

1. That § **18.2-272** of the Code of Virginia is amended and reenacted as follows:

§ **18.2-272**. Driving after forfeiture of license.

A. Any person who drives or operates any motor vehicle *on any highway, as defined in § **46.2-100**, in the Commonwealth*, *or any* engine or train in the Commonwealth*,* during the time for which he was deprived of the right to do so (i) upon conviction of a violation of § **18.2-268.3** or **46.2-341.26:3** or of an offense set forth in subsection E of § **18.2-270**, (ii) by § **18.2-271** or **46.2-391.2**, (iii) after his license has been revoked pursuant to § **46.2-389** or **46.2-391**, or (iv) in violation of the terms of a restricted license issued pursuant to subsection E of § **18.2-271.1**, is guilty of a Class 1 misdemeanor except as otherwise provided in § **46.2-391**, and is subject to administrative revocation of his driver's license pursuant to §§ **46.2-389** and **46.2-391**. Any person convicted of three violations of this section committed within a 10-year period is guilty of a Class 6 felony.

Nothing in this section or § **18.2-266**, **18.2-270**, or **18.2-271** shall be construed as conflicting with or repealing any ordinance or resolution of any *county,* city, *or* town ~~or county which~~ *that* restricts still further the right of such persons to drive or operate any such vehicle or conveyance.

B. Regardless of compliance with any other restrictions on his privilege to drive or operate a motor vehicle, it shall be a violation of this section for any person whose privilege to drive or operate a motor vehicle has been restricted, suspended or revoked because of a violation of § **18.2-36.1**, **18.2-51.4**, **18.2-266**, **18.2-268.3**, **46.2-341.24**, or **46.2-341.26:3** or a similar ordinance or law of another state or the United States to drive or operate a motor vehicle *on any highway, as defined in § **46.2-100**, in the Commonwealth* while he has a blood alcohol content of 0.02 percent or more.

Any person suspected of a violation of this subsection shall be entitled to a preliminary breath test in accordance with the provisions of § **18.2-267**, shall be deemed to have given his implied consent to have samples of his blood, breath or both taken for analysis pursuant to the provisions of § **18.2-268.2**, and, when charged with a violation of this subsection, shall be subject to the provisions of §§ **18.2-268.1** through **18.2-268.12**.

C. Any person who drives or operates a motor vehicle *on any highway, as defined in § **46.2-100**, in the Commonwealth* without a certified ignition interlock system as required by § **46.2-391.01** is guilty of a Class 1 misdemeanor and is subject to administrative revocation of his driver's license pursuant to §§ **46.2-389** and **46.2-391**.

Driver privilege cards; penalty. Authorizes the issuance of new driver privilege cards by the Department of Motor Vehicles to an applicant who (i) has reported income from Virginia sources or been claimed as a dependent on an individual tax return filed with the Commonwealth in the preceding 12 months and (ii) is not in violation of the insurance requirements for the registration of an uninsured motor vehicle. The bill provides that driver privilege cards shall confer the same privileges and shall be subject to the same provisions as driver's licenses and permits; however, driver privilege cards shall not (a) confer voting privileges, (b) permit an individual to waive any part of the driver examination, or (c) have their issuance be contingent upon the applicant's ability to produce proof of legal presence in the United States. The bill limits the release of certain information stored by the Department. The bill provides for the term "driver's license" to consistently refer to all driver's licenses, permits, driver privilege cards, and special identification cards issued by the Commonwealth or the comparable law of another jurisdiction. The bill allows the issuance of a limited-duration driver's license and special identification card to an applicant presenting valid documentary evidence that a federal court or federal agency having jurisdiction over immigration has authorized the applicant to be in the United States for a period of at least 30 days from the date of application. The bill authorizes the Tax Commissioner to provide to the Commissioner of the Department information sufficient to verify that an applicant for a driver privilege card or permit reported income from Virginia sources or was claimed as a dependent on an individual tax return filed with the Commonwealth in the preceding 12 months. The bill has a delayed effective date of January 1, 2021. This bill is identical to **SB 34.**

CHAPTER 1227

*An Act to amend and reenact §§ **2.2-3705.7**, **2.2-3808.1**, **4.1-305**, **8.01-313**, **8.01-420.8**, 8.9A-503, **12.1-19**, **16.1-69.40:1**, **16.1-228**, **17.1-293**, **18.2-6**, **18.2-268.1**, **19.2-258.1**, **20-60.3**, **20-107.1**, **22.1-205**, **24.2-410.1**, **24.2-411.1**, **24.2-416.7**, **24.2-643**, **32.1-291.2**, **33.2-613**, **38.2-2212**, **46.2-328.1**, **46.2-330**, **46.2-332**, **46.2-333.1**, **46.2-335**, **46.2-343**, **58.1-3**, **59.1-442**, **59.1-443.3**, **63.2-1916**, and **63.2-1941** of the Code of Virginia and to amend the Code of Virginia by adding a section numbered **46.2-328.3**, relating to driver privilege cards; penalty.*

[H 1211]
Approved April 22, 2020

Be it enacted by the General Assembly of Virginia:

1. That §§ **2.2-3705.7**, **2.2-3808.1**, **4.1-305**, **8.01-313**, **8.01-420.8**, 8.9A-503, **12.1-19**, **16.1-69.40:1**, **16.1-228**, **17.1-293**, **18.2-6**, **18.2-268.1**, **19.2-258.1**, **20-60.3**, **20-107.1**, **22.1-205**, **24.2-410.1**, **24.2-411.1**, **24.2-416.7**, **24.2-643**, **32.1-291.2**, **33.2-613**, **38.2-2212**, **46.2-328.1**, **46.2-330**, **46.2-332**, **46.2-333.1**, **46.2-335**, **46.2-343**, **58.1-3**, **59.1-442**, **59.1-443.3**, **63.2-1916**, and **63.2-1941** of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered **46.2-328.3** as follows:

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

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

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

2. Working papers and correspondence of the Office of the Governor, the Lieutenant Governor, or the Attorney General; the members of the General Assembly, the Division of Legislative Services, or the Clerks of the House of Delegates or the Senate of Virginia; the mayor or chief executive officer of any political subdivision of the Commonwealth; or the president or other chief executive officer of any public institution of higher education in

the Commonwealth. However, no information that is otherwise open to inspection under this chapter shall be deemed excluded by virtue of the fact that it has been attached to or incorporated within any working paper or correspondence. Further, information publicly available or not otherwise subject to an exclusion under this chapter or other provision of law that has been aggregated, combined, or changed in format without substantive analysis or revision shall not be deemed working papers. Nothing in this subdivision shall be construed to authorize the withholding of any resumes or applications submitted by persons who are appointed by the Governor pursuant to § **2.2-106** or **2.2-107**.

As used in this subdivision:

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

"Office of the Governor" means the Governor; the Governor's chief of staff, counsel, director of policy, and Cabinet Secretaries; the Assistant to the Governor for Intergovernmental Affairs; and those individuals to whom the Governor has delegated his authority pursuant to § **2.2-104**.

"Working papers" means those records prepared by or for a public official identified in this subdivision for his personal or deliberative use.

3. Information contained in library records that can be used to identify (i) both (a) any library patron who has borrowed material from a library and (b) the material such patron borrowed or (ii) any library patron under 18 years of age. For the purposes of clause (ii), access shall not be denied to the parent, including a noncustodial parent, or guardian of such library patron.

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

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

6. Information furnished by a member of the General Assembly to a meeting of a standing committee, special committee, or subcommittee of his house established solely for the purpose of reviewing members' annual disclosure statements and supporting materials filed under § **30-110** or of formulating advisory opinions to members on standards of conduct, or both.

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

8. Personal information, as defined in § **2.2-3801**, (i) filed with the Virginia Housing Development Authority concerning individuals who have applied for or received loans or other housing assistance or who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by the Virginia Housing Development Authority; (ii) concerning persons participating in or persons on the waiting list for federally funded rent-assistance programs; (iii) filed with any local redevelopment and housing authority created pursuant to § **36-4** concerning persons participating in or persons on the waiting list for housing assistance programs

funded by local governments or by any such authority; or (iv) filed with any local redevelopment and housing authority created pursuant to § **36-4** or any other local government agency concerning persons who have applied for occupancy or who have occupied affordable dwelling units established pursuant to § **15.2-2304** or **15.2-2305**. However, access to one's own information shall not be denied.

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

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

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

12. Information held by the Virginia Retirement System, acting pursuant to § **51.1-124.30**, or a local retirement system, acting pursuant to § **51.1-803**, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for post-retirement benefits other than pensions, acting pursuant to Article 8 (§ **15.2-1544** et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § **23.1-2210**, or by the board of visitors of The College of William and Mary in Virginia, acting pursuant to § **23.1-2803**, or by the Virginia College Savings Plan, acting pursuant to § **23.1-704**, relating to the acquisition, holding, or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, if disclosure of such information would (i) reveal confidential analyses prepared for the board of visitors of the University of Virginia, prepared for the board of visitors of The College of William and Mary in Virginia, prepared by the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan, or provided to the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan under a promise of confidentiality of the future value of such ownership interest or the future financial performance of the entity and (ii) have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees, the board of visitors of the University of Virginia, the board of visitors of The College of William and Mary in Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested, or the present value of such investment.

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

14. Information held by the Virginia Commonwealth University Health System Authority pertaining to any of the following: an individual's qualifications for or continued membership on its medical or teaching staffs; proprietary information gathered by or in the possession of the Authority from third parties pursuant to a promise of confidentiality; contract cost estimates prepared for confidential use in awarding contracts for construction or the purchase of goods or services; information of a proprietary nature produced or collected by or for the Authority or members of its medical or teaching staffs; financial statements not publicly available that may be filed with the Authority from third parties; the identity, accounts, or account status of any customer of the Authority; consulting or other reports paid for by the Authority to assist the Authority in connection with its strategic planning and goals; the determination of marketing and operational strategies where disclosure of such strategies would be harmful to the competitive position of the Authority; and information of a proprietary nature produced or collected by or for employees of the Authority, other than the Authority's financial or administrative records, in the conduct of or as a result of study or research on medical, scientific, technical, or scholarly issues, whether sponsored by the Authority alone or in conjunction with a governmental body or a private concern, when such information has not been publicly released, published, copyrighted, or patented. This exclusion shall also apply when such information is in the possession of Virginia Commonwealth University.

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

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

17. Information held by the Virginia Lottery pertaining to (i) the social security number, tax identification number, state sales tax number, home address and telephone number, personal and lottery banking account and transit numbers of a retailer, and financial information regarding the nonlottery operations of specific retail locations and (ii) individual lottery winners, except that a winner's name, hometown, and amount won shall be disclosed. If the value of the prize won by the winner exceeds $10 million, the information described in clause (ii) shall not be disclosed unless the winner consents in writing to such disclosure.

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

19. Information pertaining to the planning, scheduling, and performance of examinations of holder records pursuant to the Virginia Disposition of Unclaimed Property Act (§ **55.1-2500** et seq.) prepared by or for the State Treasurer or his agents or employees or persons employed to perform an audit or examination of holder records.

20. Information held by the Virginia Department of Emergency Management or a local governing body relating to citizen emergency response teams established pursuant to an ordinance of a local governing body that reveal

the name, address, including e-mail address, telephone or pager numbers, or operating schedule of an individual participant in the program.

21. Information held by state or local park and recreation departments and local and regional park authorities concerning identifiable individuals under the age of 18 years. However, nothing in this subdivision shall operate to prevent the disclosure of information defined as directory information under regulations implementing the *federal* Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, unless the public body has undertaken the parental notification and opt-out requirements provided by such regulations. Access shall not be denied to the parent, including a noncustodial parent, or guardian of such person, unless the parent's parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access. For such information of persons who are emancipated, the right of access may be asserted by the subject thereof. Any parent or emancipated person who is the subject of the information may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, the public body shall open such information for inspection and copying.

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

23. Information held by the Judicial Inquiry and Review Commission made confidential by § **17.1-913**.

24. Information held by the Virginia Retirement System acting pursuant to § **51.1-124.30**, a local retirement system acting pursuant to § **51.1-803** (hereinafter collectively referred to as the retirement system), or the Virginia College Savings Plan, acting pursuant to § **23.1-704** relating to:

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

b. Trade secrets provided by a private entity to the retirement system or the Virginia College Savings Plan if disclosure of such records would have an adverse impact on the financial interest of the retirement system or the Virginia College Savings Plan.

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

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

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

(3) Stating the reasons why protection is necessary.

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

Nothing in this subdivision shall be construed to prevent the disclosure of the identity or amount of any investment held or the present value and performance of all asset classes and subclasses.

25. Information held by the Department of Corrections made confidential by § **53.1-233**.

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

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

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

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

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

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

32. Information reflecting the substance of meetings in which (i) individual sexual assault cases are discussed by any sexual assault response team established pursuant to § **15.2-1627.4**, (ii) individual child abuse or neglect cases or sex offenses involving a child are discussed by multidisciplinary child sexual abuse response teams established pursuant to § **15.2-1627.5**, or (iii) individual cases of abuse, neglect, or exploitation of adults as

defined in § **63.2-1603** are discussed by multidisciplinary teams established pursuant to §§ **15.2-1627.5** and **63.2-1605**. The findings of any such team may be disclosed or published in statistical or other aggregated form that does not disclose the identity of specific individuals.

33. Information contained in the strategic plan, marketing plan, or operational plan prepared by the Virginia Economic Development Partnership Authority pursuant to § **2.2-2237.1** regarding target companies, specific allocation of resources and staff for marketing activities, and specific marketing activities that would reveal to the Commonwealth's competitors for economic development projects the strategies intended to be deployed by the Commonwealth, thereby adversely affecting the financial interest of the Commonwealth. The executive summaries of the strategic plan, marketing plan, and operational plan shall not be redacted or withheld pursuant to this subdivision.

34. Information discussed in a closed session of the Physical Therapy Compact Commission or the Executive Board or other committees of the Commission for purposes set forth in subsection E of § **54.1-3491**.

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

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

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

A. No person to whom an alcoholic beverage may not lawfully be sold under § **4.1-304** shall consume, purchase or possess, or attempt to consume, purchase or possess, any alcoholic beverage, except (i) pursuant to subdivisions 1 through 7 of § **4.1-200**; (ii) where possession of the alcoholic beverages by a person less than 21 years of age is due to such person's making a delivery of alcoholic beverages in pursuance of his employment or an order of his parent; or (iii) by any state, federal, or local law-enforcement officer or his agent when possession of an alcoholic beverage is necessary in the performance of his duties. Such person may be prosecuted either in the county or city in which the alcohol was possessed or consumed, or in the county or city in which the person exhibits evidence of physical indicia of consumption of alcohol. It shall be an affirmative defense to a charge of a violation of this subsection if the defendant shows that such consumption or possession was pursuant to subdivision 7 of § **4.1-200**.

B. No person under the age of 21 years shall use or attempt to use any (i) altered, fictitious, facsimile*,* or simulated license to operate a motor vehicle~~,~~*;* (ii) altered, fictitious, facsimile*,* or simulated document, including~~,~~ but not limited to a birth certificate or student identification card~~,~~*;* or (iii) motor vehicle~~ operator's~~ *driver's* license *or other document issued under Chapter 3 (§ **46.2-300** et seq.) of Title 46.2 or the comparable law of another jurisdiction*, birth certificate*,* or student identification card of another person in order to establish a false identification or false age for himself to consume, purchase*,* or attempt to consume or purchase an alcoholic beverage.

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

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

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

F. When any adult who has not previously been convicted of underaged consumption, purchase or possession of alcoholic beverages in Virginia or any other state or the United States is before the court, the court may, upon entry of a plea of guilty or not guilty, if the facts found by the court would justify a finding of guilt of a violation of subsection A, without entering a judgment of guilt and with the consent of the accused, defer further proceedings and place him on probation subject to appropriate conditions. Such conditions may include the imposition of the license suspension and restricted license provisions in subsection C. However, in all such deferred proceedings, the court shall require the accused to enter a treatment or education program or both, if available, that in the opinion of the court best suits the needs of the accused. If the accused is placed on local community-based probation, the program or services shall be located in any of the judicial districts served by the local community-based probation services agency or in any judicial district ordered by the court when the placement is with an alcohol safety action program. The services shall be provided by (i) a program licensed by the Department of Behavioral Health and Developmental Services, (ii) certified by the Commission on VASAP, or (iii) by a program or services made available through a community-based probation services agency established pursuant to Article 9 (§ **9.1-173** et seq.) of Chapter 1 of Title 9.1, if one has been established for the locality. When an offender is ordered to a local community-based probation services rather than the alcohol safety action program, the local community-based probation services agency shall be responsible for providing for services or referring the offender to education or treatment services as a condition of probation.

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

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

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

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

1. In the case of a nonresident defendant licensed by the Commonwealth to operate a motor vehicle, the last address reported by such defendant to the Department of Motor Vehicles as his address on an application for or renewal of ~~a driver's license~~ *driving privileges* shall be deemed to be the address of the defendant for the purpose of the mailing required by this section if no other address is known, and, in any case in which the affidavit provided for in § **8.01-316** ~~of this chapter~~ is filed, such a defendant, by so notifying the Department of such an address, and by failing to notify the Department of any change therein, shall be deemed to have appointed the Commissioner of the Department of Motor Vehicles his statutory agent for service of process in an action arising out of operation of a motor vehicle by him in the Commonwealth, and to have accepted as valid service such mailing to such address; or

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

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

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

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

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

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

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

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

(1) except as otherwise provided in paragraph (3), if the debtor is a registered organization or the collateral is held in a trust that is a registered organization, only if the financing statement provides the name that is stated to be the registered organization's name on the public organic record most recently filed with or issued or enacted by the registered organization's jurisdiction of organization which purports to state, amend, or restate the registered organization's name;

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

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

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

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

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

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

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

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

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

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

(6) in other cases:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A. The clerk of the Commission shall:

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

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

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

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

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

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

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

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

B. A person who prepares or submits to the office of the clerk of the Commission a document or any information for filing with the Commission pursuant to Title 8.9A, Title 13.1, or Title 50 is responsible for ensuring that the document or information does not contain any personal identifiable information, unless such information is otherwise publicly available or is required or authorized by law to be included in the document or information provided. For purposes of this subsection, "personal identifiable information" means (i) a social security number or any other numbers appearing on driver's licenses *or other documents issued under Chapter 3 (§* ***46.2-300*** *et seq.) of Title 46.2 or the comparable law of another jurisdiction*; (ii) information on credit cards, debit cards, bank accounts, or other electronic billing and payment systems; (iii) a date of birth identified with a particular individual; (iv) the maiden name of an individual's parent; or (v) any financial account number. Any person who prepares or submits to the office of the clerk a document for filing that contains personal identifiable information shall be deemed to have authorized the clerk or any member of the clerk's staff to remove, delete, or obliterate, without prior notice, such information prior or subsequent to recording or filing the document in the office of the clerk. Nothing in this subsection shall be deemed to require the clerk to alter any document submitted for filing. The clerk may refuse to accept for filing any document that includes personal identifiable information and return it for modification or explanation. The Commission, its members, the clerk of the Commission, and any member

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

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

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

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

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

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

D. Notwithstanding any other provision of law, the clerk may review the circumstances surrounding the execution or delivery of any document associated with any business entity of record in the office of the clerk that was submitted for filing under a business entity statute administered by the Commission pursuant to Title 13.1 or Title 50. If the clerk determines that the person who executed or delivered the document was without authority to act on behalf of the business entity, the clerk is authorized (i) to refuse to accept the document for filing or (ii) if the document has been filed, to summarily remove the document and any documents and data related to the filing from the records in the office of the clerk, correct such records, and provide notice to any business entity affected by the filing. The Commission, its members, the clerk of the Commission, and any member of the clerk's staff are immune from liability in any proceeding arising from any acts or omissions in the implementation of this subsection. This subsection shall not be construed to limit, withdraw, or overturn any defense or immunity that exists under statutory or common law.

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

A. The Supreme Court shall by rule, which may from time to time be amended, supplemented or repealed, but which shall be uniform in its application throughout the Commonwealth, designate the traffic infractions for

which a pretrial waiver of appearance, plea of guilty and fine payment may be accepted. Such designated infractions shall include violations of §§ **46.2-830.1**, **46.2-878.2** and **46.2-1242** or any parallel local ordinances. Notwithstanding any rule of the Supreme Court, a person charged with a traffic offense that is listed as prepayable in the Uniform Fine Schedule may prepay his fines and costs without court appearance whether or not he was involved in an accident. The prepayable fine amount for a violation of § **46.2-878.2** shall be $200 plus an amount per mile-per-hour in excess of posted speed limits, as authorized in § **46.2-878.3**.

Such infractions shall not include:

1. Indictable offenses;

2. [Repealed.]

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

4. Reckless driving;

5. Leaving the scene of an accident;

6. Driving while under suspension or revocation of ~~driver's license~~ *driving privileges*;

7. Driving without being licensed to drive.

8. [Repealed.]

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

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

D. Fines imposed under local traffic infraction ordinances that do not parallel provisions of state law and fulfill the criteria set out in subsection A may be prepayable in the manner set forth in subsection B if such ordinances appear in a schedule entered by order of the local circuit courts. The chief judge of each circuit may establish a

schedule of the fines, within the limits prescribed by local ordinances, to be imposed for prepayment of local ordinances designating each offense specifically. Upon the entry of such order it shall be forwarded within 10 days to the Supreme Court of Virginia by the clerk of the local circuit court. The schedule, which from time to time may be amended, supplemented or repealed, shall be uniform in its application throughout the circuit. Such schedule shall not be construed or interpreted so as to limit the discretion of any trial judge trying individual cases at the time fixed for trial. This schedule shall be prominently posted in the place where fines are paid. Fines and costs shall be paid in accordance with the provisions of this Code or any rules or regulations promulgated thereunder.

§ **16.1-228**. Definitions.

~~When~~ *As* used in this chapter, unless the context ~~otherwise~~ requires *a different meaning*:

"Abused or neglected child" means any child:

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

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

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

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

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

6. Whose parents or other person responsible for his care creates a substantial risk of physical or mental injury by knowingly leaving the child alone in the same dwelling, including an apartment as defined in § **55.1-2000**, with a person to whom the child is not related by blood or marriage and who the parent or other person responsible for his care knows has been convicted of an offense against a minor for which registration is required as a violent sexual offender pursuant to § **9.1-902**; or

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

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

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

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

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

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

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

"Child in need of services" means (i) a child whose behavior, conduct or condition presents or results in a serious threat to the well-being and physical safety of the child or (ii) a child under the age of 14 whose behavior, conduct or condition presents or results in a serious threat to the well-being and physical safety of another person; however, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be a child in need of services, nor shall any child who habitually remains away from or habitually deserts or abandons his family as a result of what the court or the local child protective services unit determines to be incidents of physical, emotional or sexual abuse in the home be considered a child in need of services for that reason alone.

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

"Child in need of supervision" means:

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

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

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

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

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

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

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

*"Driver's license" means any document issued under Chapter 3 (§ **46.2-300** et seq.) of Title 46.2, or the comparable law of another jurisdiction, authorizing the operation of a motor vehicle upon the highways.*

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

"Family or household member" means (i) the person's spouse, whether or not he or she resides in the same home with the person, (ii) the person's former spouse, whether or not he or she resides in the same home with the person, (iii) the person's parents, stepparents, children, stepchildren, brothers, sisters, half-brothers, half-sisters, grandparents and grandchildren, regardless of whether such persons reside in the same home with the person, (iv) the person's mother-in-law, father-in-law, sons-in-law, daughters-in-law, brothers-in-law and sisters-in-law who reside in the same home with the person, (v) any individual who has a child in common with the person, whether or not the person and that individual have been married or have resided together at any time, or (vi) any

individual who cohabits or who, within the previous 12 months, cohabited with the person, and any children of either of them then residing in the same home with the person.

"Fictive kin" means persons who are not related to a child by blood or adoption but have an established relationship with the child or his family.

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

"Independent living arrangement" means placement of (i) a child at least 16 years of age who is in the custody of a local board or licensed child-placing agency by the local board or licensed child-placing agency or (ii) a child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately prior to placement by the Department of Juvenile Justice, in a living arrangement in which such child or person does not have daily substitute parental supervision.

"Independent living services" means services and activities provided to a child in foster care 14 years of age or older and who has been committed or entrusted to a local board of social services, child welfare agency, or private child-placing agency. "Independent living services" may also mean services and activities provided to a person who (i) was in foster care on his 18th birthday and has not yet reached the age of 21 years; (ii) is between the ages of 18 and 21 and who, immediately prior to his commitment to the Department of Juvenile Justice, was in the custody of a local board of social services; or (iii) is a child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately prior to placement in an independent living arrangement. Such services shall include counseling, education, housing, employment, and money management skills development and access to essential documents and other appropriate services to help children or persons prepare for self-sufficiency.

"Intake officer" means a juvenile probation officer appointed as such pursuant to the authority of this chapter.

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

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

"This law" or "the law" means the Juvenile and Domestic Relations District Court Law embraced in this chapter.

"Legal custody" means (i) a legal status created by court order which vests in a custodian the right to have physical custody of the child, to determine and redetermine where and with whom he shall live, the right and duty to protect, train and discipline him and to provide him with food, shelter, education and ordinary medical

care, all subject to any residual parental rights and responsibilities or (ii) the legal status created by court order of joint custody as defined in § **20-107.2**.

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

"Qualified individual" means a trained professional or licensed clinician who is not an employee of the local board of social services or licensed child-placing agency that placed the child in a qualified residential treatment program and is not affiliated with any placement setting in which children are placed by such local board of social services or licensed child-placing agency.

"Qualified residential treatment program" means a program that (i) provides 24-hour residential placement services for children in foster care; (ii) has adopted a trauma-informed treatment model that meets the clinical and other needs of children with serious emotional or behavioral disorders, including any clinical or other needs identified through assessments conducted pursuant to clause (viii) of this definition; (iii) employs registered or licensed nursing and other clinical staff who provide care, on site and within the scope of their practice, and are available 24 hours a day, 7 days a week; (iv) conducts outreach with the child's family members, including efforts to maintain connections between the child and his siblings and other family; documents and maintains records of such outreach efforts; and maintains contact information for any known biological family and fictive kin of the child; (v) whenever appropriate and in the best interest of the child, facilitates participation by family members in the child's treatment program before and after discharge and documents the manner in which such participation is facilitated; (vi) provides discharge planning and family-based aftercare support for at least six months after discharge; (vii) is licensed in accordance with 42 U.S.C. § 671(a)(10) and accredited by an organization approved by the federal Secretary of Health and Human Services; and (viii) requires that any child placed in the program receive an assessment within 30 days of such placement by a qualified individual that (a) assesses the strengths and needs of the child using an age-appropriate, evidence-based, validated, and functional assessment tool approved by the Commissioner of Social Services; (b) identifies whether the needs of the child can be met through placement with a family member or in a foster home or, if not, in a placement setting authorized by 42 U.S.C. § 672(k)(2), including a qualified residential treatment program, that would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short-term and long-term goals established for the child in his foster care or permanency plan; (c) establishes a list of short-term and long-term mental and behavioral health goals for the child; and (d) is documented in a written report to be filed with the court prior to any hearing on the child's placement pursuant to § **16.1-281**, **16.1-282**, **16.1-282.1**, or **16.1-282.2**.

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

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

"Shelter care" means the temporary care of children in physically unrestricting facilities.

"State Board" means the State Board of Juvenile Justice.

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

"Status offense" means an act prohibited by law which would not be an offense if committed by an adult.

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

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

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

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

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

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

E. This section shall not apply to the following:

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

2. Postings related to legitimate law-enforcement purposes;

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

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

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

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

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

F. Nothing in this section shall prohibit the Supreme Court or any other court clerk from providing online access to a case management system that may include abstracts of case filings and proceedings in the courts of the Commonwealth, including online access to subscribers of nonconfidential criminal case information to confirm the complete date of birth of a defendant.

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

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

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

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

As used in this title:

The word "court," unless otherwise clearly indicated by the context in which it appears, shall mean and include any court vested with appropriate jurisdiction under the Constitution and laws of ~~this~~ *the* Commonwealth.

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

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

The words "motor vehicle," "semitrailer," "trailer" and "vehicle" shall have the respective meanings assigned to them by § **46.2-100**.

§ **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, or instruction permit authorizing the operation of a motor vehicle upon the highways~~ *as defined in § **18.2-6***.

"Ordinance" means a county, city or town ordinance.

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

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

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

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

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

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

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

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

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

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

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

7. The monthly amount of support and the effective date of the order. In proceedings on initial petitions, the effective date shall be the date of filing of the petition; in modification proceedings, the effective date may be the date of notice to the responding party. The first monthly payment shall be due on the first day of the month following the hearing date and on the first day of each month thereafter. In addition, an amount shall be assessed for any full and partial months between the effective date of the order and the date that the first monthly payment is due. The assessment for the initial partial month shall be prorated from the effective date through the end of that month, based on the current monthly obligation;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

D. In addition to or in lieu of an award pursuant to subsection C, the court may reserve the right of a party to receive support in the future. In any case in which the right to support is so reserved, there shall be a rebuttable presumption that the reservation will continue for a period equal to 50 percent of the length of time between the date of the marriage and the date of separation. Once granted, the duration of such a reservation shall not be subject to modification.

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

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

2. The standard of living established during the marriage;

3. The duration of the marriage;

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

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

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

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

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

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

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

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

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

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

F. In contested cases in the circuit courts, any order granting, reserving or denying a request for spousal support shall be accompanied by written findings and conclusions of the court identifying the factors in subsection E which support the court's order. Any order granting or reserving any request for spousal support shall state whether the retirement of either party was contemplated by the court and specifically considered by the court in making its award, and, if so, the order shall state the facts the court contemplated and specifically considered as to the retirement of the party. If the court awards periodic support for a defined duration, such findings shall identify the basis for the nature, amount and duration of the award and, if appropriate, a specification of the events and circumstances reasonably contemplated by the court which support the award.

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

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

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

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

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

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

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

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

§ **22.1-205**. Driver education programs.

A. The Board of Education shall establish for the public school system a standardized program of driver education in the safe operation of motor vehicles. Such program shall consist of classroom training and behind-the-wheel driver training. However, any student who participates in such a program of driver education shall meet the academic requirements established by the Board, and no student in a course shall be permitted to operate a motor vehicle without a license or ~~permit to do so~~ *other document* issued by the Department of Motor Vehicles *under Chapter 3 (§* ***46.2-300*** *et seq.) of Title 46.2, or the comparable law of another jurisdiction, authorizing the operation of a motor vehicle upon the highways*.

1. The driver education program shall include (i) instruction concerning (a) alcohol and drug abuse; (b) aggressive driving; (c) distracted driving; (d) motorcycle awareness; (e) organ and tissue donor awareness; (f) fuel-efficient driving practices; and (g) traffic stops, including law-enforcement procedures for traffic stops, appropriate actions to be taken by drivers during traffic stops, and appropriate interactions with law-enforcement officers who initiate traffic stops, and (ii) in Planning District 8, an additional minimum 90-minute parent/student driver education component. The additional parent/student driver education component may be provided to students outside Planning District 8, at the discretion of each local school board.

2. The parent/student driver education component shall be administered as part of the classroom portion of the driver education curriculum. In Planning District 8, the parent/student driver education component shall be administered in-person. Outside Planning District 8, the parent/student driver education component may be administered either in-person or online by a public school or driver training schools that are licensed as computer-based driver education providers. For students in Planning District 8 and those students in school divisions that offer the parent/student component, the participation of the student's parent or guardian shall be required, and the program shall emphasize (i) parental responsibilities regarding juvenile driver behavior, (ii) juvenile driving restrictions pursuant to the Code of Virginia, and (iii) the dangers of driving while intoxicated and underage consumption of alcohol. Such instruction shall be developed by the Department in cooperation with the Virginia Alcohol Safety Action Program, the Department of Health, and the Department of Behavioral Health and Developmental Services, as appropriate. Nothing in this subdivision precludes any school division outside Planning District 8 from including a program of parental involvement as part of a driver education

program in addition to or as an alternative to the minimum 90-minute parent/student driver education component.

3. Any driver education program shall require a minimum number of miles driven during the behind-the-wheel driver training.

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

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

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

D. The actual initial driving instruction shall be conducted, with motor vehicles equipped as may be required by regulation of the Board of Education, on private or public property removed from public highways if practicable; if impracticable, then, at the request of the school board, the Commissioner of Highways shall designate a suitable section of road near the school to be used for such instruction. Such section of road shall be marked with signs, which the Commissioner of Highways shall supply, giving notice of its use for driving instruction. Such signs shall be removed at the close of the instruction period. No vehicle other than those used for driver training shall be operated between such signs at a speed in excess of 25 miles per hour. Violation of this limit shall be a Class 4 misdemeanor.

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

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

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

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

B. Additionally, the Department of Motor Vehicles shall furnish monthly to the Department of Elections a complete list of all persons who have indicated a noncitizen status to the Department of Motor Vehicles in obtaining ~~a driver's license, commercial driver's license, temporary driver's permit, learner's permit, motorcycle learner's permit, special identification card~~ *any document*, or renewal thereof, issued pursuant to the provisions of Chapter 3 (§ **46.2-300** et seq.) of Title 46.2. The Department of Elections shall transmit the information from the list to the appropriate general registrars. Information in the lists shall be confidential and available only for official use by the Department of Elections and general registrars.

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

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

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

1. Apply for, replace, or renew a driver's license *or other document issued under Chapter 3 (§ **46.2-300** et seq.) of Title 46.2 except driver privilege cards or permits issued pursuant to § **46.2-328.3***; *or*

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

~~3.~~ Change an address on an existing driver's license or ~~special identification card~~ *other document issued under Chapter 3 (§ **46.2-300** et seq.) of Title 46.2 except driver privilege cards or permits issued pursuant to § **46.2-328.3***.

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

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

Any completed application for voter registration submitted by a person who is already registered shall serve as a written request to update his registration record. Any change of address form submitted for purposes of a motor vehicle driver's license or ~~special identification card~~ *other document issued under Chapter 3 (§* ***46.2-300*** *et seq.) of Title 46.2* shall serve as notification of change of address for voter registration for the registrant involved unless the registrant states on the form that the change of address is not for voter registration purposes. If the information from the notification of change of address for voter registration indicates that the registered voter has moved to another general registrar's jurisdiction within the Commonwealth, the notification shall be treated as a request for transfer from the registered voter. The notification and the registered voter's registration record shall be transmitted as directed by the Department of Elections to the appropriate general registrar who shall send confirmation documents of the transfer to the voter pursuant to § **24.2-424**. The Department of Motor Vehicles and Department of Elections shall cooperate in the prompt transmittal by electronic or other means of the notification to the appropriate general registrar.

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

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

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

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

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

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

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

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

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

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

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

4. Attest to the truth of the information provided;

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

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

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

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

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

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

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

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

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

B. An officer of election shall ask the voter for his full name and current residence address and the voter may give such information orally or in writing. The officer of election shall repeat, in a voice audible to party and candidate representatives present, the full name and address provided by the voter. The officer shall ask the voter to present any one of the following forms of identification: his valid Virginia driver's license, his valid United States passport, or any other photo identification issued by the Commonwealth, one of its political subdivisions, or the United States*, other than a driver privilege card issued under §* ***46.2-328.3***; any valid student identification card containing a photograph of the voter and issued by any institution of higher education located in the Commonwealth or any private school located in the Commonwealth; or any valid employee identification

card containing a photograph of the voter and issued by an employer of the voter in the ordinary course of the employer's business.

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

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

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

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

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

§ **32.1-291.2**. Definitions.

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

"Adult" means an individual who is at least 18 years of age.

"Agent" means an individual:

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

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

"Anatomical gift" means a donation of all or part of a human body to take effect after the donor's death for the purpose of transplantation, therapy, research, or education.

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

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

"Document of gift" means a donor card or other record used to make an anatomical gift. The term includes a statement or symbol on a driver's license, identification card, or donor registry.

"Donor" means an individual whose body or part is the subject of an anatomical gift.

"Donor registry" means a database that contains records of anatomical gifts.

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

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

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

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

"Identification card" means an identification card issued by the ~~Virginia~~ Department of Motor Vehicles *under Chapter 3 (§ **46.2-300** et seq.) of Title 46.2*.

"Know" means to have actual knowledge.

"Minor" means an individual who is under 18 years of age.

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

"Parent" means a parent whose parental rights have not been terminated.

"Part" means an organ, an eye, or tissue of a human being. The term does not include the whole body.

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

"Physician" means an individual authorized to practice medicine or osteopathy under the law of any state.

"Procurement organization" means an eye bank, organ procurement organization, or tissue bank that is a member of the Virginia Transplant Council.

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

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

"Recipient" means an individual into whose body a decedent's part has been or is intended to be transplanted.

"Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

"Refusal" means a record created under § **32.1-291.7** that expressly states an intent to bar other persons from making an anatomical gift of an individual's body or part.

"Sign" means, with the present intent to authenticate or adopt a record:

1. To execute or adopt a tangible symbol; or

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

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

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

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

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

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

§ **33.2-613**. Free use of toll facilities by certain state officers and employees; penalties.

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

1. The Commissioner of Highways;

2. Members of the Commonwealth Transportation Board;

3. Employees of the Department of Transportation;

4. The Superintendent of the Department of State Police;

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

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

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

8. The Commissioner of the Department of Motor Vehicles;

9. Employees of the Department of Motor Vehicles;

10. Local police officers;

11. Sheriffs and their deputies;

12. Regional jail officials;

13. Animal wardens;

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

15. Persons operating firefighting equipment and emergency medical services vehicles as defined in § **32.1-111.1**;

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

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

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

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

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

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

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

2. Major incidents that may require the temporary suspension of toll collection operations shall include (i) natural disasters, such as hurricanes, tornadoes, fires, and floods; (ii) accidental releases of hazardous materials, such as chemical spills; (iii) major traffic accidents, such as multivehicle collisions; and (iv) other incidents deemed to present a risk to public safety. Any mandatory evacuation during a state of emergency as defined in § **44-146.16** shall require the temporary suspension of toll collection operations in affected evacuation zones on routes designated as mass evacuation routes. The Commissioner of Highways shall reinstate toll collection when the mandatory evacuation period ends.

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

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

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

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

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

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

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

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

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

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

1. The Commissioner of Highways;

2. Members of the Commonwealth Transportation Board;

3. Employees of the Department of Transportation;

4. The Superintendent of the Department of State Police;

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

6. The Commissioner of the Department of Motor Vehicles;

7. Employees of the Department of Motor Vehicles; and

8. Sheriffs and deputy sheriffs.

However, in the event of a mandatory evacuation and suspension of tolls pursuant to subdivision B 2, the Commissioner of Highways or his designee shall order the temporary suspension of toll collection operations on facilities of all operators authorized to operate a toll facility pursuant to the Public-Private Transportation Act of 1995 (§ **33.2-1800** et seq.) that has been designated as a mass evacuation route in affected evacuation zones, to the extent such order is necessary to facilitate evacuation and is consistent with the terms of the applicable comprehensive agreement between the operator and the Department. The Commissioner of Highways shall authorize the reinstatement of toll collections suspended pursuant to this subsection when the mandatory

evacuation period ends or upon the reinstatement of toll collections on other tolled facilities in the same affected area, whichever occurs first.

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

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

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

A. The following definitions shall apply to this section:

"Cancellation" or "to cancel" means a termination of a policy during the policy period.

"Insurer" means any insurance company, association, or exchange licensed to transact motor vehicle insurance in this Commonwealth.

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

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

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

"Renewal" or "to renew" means (i) the issuance and delivery by an insurer of a policy superseding at the end of the policy period a policy previously issued and delivered by the same insurer, providing types and limits of coverage at least equal to those contained in the policy being superseded, or (ii) the issuance and delivery of a certificate or notice extending the term of a policy beyond its policy period or term with types and limits of coverage at least equal to those contained in the policy. Each renewal shall conform with the requirements of the manual rules and rating program currently filed by the insurer with the Commission. Except as provided in subsection K, any policy with a policy period or term of less than 12 months or any policy with no fixed expiration date shall for the purpose of this section be considered as if written for successive policy periods or terms of six months from the original effective date.

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

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

a. Age;

b. Sex;

c. Residence;

d. Race;

e. Color;

f. Creed;

g. National origin;

h. Ancestry;

i. Marital status;

j. Lawful occupation, including the military service;

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

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

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

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

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

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

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

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

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

t. The status of the person as a foster care provider or a person in foster care.

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

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

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

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

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

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

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

2. State the effective date of the cancellation or refusal to renew. The effective date of cancellation or refusal to renew shall be at least 45 days after mailing or delivering to the insured the notice of cancellation or notice of refusal to renew. However, when the policy is being canceled or not renewed for the reason set forth in subdivision D 2 the effective date may be less than 45 days but at least 15 days from the date of mailing or delivery.

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

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

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

IMPORTANT NOTICE

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

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

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

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

F. Nothing in this section shall apply:

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

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

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

4. If an affiliated insurer has manifested its willingness to provide coverage at a lower premium than would have been charged for the same exposures on the expiring policy. The affiliated insurer shall manifest its willingness

to provide coverage by issuing a policy with the types and limits of coverage at least equal to those contained in the expiring policy unless the named insured has requested a change in coverage or limits. When such offer is made by an affiliated insurer, an offer of renewal shall not be required of the insurer of the expiring policy, and the policy issued by the affiliated insurer shall be deemed to be a renewal policy.

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

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

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

J. The provisions of this section shall not apply to any insurer that limits the issuance of policies of motor vehicle liability insurance to one class or group of persons engaged in any one particular profession, trade, occupation, or business. Nothing in this section requires an insurer to renew a policy of motor vehicle insurance if the insured does not conform to the occupational or membership requirements of an insurer who limits its writings to an occupation or membership of an organization. No insurer is required to renew a policy if the insured becomes a nonresident of Virginia.

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

§ **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*, (iv) an approved applicant for asylum in the United States, (v) an entrant into the United States in refugee status, or (vi) a citizen of the Federated States of Micronesia, the Republic of Palau, or the Republic of the Marshall Islands, collectively known as the Freely Associated 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 or an applicant for a REAL ID credential who provides evidence of temporary lawful status in the United States as required pursuant to the REAL ID Act of 2005, as amended, and its implementing regulations* may be issued a~~ temporary~~ *limited-duration* license, permit, or special identification card. Such~~ temporary~~ *limited-duration* 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~~ *limited-duration* license, permit, or special identification card issued pursuant to this subsection shall clearly indicate that it is~~ temporary~~ *valid for a limited period* and shall state the date that it expires. Such a~~ temporary~~ *limited-duration* license, permit*,* or *special* identification card may be renewed only upon presentation of valid documentary evidence that the status by which the applicant qualified for the~~ temporary~~ *limited-duration* 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 having jurisdiction over immigration*.

C. Any license*, permit,* 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*, permit,* or special identification card has not expired or been cancelled, suspended*,* or revoked or (ii) the license*, permit,* 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.

*§ **46.2-328.3**. Driver privilege cards and permits.*

*A. Upon application of any person who does not meet the requirements for a driver's license or permit under subsection A or B of § **46.2-328.1**, the Department may issue to the applicant a driver privilege card or permit if the Department determines that the applicant (i) has reported income and deductions from Virginia sources, as defined in § **58.1-302**, or been claimed as a dependent, on an individual income tax return filed with the Commonwealth in the preceding 12 months and (ii) is not in violation of the insurance requirements set forth in Article 8 (§ **46.2-705** et seq.) of Chapter 6.*

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

1. The front of a driver privilege card or permit shall be identical in appearance to a driver's license or permit that is not a REAL ID credential and the back of the card or permit shall be identical in appearance to the restriction on the back of a limited-duration license, permit, or special identification card;

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

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

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

*5. The fee for an original driver privilege card or permit shall be $50. The Department may issue, upon application by the holder of a valid, unexpired card or permit issued under this section, and upon payment of a fee of $50, another driver privilege card or permit that shall be valid for a period of two years from the date of issuance. The amount paid by an applicant for a driver privilege card or other document issued pursuant to this chapter shall be considered privileged information for the purposes of § **46.2-208**. No applicant shall be required to provide proof of compliance with clauses (i) and (ii) of subsection A for a reissued, renewed, or duplicate card or permit; and*

*6. Any information collected pursuant to this section that is not otherwise collected by the Department or required for the issuance of any other driving credential issued pursuant to the provisions of this chapter and any information regarding restrictions in the Department's records related to the issuance of a credential issued pursuant to this section shall be considered privileged. Notwithstanding the provisions of § **46.2-208**, such information shall not be released except upon request by the subject of the information, the parent of a minor who is the subject of the information, the guardian of the subject of the information, or the authorized representative of the subject of the information, or pursuant to a court order.*

C. The Department shall not release the following information relating to the issuance of a driver privilege card or permit, except upon request by the subject of the information, the parent of a minor who is the subject of the information, the guardian of the subject of the information, or the authorized representative of the subject of the information, or pursuant to a court order, (i) proof documents submitted for the purpose of obtaining a driver privilege card or permit, (ii) the information in the Department's records indicating the type of proof documentation that was provided, or (iii) applications.

The Department shall release to any federal, state, or local governmental entity, local government group self-insurance pool, law-enforcement officer, attorney for the Commonwealth, or court, or the authorized agent of any of the foregoing, information related to the issuance of a driver privilege card or permit, the release of which is not otherwise prohibited by this section, that is required for a requester to carry out the requester's official functions if the requester provides the individual's name and other sufficient identifying information contained on the individual's record. If the requester has entered into an agreement with the Department, such agreement shall be in a manner prescribed by the Department and such agreement shall contain the legal authority that authorizes the performance of the requester's official functions and a description of how such information will be used to carry out such official functions. If the Commissioner determines that sufficient authority has not been provided by the requester to show that the purpose for which such information shall be used is one of the requester's official functions, the Commissioner shall refuse to enter into any agreement. If the requester submits a request for information in accordance with this subsection without an existing agreement to receive the information, such request shall be in a manner prescribed by the Department and such request shall contain the legal authority that authorizes the performance of the requester's official functions and a description of how such information will be used to carry out such official functions. If the Commissioner determines that sufficient authority has not been provided by the requester to show that the purpose for which such information shall be used is one of the requester's official functions, the Commissioner shall deny such request.

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

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

B. Within one year prior to the date shown on the driver's license as the date of expiration, the Department shall send notice, to the holder thereof, at the address shown on the records of the Department in its driver's license file, that his license will expire on a date specified therein, whether he must be reexamined, and when he may be reexamined. Nonreceipt of the notice shall not extend the period of validity of the driver's license beyond its

expiration date. The license holder may request the Department to send such renewal notice to an email or other electronic address, upon provision of such address to the Department.

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

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

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

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

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

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

§ **46.2-332**. Fees.

~~On and after January 1, 1990, the~~ *The* fee for each driver's license other than a commercial driver's license shall be $2.40 per year. *This fee shall not apply to driver privilege cards or permits issued under § **46.2-328.3***. If the license is a commercial driver's license or seasonal restricted commercial driver's license, the fee shall be $6 per year. ~~Persons 21 years old or older may be issued a scenic driver's license, learner's permit, or commercial driver's license for an additional fee of $5.~~ For any one or more driver's license endorsements or classifications, except a motorcycle classification, there shall be an additional fee of $1 per year; for a motorcycle classification, there shall be an additional fee of $2 per year. For any and all driver's license classifications, there shall be an additional fee of $1 per year. For any revalidation of a seasonal restricted commercial driver's license, the fee shall be $5. A fee of $10 shall be charged to extend the validity period of a driver's license pursuant to subsection B of § **46.2-221.2**.

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

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

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

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

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

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

Excluding the $2 reexamination fee, $1.50 of all fees collected for each original or renewal driver's license*, other than a driver privilege card issued under § **46.2-328.3**,* shall be paid into the driver education fund of the state treasury and expended as provided by law. Unexpended funds from the driver education fund shall be retained in the fund and be available for expenditure in ensuing years as provided therein.

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

This section shall supersede conflicting provisions of this chapter.

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

Notwithstanding any contrary provision of this chapter, there are hereby imposed, in addition to other fees imposed by this chapter, the following surcharges in the following amounts:

1. For the issuance of any driver's license other than a commercial driver's license, *or a driver privilege card issued under § **46.2-328.3**,* $1.60 per year of validity of the license;

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

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

4. For the reinstatement of any driver's license, $15.

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

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

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

The Department shall not, however, issue a learner's permit or motorcycle learner's permit to any minor applicant required to provide evidence of compliance with the compulsory school attendance law set forth in Article 1 (§ **22.1-254** et seq.) of Chapter 14 of Title 22.1, unless such applicant is in good academic standing or, if not in

such standing or submitting evidence thereof, whose parent or guardian, having custody of such minor, provides written authorization for the minor to obtain a learner's permit or motorcycle learner's permit, which written authorization shall be obtained on forms provided by the Department and indicating the Commonwealth's interest in the good academic standing and regular school attendance of such minors. Any minor providing proper evidence of the solemnization of his marriage or a certified copy of a court order of emancipation shall not be required to provide the certification of good academic standing or any written authorization from his parent or guardian to obtain a learner's permit or motorcycle learner's permit.

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

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

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

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

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

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

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

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

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

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

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

I. The Department shall charge a fee of $3 for each learner's permit and motorcycle learner's permit issued under this section. Fees for issuance of learner's permits shall be paid into the driver education fund of the state treasury; fees for issuance of motorcycle learner's permits*, other than permits issued under § **46.2-328.3**,* shall be paid into the state treasury and credited to the Motorcycle Rider Safety Training Program Fund created pursuant to § **46.2-1191**. It ~~shall be~~ *is* unlawful for any person, after having received a learner's permit, to drive a motor vehicle without being accompanied by a licensed driver as provided in the foregoing provisions of this section; however, a learner's permit other than a motorcycle learner's permit, accompanied by documentation verifying that the driver is at least 16 years and three months old and has successfully completed an approved driver's education course, signed by the minor's parent, guardian, legal custodian or other person standing in loco parentis, shall constitute a temporary driver's license for the purpose of driving unaccompanied by a licensed driver 18 years of age or older, if all other requirements of this chapter have been met. Such temporary driver's license shall only be valid until the driver has received his permanent license pursuant to § **46.2-336**.

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

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

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

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

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

L. Any violation of this section ~~shall be~~ *is* punishable as a Class 2 misdemeanor.

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

If a driver's license or learner's permit issued under the provisions of this chapter is lost, stolen, or destroyed, the person to whom it was issued may obtain a duplicate or substitute thereof on furnishing proof satisfactory to the Department that his license or permit has been lost, stolen, or destroyed, or that there are good reasons why a

duplicate should be issued. Every applicant for a duplicate or reissued driver's license shall appear in person before the Department to apply, unless permitted by the Department to apply for duplicate or reissue in another manner. Applicants who are required to apply in person may be required to present proof of identity, legal presence, residency, and social security number or non-work authorized status.

There shall be a fee of ~~five dollars~~ *$5* for each duplicate license and ~~two dollars~~ *$2* for each duplicate learner's permit. ~~An additional fee of five dollars shall be charged to add or change the scene on a duplicate license or duplicate learner's permit.~~

There shall be a fee of ~~five dollars~~ *$5* for reissuance of any driver's license upon the termination of driving restrictions imposed upon the licensee by the Department or a court. ~~An additional fee of five dollars shall be charged to add or change the scene on a license upon reissuance.~~

§ **58.1-3**. Secrecy of information; penalties.

A. Except in accordance with a proper judicial order or as otherwise provided by law, the Tax Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or local tax or revenue officer or employee, or any person to whom tax information is divulged pursuant to this section or § **58.1-512** or **58.1-2712.2**, or any former officer or employee of any of the aforementioned offices shall not divulge any information acquired by him in the performance of his duties with respect to the transactions, property, including personal property, income or business of any person, firm or corporation. Such prohibition specifically includes any copy of a federal return or federal return information required by Virginia law to be attached to or included in the Virginia return. This prohibition shall apply to any reports, returns, financial documents or other information filed with the Attorney General pursuant to the provisions of Article 3 (§ **3.2-4204** et seq.) of Chapter 42 of Title 3.2. Any person violating the provisions of this section is guilty of a Class 1 misdemeanor. The provisions of this subsection shall not be applicable, however, to:

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

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

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

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

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

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

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

B. 1. Nothing contained in this section shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof or the publication of delinquent lists showing the names of taxpayers who are currently delinquent, together with any relevant information which in the opinion of the Department may assist in the collection of such delinquent taxes. Notwithstanding any other provision of this section or other law, the Department, upon request by the General Assembly or any duly constituted committee of the General Assembly, shall disclose the total aggregate amount of an income tax deduction or credit taken by all taxpayers, regardless of (i) how few taxpayers took the deduction or credit or (ii) any other circumstances. This section shall not be construed to prohibit a local tax official from disclosing whether a person, firm or corporation is licensed to do business in that locality and divulging, upon written request, the name and address of any person, firm or corporation transacting business under a fictitious name. Additionally, notwithstanding any other provision of law, the commissioner of revenue is authorized to provide, upon written request stating the reason for such request, the Tax Commissioner with information obtained from local tax returns and other information pertaining to the income, sales and property of any person, firm or corporation licensed to do business in that locality.

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

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

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

5. This section shall not prohibit the commissioner of the revenue, treasurer, director of finance, or other similar local official who collects or administers taxes for a county, city, or town from disclosing information to nongovernmental entities with which the locality has entered into a contract to provide services that assist it in the administration of refund processing or other non-audit services related to its administration of taxes. The commissioner of the revenue, treasurer, director of finance, or other similar local official who collects or administers taxes for a county, city, or town shall not disclose information to such entity unless he has obtained a written acknowledgement by such entity that the confidentiality and nondisclosure obligations of and penalties set forth in subsection A apply to such entity and that such entity agrees to abide by such obligations.

C. Notwithstanding the provisions of subsection A or B or any other provision of this title, the Tax Commissioner is authorized to (i) divulge tax information to any commissioner of the revenue, director of finance, or other similar collector of county, city, or town taxes who, for the performance of his official duties, requests the same in writing setting forth the reasons for such request; (ii) provide to the Commissioner of the Department of Social Services, upon entering into a written agreement, the amount of income, filing status, number and type of dependents, and Forms W-2 and 1099 to facilitate the administration of public assistance or social services benefits as defined in § **63.2-100** or child support services pursuant to Chapter 19 (§ **63.2-1900** et seq.) of Title 63.2; (iii) provide to the chief executive officer of the designated student loan guarantor for the Commonwealth of Virginia, upon written request, the names and home addresses of those persons identified by the designated guarantor as having delinquent loans guaranteed by the designated guarantor; (iv) provide current address information upon request to state agencies and institutions for their confidential use in facilitating the collection of accounts receivable, and to the clerk of a circuit or district court for their confidential use in facilitating the collection of fines, penalties, and costs imposed in a proceeding in that court; (v) provide to the Commissioner of the Virginia Employment Commission, after entering into a written agreement, such tax information as may be necessary to facilitate the collection of unemployment taxes and overpaid benefits; (vi) provide to the Virginia Alcoholic Beverage Control Authority, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of state and local taxes and the administration of the alcoholic beverage control laws; (vii) provide to the Director of the Virginia Lottery such tax information as may be necessary to identify those lottery ticket retailers who owe delinquent taxes; (viii) provide to the Department of the Treasury for its confidential use such tax information as may be necessary to facilitate the location of owners and holders of unclaimed property, as defined in § **55.1-2500**; (ix) provide to the State Corporation Commission, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of taxes and fees administered by the Commission; (x) provide to the Executive Director of the Potomac and Rappahannock Transportation Commission for his confidential use such tax information as may be necessary to facilitate the collection of the motor vehicle fuel sales tax; (xi) provide to the Commissioner of the Department of Agriculture and Consumer Services such tax information as may be necessary to identify those applicants for registration as a supplier of charitable gaming supplies who have not filed required returns or who owe delinquent taxes; (xii) provide to the Department of Housing and Community Development for its confidential use such tax information as may be necessary to facilitate the administration of the remaining effective provisions of the Enterprise Zone Act (§ **59.1-270** et seq.), and the Enterprise Zone Grant Program (§ **59.1-538** et seq.); (xiii) provide current name and address information to private collectors entering into a written agreement with the Tax Commissioner, for their confidential use when acting on behalf of the Commonwealth or any of its political subdivisions; however, the Tax Commissioner is not authorized to provide such information to a private collector who has used or disseminated in an unauthorized or prohibited manner any such information previously provided to such collector; (xiv) provide current name and address information as to the identity of the wholesale or retail dealer that affixed a tax stamp to a package of cigarettes to any person who manufactures or sells at retail or wholesale cigarettes and who may bring an action for injunction or other equitable relief for violation of Chapter 10.1, Enforcement of Illegal Sale or Distribution of Cigarettes Act; (xv)

provide to the Commissioner of Labor and Industry, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of unpaid wages under § **40.1-29**; (xvi) provide to the Director of the Department of Human Resource Management, upon entering into a written agreement, such tax information as may be necessary to identify persons receiving workers' compensation indemnity benefits who have failed to report earnings as required by § **65.2-712**; (xvii) provide to any commissioner of the revenue, director of finance, or any other officer of any county, city, or town performing any or all of the duties of a commissioner of the revenue and to any dealer registered for the collection of the Communications Sales and Use Tax, a list of the names, business addresses, and dates of registration of all dealers registered for such tax; (xviii) provide to the Executive Director of the Northern Virginia Transportation Commission for his confidential use such tax information as may be necessary to facilitate the collection of the motor vehicle fuel sales tax; (xix) provide to the Commissioner of Agriculture and Consumer Services the name and address of the taxpayer businesses licensed by the Commonwealth that identify themselves as subject to regulation by the Board of Agriculture and Consumer Services pursuant to § **3.2-5130**; (xx) provide to the developer or the economic development authority of a tourism project authorized by § **58.1-3851.1**, upon entering into a written agreement, tax information facilitating the repayment of gap financing;~~ and~~ (xxi) provide to the Virginia Retirement System and the Department of Human Resource Management, after entering into a written agreement, such tax information as may be necessary to facilitate the enforcement of subdivision C 4 of § **9.1-401***; and (xxii) provide to the Commissioner of the Department of Motor Vehicles information sufficient to verify that an applicant for a driver privilege card or permit under § **46.2-328.3** reported income and deductions from Virginia sources, as defined in § **58.1-302**, or was claimed as a dependent, on an individual income tax return filed with the Commonwealth within the preceding 12 months*. The Tax Commissioner is further authorized to enter into written agreements with duly constituted tax officials of other states and of the United States for the inspection of tax returns, the making of audits, and the exchange of information relating to any tax administered by the Department of Taxation. Any person to whom tax information is divulged pursuant to this section shall be subject to the prohibitions and penalties prescribed herein as though he were a tax official.

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

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

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

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

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

§ **59.1-442**. Sale of purchaser information; notice required.

A. No merchant, without giving notice to the purchaser, shall sell to any third person information ~~which~~ *that* concerns the purchaser and ~~which~~ *that* is gathered in connection with the sale, rental, or exchange of tangible personal property to the purchaser at the merchant's place of business. Notice required by this section may be by the posting of a sign or any other reasonable method. If requested by a purchaser not to sell such information, the merchant shall not do so. No merchant shall sell any information gathered solely as the result of any customer payment by personal check, credit card, or where the merchant records the *number of the* customer's driver's license ~~number~~ *or other document issued under Chapter 3 (§* ***46.2-300*** *et seq.) of Title 46.2 or the comparable law of another jurisdiction*. This subsection shall not be construed as authorizing a merchant to sell to a third person any information concerning a purchaser if the sale or dissemination of the information is prohibited pursuant to § **59.1-443.3**.

B. For the purposes of this section and § **59.1-443.3**, "merchant" means any person or entity engaged in the sale of goods from a fixed retail location in Virginia.

§ **59.1-443.3**. Scanning information from driver's licenses and other documents; retention, sale, or dissemination of information.

A. No merchant may scan the machine-readable zone of a *driver's license or other document issued by the* Department of Motor Vehicles ~~issued identification card or driver's license~~ *under Chapter 3 (§* ***46.2-300*** *et seq.) of Title 46.2 or the comparable law of another jurisdiction*, except for the following purposes:

1. To verify authenticity of the ~~identification card or~~ driver's license *or other document* or to verify the identity of the individual if the individual pays for goods or services with a method other than cash, returns an item, or requests a refund or an exchange;

2. To verify the individual's age when providing age-restricted goods or services to the individual if there is a reasonable doubt of the individual having reached 18 years of age or older;

3. To prevent fraud or other criminal activity if the individual returns an item or requests a refund or an exchange and the merchant uses a fraud prevention service company or system. Information collected by scanning an individual's ~~identification card or~~ driver's license *or other document* pursuant to this subdivision shall be limited to the individual's name, address, *and* date of birth~~,~~ and *the number of the* driver's license ~~number~~ or ~~identification card number~~ *other document*;

4. To comply with a requirement imposed on the merchant by ~~state~~ *the laws of the Commonwealth* or federal law;

5. To provide to a check services company regulated by the federal Fair Credit Reporting Act, (15 U.S.C. § 1681 et seq.), that receives information obtained from an individual's ~~identification card or~~ driver's license *or other document* to administer or enforce a transaction or to prevent fraud or other criminal activity; or

6. To complete a transaction permitted under the *federal* Gramm-Leach-Bliley Act, (15 U.S.C. § 6801 et seq.), or the federal Fair Credit Reporting Act, (15 U.S.C. § 1681 et seq.).

B. No merchant shall retain any information obtained from a scan of the machine-readable zone of an individual's ~~identification card or~~ driver's license *or other document* except as permitted in subdivision A 3, 4, 5, or 6.

C. No merchant shall sell or disseminate to a third party any information obtained from a scan of the machine-readable zone of an individual's ~~identification card or~~ driver's license *or other document* for any marketing, advertising, or promotional purpose. This subsection shall not prohibit a merchant from disseminating to a third party any such information for a purpose described in subdivision A 3, 4, 5, or 6.

D. Any waiver of a provision of this section is contrary to public policy and is void and unenforceable.

§ **63.2-1916**. Notice of administrative support order; contents; hearing; modification.

The Commissioner may proceed against a noncustodial parent whose support debt has accrued or is accruing based upon subrogation to, assignment of, or authorization to enforce a support obligation. Such obligation may be created by a court order for support of a child or child and spouse or decree of divorce ordering support of a child or child and spouse. In the absence of such a court order or decree of divorce, the Commissioner may, pursuant to this chapter, proceed against a person whose support debt has accrued or is accruing based upon payment of public assistance or who has a responsibility for the support of any dependent child or children and their custodial parent. The administrative support order shall also provide that support shall continue to be paid

for any child over the age of 18 who is (i) a full-time high school student, (ii) not self-supporting, and (iii) living in the home of the parent seeking or receiving child support, until such child reaches the age of 19 or graduates from high school, whichever comes first. The Commissioner shall initiate proceedings by issuing notice containing the administrative support order which shall become effective unless timely contested. The notice shall be served upon the debtor (a) in accordance with the provisions of § **8.01-296**, **8.01-327** or **8.01-329** or (b) by certified mail, return receipt requested, or by electronic means, or the debtor may accept service by signing a formal waiver. A copy of the notice shall be provided to the obligee. The notice shall include the following:

1. A statement of the support debt or obligation accrued or accruing and the basis and authority under which the assessment of the debt or obligation was made. The initial administrative support order shall be effective on the date of service and the first monthly payment shall be due on the first of the month following the date of service and the first of each month thereafter. A modified administrative support order shall be effective the date that notice of the review is served on the nonrequesting party, and the first monthly payment shall be due on the first day of the month following the date of such service and on the first day of each month thereafter. In addition, an amount shall be assessed for the partial month between the effective date of the order and the date that the first monthly payment is due. The assessment for the initial partial month shall be prorated from the effective date through the end of that month, based on the current monthly obligation. All payments are to be credited to current support obligations first, with any payment in excess of the current obligation applied to arrearages, if any;

2. A statement of the name, date of birth, and last four digits of the social security number of the child or children for whom support is being sought;

3. A statement that support shall continue to be paid for any child over the age of 18 who is (i) a full-time high school student, (ii) not self-supporting, and (iii) living in the home of the party seeking or receiving child support, until such child reaches the age of 19 or graduates from high school, whichever comes first;

4. A demand for immediate payment of the support debt or obligation or, in the alternative, a demand that the debtor file an answer with the Commissioner within 10 days of the date of service of the notice stating his defenses to liability;

5. If known, the full name, date of birth, and last four digits of the social security number of each parent of the child; however, when a protective order has been issued or the Department otherwise finds reason to believe that a party is at risk of physical or emotional harm from the other party, only the name of the party at risk shall be included in the order;

6. A statement that if no answer is made on or before 10 days from the date of service of the notice, the administrative support order shall be final and enforceable, and the support debt shall be assessed and determined subject to computation, and is subject to collection action;

7. A statement that the debtor may be subject to mandatory withholding of income, the interception of state or federal tax refunds, interception of payments due to the debtor from the Commonwealth, notification of arrearage information to consumer reporting agencies, passport denial or suspension, or incarceration and that the debtor's property will be subject to lien and foreclosure, distraint, seizure and sale, an order to withhold and deliver, or withholding of income;

8. A statement that the parents shall keep the Department informed regarding access to health insurance coverage and health insurance policy information and a statement that health care coverage shall be required for the parents' dependent children if available at reasonable cost as defined in § **63.2-1900**, or pursuant to subsection A of § **63.2-1903**. If a child is enrolled in Department-sponsored health care coverage, the Department shall collect the cost of the coverage pursuant to subsection E of § **20-108.2**;

9. A statement of each party's right to appeal and the procedures applicable to appeals from the decision of the Commissioner;

10. A statement that the obligor's income shall be immediately withheld to comply with this order unless the obligee, or the Department, if the obligee is receiving public assistance, and obligor agree to an alternative arrangement;

11. A statement that any determination of a support obligation under this section creates a judgment by operation of law and as such is entitled to full faith and credit in any other state or jurisdiction;

12. A statement that each party shall give the Department written notice of any change in his address, including email address, or phone number, including cell phone number, within 30 days;

13. A statement that each party shall keep the Department informed of the name, telephone number and address of his current employer;

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

15. A statement that a petition may be filed for suspension of any license, certificate, registration, or other authorization to engage in a profession, trade, business, occupation, or recreational activity issued by the Commonwealth to a parent as provided in § **63.2-1937** upon a delinquency for a period of 90 days or more or in amount of $5,000 or more. The order shall indicate whether either or both parents currently hold such an authorization and, if so, the type of authorization held;

16. A statement that the Department of Motor Vehicles may suspend or refuse to renew the ~~driver's license~~ *driving privileges* of any person upon receipt of notice from the Department of Social Services that the person (i) is delinquent in the payment of child support by 90 days or in an amount of $5,000 or more or (ii) has failed to comply with a subpoena, summons, or warrant relating to paternity or child support proceedings; and

17. A statement that on and after July 1, 1994, the Department of Social Services, as provided in § **63.2-1921** and in accordance with § **20-108.2**, may initiate a review of the amount of support ordered by any court.

If no answer is received by the Commissioner within 10 days of the date of service or acceptance, the administrative support order shall be effective as provided in the notice. The Commissioner may initiate collection procedures pursuant to this chapter, Chapter 11 (§ **16.1-226** et seq.) of Title 16.1 or Title 20. The debtor and the obligee have 10 days from the date of receipt of the notice to file an answer with the Commissioner to exercise the right to an administrative hearing.

Any changes in the amount of the administrative order must be made pursuant to this section. In no event shall an administrative hearing alter or amend the amount or terms of any court order for support or decree of divorce ordering support. No administrative support order may be retroactively modified, but may be modified from the date that notice of the review has been served on the nonrequesting party. Notice of each review shall be served on the nonrequesting party (1) in accordance with the provisions of § **8.01-296**, **8.01-327**, or **8.01-329**, (2) by certified mail, return receipt requested, (3) by electronic means, or (4) by the nonrequesting party executing a waiver. The existence of an administrative order shall not preclude either an obligor or obligee from commencing appropriate proceedings in a juvenile and domestic relations district court or a circuit court.

§ **63.2-1941**. Additional enforcement remedies.

In addition to its other enforcement remedies, the Division of Child Support Enforcement is authorized to:

1. Attach unemployment benefits through the Virginia Employment Commission pursuant to § **60.2-608** and workers' compensation benefits through the Workers' Compensation Commission pursuant to § **65.2-531**; and

2. Suspend an individual's ~~driver's license~~ *driving privileges* pursuant to § **46.2-320.1**.

2. That the provisions of this act shall become effective on January 1, 2021.

3. That no later than December 1, 2021, the Commissioner of the Department of Motor Vehicles shall report to the Chairmen of the House and Senate Committees on Transportation regarding the Commissioner's progress in implementing the provisions of this act.

4. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § **30-19.1:4** of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 854 of the Acts of Assembly of 2019 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § **30-19.1:4** of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

TRAFFIC – SUMMARY ONLY

SB439 – §§ 18.2-270.1, 18.2-270.2, 18.2-271.1, and 18.2-272 – Driving under the influence; remote alcohol monitoring; penalty. Provides that in the case of an adult offender's first conviction of driving under the influence when the offender's blood alcohol content was less than 0.15, upon motion of the offender, the sole restriction of the offender's restricted driver's license shall be the prohibition of the offender from operating any motor vehicle not equipped with a functioning, certified ignition interlock system for one year without any violation of the ignition interlock system requirements. The bill provides that if a person is ineligible to receive a restricted license, a court may instead authorize such person to use a remote alcohol monitoring device, refrain from alcohol consumption, and participate in an alcohol safety action program; such provisions of the bill shall become effective on July 1, 2021. The bill provides that tampering with a remote alcohol monitoring device is a Class 1 misdemeanor. This bill incorporates **SB 154** and **SB 520.**

SB711 – § 46.2-301 – Driving while license, permit, or privilege to drive suspended or revoked; mandatory minimum. Eliminates the mandatory minimum term of confinement in jail of 10 days for a third or subsequent conviction of driving on a suspended license.

SB437 – §§ 46.2-841 and adding 46.2-816.1 – Bicyclists and other vulnerable road users; penalty. Provides that a person who operates a motor vehicle in a careless or distracted manner and is the proximate cause of serious physical injury to a vulnerable road user, defined in the bill as a pedestrian; the operator of or passenger on a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, wheel chair or wheel chair conveyance, skateboard, roller skates, motorized skateboard or scooter, or animal-drawn vehicle or any attached device; or any person riding an animal, is guilty of a Class 1 misdemeanor. The bill also prohibits the driver of a motor vehicle from crossing into a bicycle lane to pass or attempt to pass another vehicle, except in certain circumstances.

HB1577 – § 46.2-116 – Tow truck drivers; criminal history. Authorizes the Department of Criminal Justice Services, at its discretion, to issue a tow truck driver registration to a person who was convicted of a violent crime or a crime involving the driving of a tow truck provided that such conviction occurred more than 15 years prior to the date of application and that all conditions of probation or parole related to such conviction have been satisfied. The bill does not change the existing prohibition on issuing a tow truck driver registration to a person required to register as a sex offender.

SB758 – §§ 46.2-100, 46.2-904, 46.2-908.1, 46.2-908.1:1, 46.2-1015, and 46.2-2101 – Electric personal delivery devices. Makes several changes related to electric personal delivery devices, including changing the term used to refer to such devices to "personal delivery devices" and changing the weight limit of such devices from 50 to 500 pounds. The bill allows localities to regulate the use of personal delivery devices on sidewalks, crosswalks, or roadways but requires a locality to allow a personal delivery device to operate on the side of a roadway with a speed limit of 25 miles per hour or less if a sidewalk is not available.

HB909 and SB513 – §§ 18.2-251, 46.2-410.1, 46.2-819.2, and 53.1-127.3 – Driver's license suspensions for certain non-driving related offenses. Removes the existing provisions that allow a person's driver's license to be suspended (i) when he is convicted of or placed on deferred disposition for a drug offense, (ii) for non-payment of certain fees owed to a local correctional facility or regional jail, and (iii) for shoplifting motor fuel. This bill is identical to **SB 513.**

SB556 – § 46.2-878.2:1 – Speeding fines; certain roads. Adds a $15 penalty, in addition to all other penalties, for driving in excess of the posted speed limit on U.S. Routes 15 and 17 in Fauquier County, when such additional penalty is indicated by appropriately placed signs.

TRAFFIC – SUMMARY ONLY cont'd

HB1196 and SB1 – §§ 19.2-258.1, 19.2-354, 19.2-354.1, 33.2-503, 46.2-203.1, 46.2-301, 46.2-361, 46.2-383, 46.2-391.1, 46.2-416, 46.2-819.1, 46.2-819.3, 46.2-819.3:1, 46.2-819.5, 46.2-940, 46.2-1200.1 and adding 46.2-808.2 – Suspension of driver's license for nonpayment of fines or costs. Repeals the requirement that the driver's license of a person convicted of any violation of the law who fails or refuses to provide for immediate payment of fines or costs be suspended. The bill also removes a provision allowing the court to require a defendant to present a summary prepared by the Department of Motor Vehicles of the other courts in which the defendant also owes fines and costs. The bill requires the Commissioner of the Department of Motor Vehicles to return or reinstate any person's driver's license that was suspended prior to July 1, 2019, solely for nonpayment of fines or costs. Such person does not have to pay a reinstatement fee. This bill incorporates **HB 17** and is identical to **SB 1.**

HB991 – § 46.2-1102 – Firefighting equipment; weight limitation on interstate. Requires firefighting equipment to comply with existing weight limitations for emergency vehicles on interstate highways. Current law exempts firefighting equipment from all size and weight limitations. The bill exempts emergency vehicles registered to a federal, state, or local agency or a fire company from any fee typically charged for the issuance of an overweight permit for such vehicle.

HB1126 – §§ 46.2-1200 and 46.2-1209 – Abandoned, unattended, or immobile vehicles; minimum weight. Limits the current prohibition on and remedies for abandoned, unattended, or immobile vehicles to vehicles that weigh at least 75 pounds.

HB595 – § 46.2-1549.2 – Dealer's license plate and special license plate combination. Authorizes the Department of Motor Vehicles to issue, upon request of a licensed dealer and when and in the manner the Commissioner of the Department of Motor Vehicles determines is feasible, a license plate that is a combination of a special license plate and a dealer's license plate.

HB663 – § 18.2-270.1 – Circumvention of ignition interlock systems; venue. Provides that the venue for the prosecution of a circumvention of the operation of an ignition interlock system shall be where the offense occurred or the jurisdiction in which the order prohibiting a person from operating a motor vehicle that is not equipped with a functioning ignition interlock system was entered.

HB923 – §§ 4.1-333 and 18.2-308.09 – Alcoholic beverage control; interdiction; habitual drunkard; repeal. Repeals the provision allowing a court to enter an order of interdiction prohibiting the sale of alcoholic beverages to any person who has shown himself to be a habitual drunkard. The bill also repeals the provision that disqualifies habitual drunkards from being able to obtain a concealed handgun permit.

HB1348 and SB328 – § 46.2-1148.1 – Overweight permits; forest products. Clarifies that the definition of forest products for the purpose of qualifying for an overweight permit for hauling forest products includes wood pellets. This bill is identical to **SB 328.**

HB34 – §§ 18.2-268.3 and 46.2-391.2 – Refusal of tests; restricted license. Allows a person convicted of a first offense of unreasonable refusal to have samples of his breath or blood taken for chemical tests to determine the alcohol content of his blood to petition the court 30 days after conviction for a restricted driver's license. The court may, for good cause shown, grant such restricted license for the same purposes as allowed for restricted licenses granted after conviction of driving under the influence if the person installs an ignition interlock system on each motor vehicle owned by or registered to the person and enters into and successfully completes an alcohol safety action program. The bill provides that such restricted license shall not permit any person to operate a commercial motor vehicle.

HB172 – § 17.1-279.1 – Virginia State Police Electronic Summons System Fund. Creates the Virginia State Police Electronic Summons System Fund, which is funded by a $5 fee required by the bill to be assessed as court costs in each criminal or traffic case in which the Virginia State Police issued the summons, ticket, or citation. The bill directs that the Fund be used for the purposes of funding software, hardware, and associated equipment costs for the implementation and maintenance of an electronic summons system. Under current law, localities may charge a fee of up to $5 for each criminal or traffic case to be used for such purposes.

HB445 – §§ 46.2-1004, 46.2-1012, 46.2-1020, and 46.2-2099.50 – Light units; candlepower to lumens. States the limits on brightness for certain lights in vehicles in lumens. Current law provides such restrictions in candlepower only.

SB282 – § 18.2-270.1 – Ignition interlock for first offense driving under the influence of drugs. Provides that a court of proper jurisdiction may, as a condition of a restricted license, prohibit an offender from operating a motor vehicle that is not equipped with a functioning, certified ignition interlock system for a first offense of driving under the influence of drugs. Under current law, such prohibition is required to be ordered as a condition of a restricted license.

SB289 – § 46.2-342 – Driver's license designation; traumatic brain injury. Requires the Department of Motor Vehicles, upon the request of the applicant and presentation of a form completed by a licensed physician confirming the applicant's condition, to designate a traumatic brain injury on the applicant's driver's license.

SB525 – §§ 46.2-1106 and 46.2-1107 of the Code of Virginia are repealed – Width requirements for passenger buses. Repeals provisions whereby the Commissioner of Highways and the Commonwealth Transportation Board may permit certain counties to operate passenger buses wider than 96 inches but no wider than 102 inches. Existing law prohibits vehicles other than school buses from exceeding 102 inches in total outside width and prohibits school buses from exceeding 100 inches in total outside width. This bill is a recommendation of the Virginia Code Commission.

CRIMINAL – FULL TEXT

Possession and consumption of marijuana; penalty. Decriminalizes simple marijuana possession and provides a civil penalty of no more than $25. Current law imposes a maximum fine of $500 and a maximum 30-day jail sentence for a first offense, and subsequent offenses are a Class 1 misdemeanor. The bill provides that any violation of simple possession of marijuana shall be charged by a summons in form the same as the uniform summons for motor vehicle law violations and that no court costs shall be assessed for such violations. The bill also provides that a person's criminal history record information shall not include records of any charges or judgments for such violations and records of such charges or judgements shall not be reported to the Central Criminal Records Exchange. However, the bill states that if a violation occurs while an individual is operating a commercial motor vehicle, such violation shall be reported to the Department of Motor Vehicles and shall be included on such individual's driving record. Also, the bill states that the procedure for appeal and trial of any violation of simple possession of marijuana shall be the same as provided by law for misdemeanors. The bill also provides that if requested by either party on appeal to the circuit court, trial by jury shall be provided and the Commonwealth shall be required to prove its case beyond a reasonable doubt. Additionally, the bill provides that the suspended sentence/substance abuse screening provisions apply only to criminal violations. The bill defines "marijuana" to include hashish oil and creates a rebuttable presumption that a person who possesses no more than one ounce of marijuana possesses it for personal use. The bill also (i) makes records relating to the arrest, criminal charge, or conviction of possession of marijuana not open to public inspection and disclosure, except in certain circumstances; (ii) prohibits employers and educational institutions from requiring an applicant for employment or admission to disclose information related to such arrest, criminal charge, or conviction; and (iii) prohibits agencies, officials, and employees of the state and local governments from requiring an applicant for a license, permit, registration, or governmental service to disclose information concerning such arrest, criminal charge, or conviction. Also, the bill allows a person charged with a civil offense who is acquitted, a nolle prosequi is taken, or the charge is otherwise dismissed to file a petition requesting expungement of the police records and court records related to the charge. Finally, the bill requires the Secretaries of Agriculture and Forestry, Finance, Health and Human Resources, and Public Safety and Homeland Security to convene a work group to study the impact on the Commonwealth of legalizing the sale and personal use of marijuana and report the recommendations of the work group to the General Assembly and the Governor by November 30, 2020. This bill incorporates **HB 265, HB 301,** and **HB 481** and is identical to **SB 2.**

VIRGINIA ACTS OF ASSEMBLY -- CHAPTER

*An Act to amend and reenact §§ **15.2-1627**, **16.1-228**, **16.1-260**, **16.1-273**, **18.2-247**, **18.2-248.1**, **18.2-250.1**, **18.2-251**, **18.2-251.02**, **18.2-252**, **18.2-254**, **19.2-392.2**, **54.1-3401**, as it is currently effective and as it shall become effective, and **54.1-3446** of the Code of Virginia and to amend the Code of Virginia by adding a section numbered **19.2-389.3**, relating to possession and consumption of marijuana; penalty.*

[H 972]
Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ **15.2-1627**, **16.1-228**, **16.1-260**, **16.1-273**, **18.2-247**, **18.2-248.1**, **18.2-250.1**, **18.2-251**, **18.2-251.02**, **18.2-252**, **18.2-254**, **19.2-392.2**, **54.1-3401**, as it is currently effective and as it shall become effective, and **54.1-3446** of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered **19.2-389.3** as follows:

§ **15.2-1627**. Duties of attorneys for the Commonwealth and their assistants.

A. No attorney for the Commonwealth, or assistant attorney for the Commonwealth, shall be required to carry out any duties as a part of his office in civil matters of advising the governing body and all boards, departments, agencies, officials and employees of his county or city; of drafting or preparing county or city ordinances; of

defending or bringing actions in which the county or city, or any of its boards, departments or agencies, or officials and employees thereof, shall be a party; or in any other manner of advising or representing the county or city, its boards, departments, agencies, officials and employees, except in matters involving the enforcement of the criminal law within the county or city.

B. The attorney for the Commonwealth and assistant attorney for the Commonwealth shall be a part of the department of law enforcement of the county or city in which he is elected or appointed, and shall have the duties and powers imposed upon him by general law, including the duty of prosecuting all warrants, indictments or informations charging a felony, and he may in his discretion, prosecute Class 1, 2 and 3 misdemeanors, or any other violation, the conviction of which carries a penalty of confinement in jail, or a fine of $500 or more, or both such confinement and fine. He shall enforce all forfeitures, and carry out all duties imposed upon him by § **2.2-3126**. He may enforce the provisions of § ***18.2-250.1***, **18.2-268.3**, **29.1-738.2**, or **46.2-341.26:3**.

§ **16.1-228**. Definitions.

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

"Abused or neglected child" means any child:

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

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

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

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

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

6. Whose parents or other person responsible for his care creates a substantial risk of physical or mental injury by knowingly leaving the child alone in the same dwelling, including an apartment as defined in § **55.1-2000**, with a person to whom the child is not related by blood or marriage and who the parent or other person responsible for his care knows has been convicted of an offense against a minor for which registration is required as a violent sexual offender pursuant to § **9.1-902**; or

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

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

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

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

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

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

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

"Child in need of services" means (i) a child whose behavior, conduct or condition presents or results in a serious threat to the well-being and physical safety of the child or (ii) a child under the age of 14 whose behavior, conduct or condition presents or results in a serious threat to the well-being and physical safety of another person; however, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be a child in need of services, nor shall any child who habitually remains away from or habitually deserts or abandons his family as a result of what the court or the local child protective services unit determines to be incidents of physical, emotional or sexual abuse in the home be considered a child in need of services for that reason alone.

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

"Child in need of supervision" means:

1. A child who, while subject to compulsory school attendance, is habitually and without justification absent from school, and (i) the child has been offered an adequate opportunity to receive the benefit of any and all educational services and programs that are required to be provided by law and which meet the child's particular

educational needs, (ii) the school system from which the child is absent or other appropriate agency has made a reasonable effort to effect the child's regular attendance without success, and (iii) the school system has provided documentation that it has complied with the provisions of § **22.1-258**; or

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

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

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

"Delinquent act" means (i) an act designated a crime under the law of the Commonwealth, or an ordinance of any city, county, town, or service district, or under federal law, (ii) a violation of § **18.2-308.7**, or (iii) a violation of a court order as provided for in § **16.1-292**, but ~~shall~~ *does* not include an act other than a violation of § **18.2-308.7**, which is otherwise lawful, but is designated a crime only if committed by a child. For purposes of §§ **16.1-241** and **16.1-278.9**, ~~the term shall include~~ *"delinquent act" includes* a refusal to take a breath test in violation of § **18.2-268.2** or a similar ordinance of any county, city, or town. *For purposes of §§ **16.1-241**, **16.1-273**, **16.1-278.8**, **16.1-278.8:01**, and **16.1-278.9**, "delinquent act" includes a violation of § **18.2-250.1**.*

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

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

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

"Family or household member" means (i) the person's spouse, whether or not he or she resides in the same home with the person, (ii) the person's former spouse, whether or not he or she resides in the same home with the person, (iii) the person's parents, stepparents, children, stepchildren, brothers, sisters, half-brothers, half-sisters, grandparents and grandchildren, regardless of whether such persons reside in the same home with the person, (iv) the person's mother-in-law, father-in-law, sons-in-law, daughters-in-law, brothers-in-law and sisters-in-law who reside in the same home with the person, (v) any individual who has a child in common with the person,

whether or not the person and that individual have been married or have resided together at any time, or (vi) any individual who cohabits or who, within the previous 12 months, cohabited with the person, and any children of either of them then residing in the same home with the person.

"Fictive kin" means persons who are not related to a child by blood or adoption but have an established relationship with the child or his family.

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

"Independent living arrangement" means placement of (i) a child at least 16 years of age who is in the custody of a local board or licensed child-placing agency by the local board or licensed child-placing agency or (ii) a child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately prior to placement by the Department of Juvenile Justice, in a living arrangement in which such child or person does not have daily substitute parental supervision.

"Independent living services" means services and activities provided to a child in foster care 14 years of age or older and who has been committed or entrusted to a local board of social services, child welfare agency, or private child-placing agency. "Independent living services" may also mean services and activities provided to a person who (i) was in foster care on his 18th birthday and has not yet reached the age of 21 years; (ii) is between the ages of 18 and 21 and who, immediately prior to his commitment to the Department of Juvenile Justice, was in the custody of a local board of social services; or (iii) is a child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately prior to placement in an independent living arrangement. ~~Such services shall include~~ *"Independent living services" includes* counseling, education, housing, employment, and money management skills development and access to essential documents and other appropriate services to help children or persons prepare for self-sufficiency.

"Intake officer" means a juvenile probation officer appointed as such pursuant to the authority of this chapter.

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

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

"This law" or "the law" means the Juvenile and Domestic Relations District Court Law embraced in this chapter.

"Legal custody" means (i) a legal status created by court order which vests in a custodian the right to have physical custody of the child, to determine and redetermine where and with whom he shall live, the right and

duty to protect, train and discipline him and to provide him with food, shelter, education and ordinary medical care, all subject to any residual parental rights and responsibilities or (ii) the legal status created by court order of joint custody as defined in § **20-107.2**.

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

"Qualified individual" means a trained professional or licensed clinician who is not an employee of the local board of social services or licensed child-placing agency that placed the child in a qualified residential treatment program and is not affiliated with any placement setting in which children are placed by such local board of social services or licensed child-placing agency.

"Qualified residential treatment program" means a program that (i) provides 24-hour residential placement services for children in foster care; (ii) has adopted a trauma-informed treatment model that meets the clinical and other needs of children with serious emotional or behavioral disorders, including any clinical or other needs identified through assessments conducted pursuant to clause (viii) of this definition; (iii) employs registered or licensed nursing and other clinical staff who provide care, on site and within the scope of their practice, and are available 24 hours a day, 7 days a week; (iv) conducts outreach with the child's family members, including efforts to maintain connections between the child and his siblings and other family; documents and maintains records of such outreach efforts; and maintains contact information for any known biological family and fictive kin of the child; (v) whenever appropriate and in the best interest of the child, facilitates participation by family members in the child's treatment program before and after discharge and documents the manner in which such participation is facilitated; (vi) provides discharge planning and family-based aftercare support for at least six months after discharge; (vii) is licensed in accordance with 42 U.S.C. § 671(a)(10) and accredited by an organization approved by the federal Secretary of Health and Human Services; and (viii) requires that any child placed in the program receive an assessment within 30 days of such placement by a qualified individual that (a) assesses the strengths and needs of the child using an age-appropriate, evidence-based, validated, and functional assessment tool approved by the Commissioner of Social Services; (b) identifies whether the needs of the child can be met through placement with a family member or in a foster home or, if not, in a placement setting authorized by 42 U.S.C. § 672(k)(2), including a qualified residential treatment program, that would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short-term and long-term goals established for the child in his foster care or permanency plan; (c) establishes a list of short-term and long-term mental and behavioral health goals for the child; and (d) is documented in a written report to be filed with the court prior to any hearing on the child's placement pursuant to § **16.1-281**, **16.1-282**, **16.1-282.1**, or **16.1-282.2**.

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

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

"Shelter care" means the temporary care of children in physically unrestricting facilities.

"State Board" means the State Board of Juvenile Justice.

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

"Status offense" means an act prohibited by law which would not be an offense if committed by an adult.

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

§ **16.1-260**. Intake; petition; investigation.

A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of a petition, except as provided in subsection H and in § **16.1-259**. The form and content of the petition shall be as provided in § **16.1-262**. No individual shall be required to obtain support services from the Department of Social Services prior to filing a petition seeking support for a child. Complaints, requests, and the processing of petitions to initiate a case shall be the responsibility of the intake officer. However, (i) the attorney for the Commonwealth of the city or county may file a petition on his own motion with the clerk; (ii) designated nonattorney employees of the Department of Social Services may complete, sign, and file petitions and motions relating to the establishment, modification, or enforcement of support on forms approved by the Supreme Court of Virginia with the clerk; (iii) designated nonattorney employees of a local department of social services may complete, sign, and file with the clerk, on forms approved by the Supreme Court of Virginia, petitions for foster care review, petitions for permanency planning hearings, petitions to establish paternity, motions to establish or modify support, motions to amend or review an order, and motions for a rule to show cause; and (iv) any attorney may file petitions on behalf of his client with the clerk except petitions alleging that the subject of the petition is a child alleged to be in need of services, in need of supervision, or delinquent. Complaints alleging abuse or neglect of a child shall be referred initially to the local department of social services in accordance with the provisions of Chapter 15 (§ **63.2-1500** et seq.) of Title 63.2. Motions and other subsequent pleadings in a case shall be filed directly with the clerk. The intake officer or clerk with whom the petition or motion is filed shall inquire whether the petitioner is receiving child support services or public assistance. No individual who is receiving support services or public assistance shall be denied the right to file a petition or motion to establish, modify, or enforce an order for support of a child. If the petitioner is seeking or receiving child support services or public assistance, the clerk, upon issuance of process, shall forward a copy of the petition or motion, together with notice of the court date, to the Division of Child Support Enforcement.

B. The appearance of a child before an intake officer may be by (i) personal appearance before the intake officer or (ii) use of two-way electronic video and audio communication. If two-way electronic video and audio communication is used, an intake officer may exercise all powers conferred by law. All communications and proceedings shall be conducted in the same manner as if the appearance were in person, and any documents filed may be transmitted by facsimile process. The facsimile may be served or executed by the officer or person to whom sent, and returned in the same manner, and with the same force, effect, authority, and liability as an original document. All signatures thereon shall be treated as original signatures. Any two-way electronic video and audio communication system used for an appearance shall meet the standards as set forth in subsection B of § **19.2-3.1**.

When the court service unit of any court receives a complaint alleging facts which may be sufficient to invoke the jurisdiction of the court pursuant to § **16.1-241**, the unit, through an intake officer, may proceed informally to make such adjustment as is practicable without the filing of a petition or may authorize a petition to be filed by any complainant having sufficient knowledge of the matter to establish probable cause for the issuance of the petition.

An intake officer may proceed informally on a complaint alleging a child is in need of services, in need of supervision, or delinquent only if the juvenile ~~(i)~~ *(a)* is not alleged to have committed a violent juvenile felony or ~~(ii)~~ *(b)* has not previously been proceeded against informally or adjudicated delinquent for an offense that would be a felony if committed by an adult. A petition alleging that a juvenile committed a violent juvenile felony shall be filed with the court. A petition alleging that a juvenile is delinquent for an offense that would be a felony if committed by an adult shall be filed with the court if the juvenile had previously been proceeded against informally by intake or had been adjudicated delinquent for an offense that would be a felony if committed by an adult.

If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § **22.1-258** and the attendance officer has provided documentation to the intake officer that the relevant school division has complied with the provisions of § **22.1-258**, then the intake officer shall file a petition with the court. The intake officer may defer filing the complaint for 90 days and proceed informally by developing a truancy plan, provided that ~~(a)~~ *(1)* the juvenile has not previously been proceeded against informally or adjudicated in need of supervision on more than two occasions for failure to comply with compulsory school attendance as provided in § **22.1-254** and ~~(b)~~ *(2)* the immediately previous informal action or adjudication occurred at least three calendar years prior to the current complaint. The juvenile and his parent or parents, guardian, or other person standing in loco parentis must agree, in writing, for the development of a truancy plan. The truancy plan may include requirements that the juvenile and his parent or parents, guardian, or other person standing in loco parentis participate in such programs, cooperate in such treatment, or be subject to such conditions and limitations as necessary to ensure the juvenile's compliance with compulsory school attendance as provided in § **22.1-254**. The intake officer may refer the juvenile to the appropriate public agency for the purpose of developing a truancy plan using an interagency interdisciplinary team approach. The team may include qualified personnel who are reasonably available from the appropriate department of social services, community services board, local school division, court service unit, and other appropriate and available public and private agencies and may be the family assessment and planning team established pursuant to § **2.2-5207**. If at the end of the 90-day period the juvenile has not successfully completed the truancy plan or the truancy program, then the intake officer shall file the petition.

Whenever informal action is taken as provided in this subsection on a complaint alleging that a child is in need of services, in need of supervision, or delinquent, the intake officer shall ~~(1)~~ *(A)* develop a plan for the juvenile, which may include restitution and the performance of community service, based upon community resources and the circumstances which resulted in the complaint, ~~(2)~~ *(B)* create an official record of the action taken by the intake officer and file such record in the juvenile's case file, and ~~(3)~~ *(C)* advise the juvenile and the juvenile's parent, guardian, or other person standing in loco parentis and the complainant that any subsequent complaint alleging that the child is in need of supervision or delinquent based upon facts which may be sufficient to invoke the jurisdiction of the court pursuant to § **16.1-241** will result in the filing of a petition with the court.

C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody, visitation, or support of a child is the subject of controversy or requires determination, (ii) a person has deserted, abandoned, or failed to provide support for any person in violation of law, (iii) a child or such child's parent, guardian, legal

custodian, or other person standing in loco parentis is entitled to treatment, rehabilitation, or other services which are required by law, (iv) family abuse has occurred and a protective order is being sought pursuant to § **16.1-253.1**, **16.1-253.4**, or **16.1-279.1**, or (v) an act of violence, force, or threat has occurred, a protective order is being sought pursuant to § **19.2-152.8**, **19.2-152.9**, or **19.2-152.10**, and either the alleged victim or the respondent is a juvenile. If any such complainant does not file a petition, the intake officer may file it. In cases in which a child is alleged to be abused, neglected, in need of services, in need of supervision, or delinquent, if the intake officer believes that probable cause does not exist, or that the authorization of a petition will not be in the best interest of the family or juvenile or that the matter may be effectively dealt with by some agency other than the court, he may refuse to authorize the filing of a petition. The intake officer shall provide to a person seeking a protective order pursuant to § **16.1-253.1**, **16.1-253.4**, or **16.1-279.1** a written explanation of the conditions, procedures and time limits applicable to the issuance of protective orders pursuant to § **16.1-253.1**, **16.1-253.4**, or **16.1-279.1**. If the person is seeking a protective order pursuant to § **19.2-152.8**, **19.2-152.9**, or **19.2-152.10**, the intake officer shall provide a written explanation of the conditions, procedures, and time limits applicable to the issuance of protective orders pursuant to § **19.2-152.8**, **19.2-152.9**, or **19.2-152.10**.

D. Prior to the filing of any petition alleging that a child is in need of supervision, the matter shall be reviewed by an intake officer who shall determine whether the petitioner and the child alleged to be in need of supervision have utilized or attempted to utilize treatment and services available in the community and have exhausted all appropriate nonjudicial remedies which are available to them. When the intake officer determines that the parties have not attempted to utilize available treatment or services or have not exhausted all appropriate nonjudicial remedies which are available, he shall refer the petitioner and the child alleged to be in need of supervision to the appropriate agency, treatment facility, or individual to receive treatment or services, and a petition shall not be filed. Only after the intake officer determines that the parties have made a reasonable effort to utilize available community treatment or services may he permit the petition to be filed.

E. If the intake officer refuses to authorize a petition relating to an offense that if committed by an adult would be punishable as a Class 1 misdemeanor or as a felony, the complainant shall be notified in writing at that time of the complainant's right to apply to a magistrate for a warrant. If a magistrate determines that probable cause exists, he shall issue a warrant returnable to the juvenile and domestic relations district court. The warrant shall be delivered forthwith to the juvenile court, and the intake officer shall accept and file a petition founded upon the warrant. If the court is closed and the magistrate finds that the criteria for detention or shelter care set forth in § **16.1-248.1** have been satisfied, the juvenile may be detained pursuant to the warrant issued in accordance with this subsection. If the intake officer refuses to authorize a petition relating to a child in need of services or in need of supervision, a status offense, or a misdemeanor other than Class 1, his decision is final.

Upon delivery to the juvenile court of a warrant issued pursuant to subdivision 2 of § **16.1-256**, the intake officer shall accept and file a petition founded upon the warrant.

F. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition which alleges facts of an offense which would be a felony if committed by an adult.

G. Notwithstanding the provisions of Article 12 (§ **16.1-299** et seq.), the intake officer shall file a report with the division superintendent of the school division in which any student who is the subject of a petition alleging that such student who is a juvenile has committed an act, wherever committed, which would be a crime if committed by an adult, or that such student who is an adult has committed a crime and is alleged to be within the jurisdiction of the court. The report shall notify the division superintendent of the filing of the petition and the nature of the offense, if the violation involves:

1. A firearm offense pursuant to Article 4 (§ **18.2-279** et seq.), 5 (§ **18.2-288** et seq.), 6 (§ **18.2-299** et seq.), 6.1 (§ **18.2-307.1** et seq.), or 7 (§ **18.2-308.1** et seq.) of Chapter 7 of Title 18.2;

2. Homicide, pursuant to Article 1 (§ **18.2-30** et seq.) of Chapter 4 of Title 18.2;

3. Felonious assault and bodily wounding, pursuant to Article 4 (§ **18.2-51** et seq.) of Chapter 4 of Title 18.2;

4. Criminal sexual assault, pursuant to Article 7 (§ **18.2-61** et seq.) of Chapter 4 of Title 18.2;

5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to Article 1 (§ **18.2-247** et seq.) of Chapter 7 of Title 18.2;

6. Manufacture, sale or distribution of marijuana pursuant to Article 1 (§ **18.2-247** et seq.) of Chapter 7 of Title 18.2;

7. Arson and related crimes, pursuant to Article 1 (§ **18.2-77** et seq.) of Chapter 5 of Title 18.2;

8. Burglary and related offenses, pursuant to §§ **18.2-89** through **18.2-93**;

9. Robbery pursuant to § **18.2-58**;

10. Prohibited criminal street gang activity pursuant to § **18.2-46.2**;

11. Recruitment of other juveniles for a criminal street gang activity pursuant to § **18.2-46.3**;

12. An act of violence by a mob pursuant to § **18.2-42.1**;

13. Abduction of any person pursuant to § **18.2-47** or **18.2-48**; or

14. A threat pursuant to § **18.2-60**.

The failure to provide information regarding the school in which the student who is the subject of the petition may be enrolled shall not be grounds for refusing to file a petition.

The information provided to a division superintendent pursuant to this section may be disclosed only as provided in § **16.1-305.2**.

H. The filing of a petition shall not be necessary:

1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking and other pedestrian offenses, game and fish laws, or a violation of the ordinance of any city regulating surfing or any ordinance establishing curfew violations, animal control violations, or littering violations. In such cases the court may proceed on a summons issued by the officer investigating the violation in the same manner as provided by law for adults. Additionally, an officer investigating a motor vehicle accident may, at the scene of the accident or at any other location where a juvenile who is involved in such an accident may be located, proceed on a summons in lieu of filing a petition.

2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subsection H of § **16.1-241**.

3. In the case of a misdemeanor violation of §-**18.2-250.1**~~,~~ **18.2-266**, **18.2-266.1**, or **29.1-738**, or the commission of any other alcohol-related offense, *or a violation of § 18.2-250.1,* provided *that* the juvenile is released to the custody of a parent or legal guardian pending the initial court date. The officer releasing a juvenile to the custody of a parent or legal guardian shall issue a summons to the juvenile and shall also issue a summons requiring the parent or legal guardian to appear before the court with the juvenile. Disposition of the charge shall be in the manner provided in § **16.1-278.8**, **16.1-278.8:01**, or **16.1-278.9**. If the juvenile so charged with a violation of § **18.2-51.4**, **18.2-266**, **18.2-266.1**, **18.2-272**, or **29.1-738** refuses to provide a sample of blood or breath or samples of both blood and breath for chemical analysis pursuant to §§ **18.2-268.1** through **18.2-268.12** or **29.1-738.2**, the provisions of these sections shall be followed except that the magistrate shall authorize execution of the warrant as a summons. The summons shall be served on a parent or legal guardian and the juvenile, and a copy of the summons shall be forwarded to the court in which the violation is to be tried. When a violation of § **18.2-250.1** is charged by summons, the juvenile shall be entitled to have the charge referred to intake for consideration of informal proceedings pursuant to subsection B, provided *that* such right is exercised by written notification to the clerk not later than 10 days prior to trial. At the time such summons alleging a violation of § **18.2-250.1** is served, the officer shall also serve upon the juvenile written notice of the right to have the charge referred to intake on a form approved by the Supreme Court and make return of such service to the court. If the officer fails to make such service or return, the court shall dismiss the summons without prejudice.

4. In the case of offenses which, if committed by an adult, would be punishable as a Class 3 or Class 4 misdemeanor. In such cases the court may direct that an intake officer proceed as provided in § **16.1-237** on a summons issued by the officer investigating the violation in the same manner as provided by law for adults provided that notice of the summons to appear is mailed by the investigating officer within five days of the issuance of the summons to a parent or legal guardian of the juvenile.

I. Failure to comply with the procedures set forth in this section shall not divest the juvenile court of the jurisdiction granted it in § **16.1-241**.

§ **16.1-273**. Court may require investigation of social history and preparation of victim impact statement.

A. When a juvenile and domestic relations district court or circuit court has adjudicated any case involving a child subject to the jurisdiction of the court hereunder, except for a traffic violation, a violation of the game and fish law, or a violation of any city ordinance regulating surfing or establishing curfew violations, the court before final disposition thereof may require an investigation, which (i) shall include a drug screening and (ii) may, and for the purposes of subdivision A 14 or ~~A~~ 17 of § **16.1-278.8** shall, include a social history of the physical, mental, and social conditions, including an assessment of any affiliation with a criminal street gang as defined in § **18.2-46.1**, and personality of the child and the facts and circumstances surrounding the violation of law. However, in the case of a juvenile adjudicated delinquent on the basis of an act committed on or after January 1, 2000, which would be *(a)* a felony if committed by an adult, ~~or~~ *(b)* a violation under Article 1 (§ **18.2-247** et seq.) or Article 1.1 (§ **18.2-265.1** et seq.) of Chapter 7 of Title 18.2 and such offense would be punishable as a Class 1 or Class 2 misdemeanor if committed by an adult, *or (c) a violation of § 18.2-250.1,* the court shall order the juvenile to undergo a drug screening. If the drug screening indicates that the juvenile has a substance abuse or dependence problem, an assessment shall be completed by a certified substance abuse counselor as defined in § **54.1-3500** employed by the Department of Juvenile Justice or by a locally operated court services unit or by an

individual employed by or currently under contract to such agencies and who is specifically trained to conduct such assessments under the supervision of such counselor.

B. The court also shall, on motion of the attorney for the Commonwealth with the consent of the victim, or may in its discretion, require the preparation of a victim impact statement in accordance with the provisions of § **19.2-299.1** if the court determines that the victim may have suffered significant physical, psychological, or economic injury as a result of the violation of law.

§ **18.2-247**. Use of terms "controlled substances," "marijuana," "Schedules I, II, III, IV, V and VI," "imitation controlled substance" and "counterfeit controlled substance" in Title 18.2.

A. Wherever the terms "controlled substances" and "Schedules I, II, III, IV, V and VI" are used in Title 18.2, such terms refer to those terms as they are used or defined in the Drug Control Act (§ **54.1-3400** et seq.).

B. The term "imitation controlled substance" when used in this article means (i) a counterfeit controlled substance or (ii) a pill, capsule, tablet, or substance in any form whatsoever which is not a controlled substance subject to abuse, and:

1. Which by overall dosage unit appearance, including color, shape, size, marking and packaging or by representations made, would cause the likelihood that such a pill, capsule, tablet, or substance in any other form whatsoever will be mistaken for a controlled substance unless such substance was introduced into commerce prior to the initial introduction into commerce of the controlled substance which it is alleged to imitate; or

2. Which by express or implied representations purports to act like a controlled substance as a stimulant or depressant of the central nervous system and which is not commonly used or recognized for use in that particular formulation for any purpose other than for such stimulant or depressant effect, unless marketed, promoted, or sold as permitted by the ~~United States~~ *U.S.* Food and Drug Administration.

C. In determining whether a pill, capsule, tablet, or substance in any other form whatsoever, is an "imitation controlled substance," there shall be considered, in addition to all other relevant factors, comparisons with accepted methods of marketing for legitimate nonprescription drugs for medicinal purposes rather than for drug abuse or any similar nonmedicinal use, including consideration of the packaging of the drug and its appearance in overall finished dosage form, promotional materials or representations, oral or written, concerning the drug, and the methods of distribution of the drug and where and how it is sold to the public.

D. The term "marijuana" when used in this article means any part of a plant of the genus Cannabis, whether growing or not, its seeds or resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, ~~or~~ its resin*, or any extract containing one or more cannabinoids*. Marijuana ~~shall~~ *does* not include ~~any oily extract containing one or more cannabinoids unless such extract contains less than 12 percent of tetrahydrocannabinol by weight, or~~ the mature stalks of such plant, fiber produced from such stalk, oil or cake made from the seed of such plant, unless such stalks, fiber, oil or cake is combined with other parts of plants of the genus Cannabis. Marijuana ~~shall~~ *does* not include (i) industrial hemp, as defined in § **3.2-4112**, that is possessed by a person registered pursuant to subsection A of § **3.2-4115** or his agent or (ii) a hemp product, as defined in § **3.2-4112**, containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp, as defined in § **3.2-4112**, that is grown, dealt, or processed in compliance with state or federal law.

E. The term "counterfeit controlled substance" means a controlled substance that, without authorization, bears, is packaged in a container or wrapper that bears, or is otherwise labeled to bear, the trademark, trade name, or other identifying mark, imprint or device or any likeness thereof, of a drug manufacturer, processor, packer, or distributor other than the manufacturer, processor, packer, or distributor who did in fact so manufacture, process, pack or distribute such drug.

§ **18.2-248.1**. Penalties for sale, gift, distribution or possession with intent to sell, give or distribute marijuana.

Except as authorized in the Drug Control Act~~, Chapter 34 of Title 54.1~~ *(§ **54.1-3400** et seq.)*, it ~~shall be~~ *is* unlawful for any person to sell, give, distribute or possess with intent to sell, give*,* or distribute marijuana.

(a) Any person who violates this section with respect to:

(1) Not more than ~~one half~~ *one* ounce of marijuana is guilty of a Class 1 misdemeanor;

(2) More than ~~one half~~ *one* ounce but not more than five pounds of marijuana is guilty of a Class 5 felony;

(3) More than five pounds of marijuana is guilty of a felony punishable by imprisonment of not less than five nor more than 30 years.

There shall be a rebuttable presumption that a person who possesses no more than one ounce of marijuana possesses it for personal use.

If such person proves that he gave, distributed*,* or possessed with intent to give or distribute marijuana only as an accommodation to another individual and not with intent to profit thereby from any consideration received or expected nor to induce the recipient or intended recipient of the marijuana to use or become addicted to or dependent upon such marijuana, he ~~shall be~~ *is* guilty of a Class 1 misdemeanor.

(b) Any person who gives, distributes*,* or possesses marijuana as an accommodation and not with intent to profit thereby, to an inmate of a state or local correctional facility*,* as defined in § **53.1-1**, or in the custody of an employee thereof ~~shall be~~ *is* guilty of a Class 4 felony.

(c) Any person who manufactures marijuana, or possesses marijuana with the intent to manufacture such substance, not for his own use is guilty of a felony punishable by imprisonment of not less than five nor more than 30 years and a fine not to exceed $10,000.

(d) When a person is convicted of a third or subsequent felony offense under this section and it is alleged in the warrant, indictment or information that he has been before convicted of two or more felony offenses under this section or of substantially similar offenses in any other jurisdiction which offenses would be felonies if committed in the Commonwealth*,* and such prior convictions occurred before the date of the offense alleged in the warrant, indictment*,* or information, he shall be sentenced to imprisonment for life or for any period not less than five years, five years of which shall be a mandatory minimum term of imprisonment to be served consecutively with any other sentence and he shall be fined not more than $500,000.

§ **18.2-250.1**. Possession of marijuana unlawful.

A. It is unlawful for any person knowingly or intentionally to possess marijuana unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by the Drug Control Act (§ **54.1-3400** et seq.). *The attorney for the Commonwealth or the county, city, or town attorney may prosecute such a case.*

Upon the prosecution of a person for violation of this section, ownership or occupancy of the premises or vehicle upon or in which marijuana was found shall not create a presumption that such person either knowingly or intentionally possessed such marijuana.

Any person who violates this section is ~~guilty of a misdemeanor and shall be confined in jail not more than 30 days and fined not~~ *subject to a civil penalty of no* more than ~~$500, either or both; any person, upon a second or subsequent conviction of a violation of this section, is guilty of a Class 1 misdemeanor~~ *$25. A violation of this section is a civil offense. Any civil penalties collected pursuant to this section shall be deposited into the Drug Offender Assessment and Treatment Fund established pursuant to § **18.2-251.02**.*

B. *Any violation of this section shall be charged by summons. A summons for a violation of this section may be executed by a law-enforcement officer when such violation is observed by such officer. The summons used by a law-enforcement officer pursuant to this section shall be in form the same as the uniform summons for motor vehicle law violations as prescribed pursuant to § **46.2-388**. No court costs shall be assessed for violations of this section. A person's criminal history record information as defined in § **9.1-101** shall not include records of any charges or judgments for a violation of this section, and records of such charges or judgments shall not be reported to the Central Criminal Records Exchange. However, if a violation of this section occurs while an individual is operating a commercial motor vehicle as defined in § **46.2-341.4**, such violation shall be reported to the Department of Motor Vehicles and shall be included on such individual's driving record.*

*C. The procedure for appeal and trial of any violation of this section shall be the same as provided by law for misdemeanors; if requested by either party on appeal to the circuit court, trial by jury shall be as provided in Article 4 (§ **19.2-260** et seq.) of Chapter 15 of Title 19.2, and the Commonwealth shall be required to prove its case beyond a reasonable doubt.*

D. The provisions of this section shall not apply to members of state, federal, county, city, or town law-enforcement agencies, jail officers, or correctional officers, as defined in § **53.1-1**, certified as handlers of dogs trained in the detection of controlled substances when possession of marijuana is necessary for the performance of their duties.

~~C.~~ *E.* In any prosecution under this section involving marijuana in the form of cannabidiol oil or THC-A oil as those terms are defined in § **54.1-3408.3**, it shall be an affirmative defense that the individual possessed such oil pursuant to a valid written certification issued by a practitioner in the course of his professional practice pursuant to § **54.1-3408.3** for treatment or to alleviate the symptoms of (i) the individual's diagnosed condition or disease, (ii) if such individual is the parent or legal guardian of a minor or of an incapacitated adult as defined in § **18.2-369**, such minor's or incapacitated adult's diagnosed condition or disease, or (iii) if such individual has been designated as a registered agent pursuant to § **54.1-3408.3**, the diagnosed condition or disease of his principal or, if the principal is the parent or legal guardian of a minor or of an incapacitated adult as defined in § **18.2-369**, such minor's or incapacitated adult's diagnosed condition or disease. If the individual files the valid written certification with the court at least 10 days prior to trial and causes a copy of such written certification to be delivered to the attorney for the Commonwealth, such written certification shall be prima facie evidence that such oil was possessed pursuant to a valid written certification.

§ **18.2-251**. Persons charged with first offense may be placed on probation; conditions; substance abuse screening, assessment treatment and education programs or services; drug tests; costs and fees; violations; discharge.

Whenever any person who has not previously been convicted of any *criminal* offense under this article or under any statute of the United States or of any state relating to narcotic drugs, marijuana, or stimulant, depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for violation of such an offense dismissed as provided in this section, *or* pleads guilty to or enters a plea of not guilty to possession of a controlled substance under § **18.2-250** ~~or to possession of marijuana under §~~ **18.2-250.1**, the court, upon such plea if the facts found by the court would justify a finding of guilt, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on probation upon terms and conditions. If the court defers further proceedings, at that time the court shall determine whether the clerk of court has been provided with the fingerprint identification information or fingerprints of the person, taken by a law-enforcement officer pursuant to § **19.2-390**, and, if not, shall order that the fingerprints and photograph of the person be taken by a law-enforcement officer.

As a term or condition, the court shall require the accused to undergo a substance abuse assessment pursuant to § **18.2-251.01** or **19.2-299.2**, as appropriate, and enter treatment and/or education program or services, if available, such as, in the opinion of the court, may be best suited to the needs of the accused based upon consideration of the substance abuse assessment. The program or services may be located in the judicial district in which the charge is brought or in any other judicial district as the court may provide. The services shall be provided by (i) a program licensed by the Department of Behavioral Health and Developmental Services, by a similar program which is made available through the Department of Corrections, (ii) a local community-based probation services agency established pursuant to § **9.1-174**, or (iii) an ASAP program certified by the Commission on VASAP.

The court shall require the person entering such program under the provisions of this section to pay all or part of the costs of the program, including the costs of the screening, assessment, testing, and treatment, based upon the accused's ability to pay unless the person is determined by the court to be indigent.

As a condition of probation, the court shall require the accused (a) to successfully complete treatment or education program or services, (b) to remain drug and alcohol free during the period of probation and submit to such tests during that period as may be necessary and appropriate to determine if the accused is drug and alcohol free, (c) to make reasonable efforts to secure and maintain employment, and (d) to comply with a plan of at least 100 hours of community service for a felony and up to 24 hours of community service for a misdemeanor. ~~In addition to any community service required by the court pursuant to clause (d), if the court does not suspend or revoke the accused's license as a term or condition of probation for a violation of §~~ **18.2-250.1**~~, the court shall require the accused to comply with a plan of 50 hours of community service.~~ Such testing shall be conducted by personnel of the supervising probation agency or personnel of any program or agency approved by the supervising probation agency.

Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, and upon determining that the clerk of court has been provided with the fingerprint identification information or fingerprints of such person, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without adjudication of guilt and is a conviction only for the purposes of applying this section in subsequent proceedings.

Notwithstanding any other provision of this section, whenever a court places an individual on probation upon terms and conditions pursuant to this section, such action shall be treated as a conviction for purposes of §§ **18.2-259.1**, **22.1-315**, and **46.2-390.1**, and the driver's license forfeiture provisions of those sections shall be imposed. ~~However, if the court places an individual on probation upon terms and conditions for a violation of § 18.2-250.1, such action shall not be treated as a conviction for purposes of § 18.2-259.1 or 46.2-390.1, provided that a court (1) may suspend or revoke an individual's driver's license as a term or condition of probation and (2) shall suspend or revoke an individual's driver's license as a term or condition of probation for a period of six months if the violation of § 18.2-250.1 was committed while such person was in operation of a motor vehicle.~~ The provisions of this paragraph shall not be applicable to any offense for which a juvenile has had his license suspended or denied pursuant to § **16.1-278.9** for the same offense.

§ **18.2-251.02**. Drug Offender Assessment and Treatment Fund.

There is hereby established in the state treasury the Drug Offender Assessment and Treatment Fund, which shall consist of moneys received from *(i)* fees imposed on certain drug offense convictions pursuant to *§ **16.1-69.48:3** and* subdivisions A 10 and ~~A~~ 11 of § **17.1-275** and ~~§~~ **16.1-69.48:3** *(ii) civil penalties imposed for violations of § **18.2-250.1***. All interest derived from the deposit and investment of moneys in the Fund shall be credited to the Fund. Any moneys not appropriated by the General Assembly shall remain in the Drug Offender Assessment and Treatment Fund and shall not be transferred or revert to the general fund at the end of any fiscal year. All moneys in the Fund shall be subject to annual appropriation by the General Assembly to the Department of Corrections, the Department of Juvenile Justice, and the Commission on VASAP to implement and operate the offender substance abuse screening and assessment program; the Department of Criminal Justice Services for the support of community-based probation and local pretrial services agencies; and the Office of the Executive Secretary of the Supreme Court of Virginia for the support of drug treatment court programs.

§ **18.2-252**. Suspended sentence conditioned upon substance abuse screening, assessment, testing, and treatment or education.

The trial judge or court trying the case of any person found guilty of ~~violating~~ *a criminal violation of* any law concerning the use, in any manner, of drugs, controlled substances, narcotics, marijuana, noxious chemical substances and like substances~~,~~ shall condition any suspended sentence by first requiring such person to agree to undergo a substance abuse screening pursuant to § **18.2-251.01** and to submit to such periodic substance abuse testing, to include alcohol testing, as may be directed by the court. Such testing shall be conducted by the supervising probation agency or by personnel of any program or agency approved by the supervising probation agency. The cost of such testing ordered by the court shall be paid by the Commonwealth and taxed as a part of the costs of such ~~criminal~~ proceedings. The judge or court shall order the person, as a condition of any suspended sentence, to undergo such treatment or education for substance abuse, if available, as the judge or court deems appropriate based upon consideration of the substance abuse assessment. The treatment or education shall be provided by a program or agency licensed by the Department of Behavioral Health and Developmental Services, by a similar program or services available through the Department of Corrections if the court imposes a sentence of one year or more or, if the court imposes a sentence of 12 months or less, by a similar program or services available through a local or regional jail, a local community-based probation services agency established pursuant to § **9.1-174**, or an ASAP program certified by the Commission on VASAP.

§ **18.2-254**. Commitment of convicted person for treatment for substance abuse.

A. Whenever any person who has not previously been convicted of any *criminal* offense under this article or under any statute of the United States or of any state relating to narcotic drugs, marijuana, stimulant, depressant, or hallucinogenic drugs or has not previously had a proceeding against him for violation of such an offense dismissed as provided in § **18.2-251** is found guilty of violating any law concerning the use, in any manner, of drugs, controlled substances, narcotics, marijuana, noxious chemical substances, and like substances, the judge or court shall require such person to undergo a substance abuse screening pursuant to § **18.2-251.01** and to submit to such periodic substance abuse testing, to include alcohol testing, as may be directed by the court. The cost of such testing ordered by the court shall be paid by the Commonwealth and taxed as a part of the costs of the criminal proceedings. The judge or court shall also order the person to undergo such treatment or education for substance abuse, if available, as the judge or court deems appropriate based upon consideration of the substance abuse assessment. The treatment or education shall be provided by a program or agency licensed by the Department of Behavioral Health and Developmental Services or by a similar program or services available through the Department of Corrections if the court imposes a sentence of one year or more or, if the court imposes a sentence of 12 months or less, by a similar program or services available through a local or regional jail, a local community-based probation services agency established pursuant to § **9.1-174**, or an ASAP program certified by the Commission on VASAP.

B. The court trying the case of any person alleged to have committed any *criminal* offense designated by this article or by the Drug Control Act (§ **54.1-3400** et seq.) or in any other criminal case in which the commission of the offense was motivated by or closely related to the use of drugs and determined by the court, pursuant to a substance abuse screening and assessment, to be in need of treatment for the use of drugs may commit, based upon a consideration of the substance abuse assessment, such person, upon his conviction, to any facility for the treatment of persons with substance abuse, licensed by the Department of Behavioral Health and Developmental Services, if space is available in such facility, for a period of time not in excess of the maximum term of imprisonment specified as the penalty for conviction of such offense or, if sentence was determined by a jury, not in excess of the term of imprisonment as set by such jury. Confinement under such commitment shall be, in all regards, treated as confinement in a penal institution and the person so committed may be convicted of escape if he leaves the place of commitment without authority. A charge of escape may be prosecuted in either the jurisdiction where the treatment facility is located or the jurisdiction where the person was sentenced to commitment. The court may revoke such commitment at any time and transfer the person to an appropriate state or local correctional facility. Upon presentation of a certified statement from the director of the treatment facility to the effect that the confined person has successfully responded to treatment, the court may release such confined person prior to the termination of the period of time for which such person was confined and may suspend the remainder of the term upon such conditions as the court may prescribe.

C. The court trying a case in which commission of the *criminal* offense was related to the defendant's habitual abuse of alcohol and in which the court determines, pursuant to a substance abuse screening and assessment, that such defendant is in need of treatment, may commit, based upon a consideration of the substance abuse assessment, such person, upon his conviction, to any facility for the treatment of persons with substance abuse licensed by the Department of Behavioral Health and Developmental Services, if space is available in such facility, for a period of time not in excess of the maximum term of imprisonment specified as the penalty for conviction. Confinement under such commitment shall be, in all regards, treated as confinement in a penal institution and the person so committed may be convicted of escape if he leaves the place of commitment without authority. The court may revoke such commitment at any time and transfer the person to an appropriate state or local correctional facility. Upon presentation of a certified statement from the director of the treatment facility to the effect that the confined person has successfully responded to treatment, the court may release such

confined person prior to the termination of the period of time for which such person was confined and may suspend the remainder of the term upon such conditions as the court may prescribe.

*§ **19.2-389.3**. Marijuana possession; limits on dissemination of criminal history record information; prohibited practices by employers, educational institutions, and state and local governments; penalty.*

*A. Records relating to the arrest, criminal charge, or conviction of a person for a violation of § **18.2-250.1**, including any violation charged under § **18.2-250.1** that was deferred and dismissed pursuant to § **18.2-251**, maintained in the Central Criminal Records Exchange shall not be open for public inspection or otherwise disclosed, provided that such records may be disseminated (i) to make the determination as provided in § **18.2-308.2:2** of eligibility to possess or purchase a firearm; (ii) to aid in the preparation of a pretrial investigation report prepared by a local pretrial services agency established pursuant to Article 5 (§ **19.2-152.2** et seq.) of Chapter 9, a pre-sentence or post-sentence investigation report pursuant to § **19.2-264.5** or **19.2-299** or in the preparation of the discretionary sentencing guidelines worksheets pursuant to subsection C of § **19.2-298.01**; (iii) to aid local community-based probation services agencies established pursuant to the Comprehensive Community Corrections Act for Local-Responsible Offenders (§ **9.1-173** et seq.) with investigating or serving adult local-responsible offenders and all court service units serving juvenile delinquent offenders; (iv) for fingerprint comparison utilizing the fingerprints maintained in the Automated Fingerprint Information System computer; (v) to attorneys for the Commonwealth to secure information incidental to sentencing and to attorneys for the Commonwealth and probation officers to prepare the discretionary sentencing guidelines worksheets pursuant to subsection C of § **19.2-298.01**; (vi) to any full-time or part-time employee of the State Police, a police department, or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic, or highway laws of the Commonwealth, for purposes of the administration of criminal justice as defined in § **9.1-101**; (vii) to the Virginia Criminal Sentencing Commission for research purposes; (viii) to any full-time or part-time employee of the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof for the purpose of screening any person for full-time or part-time employment with the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof; (ix) to the State Health Commissioner or his designee for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § **32.1-111.5**; (x) to any full-time or part-time employee of the Department of Forensic Science for the purpose of screening any person for full-time or part-time employment with the Department of Forensic Science; (xi) to the chief law-enforcement officer of a locality, or his designee who shall be an individual employed as a public safety official of the locality, that has adopted an ordinance in accordance with §§ **15.2-1503.1** and **19.2-389** for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § **32.1-111.5**; and (xii) to any full-time or part-time employee of the Department of Motor Vehicles, any employer as defined in § **46.2-341.4**, or any medical examiner as defined in 49 C.F.R. § 390.5 for the purpose of complying with the regulations of the Federal Motor Carrier Safety Administration.*

B. An employer or educational institution shall not, in any application, interview, or otherwise, require an applicant for employment or admission to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or information concerning any arrest, criminal charge, or conviction when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A.

C. Agencies, officials, and employees of the state and local governments shall not, in any application, interview, or otherwise, require an applicant for a license, permit, registration, or governmental service to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or information concerning any arrest, criminal charge, or conviction when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. Such an application may not be denied solely because of the applicant's refusal to disclose information concerning any such arrest, criminal charge, or conviction.

D. A person who willfully violates subsection B or C is guilty of a Class 1 misdemeanor for each violation.

§ **19.2-392.2**. Expungement of police and court records.

A. If a person is charged with the commission of a crime*, a civil offense,* or any offense defined in Title 18.2, and

1. Is acquitted, or

2. A nolle prosequi is taken or the charge is otherwise dismissed, including dismissal by accord and satisfaction pursuant to § **19.2-151**, he may file a petition setting forth the relevant facts and requesting expungement of the police records and the court records relating to the charge.

B. If any person whose name or other identification has been used without his consent or authorization by another person who has been charged or arrested using such name or identification, he may file a petition with the court disposing of the charge for relief pursuant to this section. Such person shall not be required to pay any fees for the filing of a petition under this subsection. A petition filed under this subsection shall include one complete set of the petitioner's fingerprints obtained from a law-enforcement agency.

C. The petition with a copy of the warrant*, summons,* or indictment if reasonably available shall be filed in the circuit court of the county or city in which the case was disposed of by acquittal or being otherwise dismissed and shall contain, except where not reasonably available, the date of arrest and the name of the arresting agency. Where this information is not reasonably available, the petition shall state the reason for such unavailability. The petition shall further state the specific criminal charge *or civil offense* to be expunged, the date of final disposition of the charge as set forth in the petition, the petitioner's date of birth, and the full name used by the petitioner at the time of arrest.

D. A copy of the petition shall be served on the attorney for the Commonwealth of the city or county in which the petition is filed. The attorney for the Commonwealth may file an objection or answer to the petition or may give written notice to the court that he does not object to the petition within 21 days after it is served on him.

E. The petitioner shall obtain from a law-enforcement agency one complete set of the petitioner's fingerprints and shall provide that agency with a copy of the petition for expungement. The law-enforcement agency shall submit the set of fingerprints to the Central Criminal Records Exchange (CCRE) with a copy of the petition for expungement attached. The CCRE shall forward under seal to the court a copy of the petitioner's criminal history, a copy of the source documents that resulted in the CCRE entry that the petitioner wishes to expunge, *if applicable,* and the set of fingerprints. Upon completion of the hearing, the court shall return the fingerprint card to the petitioner. If no hearing was conducted, upon the entry of an order of expungement or an order denying

the petition for expungement, the court shall cause the fingerprint card to be destroyed unless, within 30 days of the date of the entry of the order, the petitioner requests the return of the fingerprint card in person from the clerk of the court or provides the clerk of the court a self-addressed, stamped envelope for the return of the fingerprint card.

F. After receiving the criminal history record information from the CCRE, the court shall conduct a hearing on the petition. If the court finds that the continued existence and possible dissemination of information relating to the arrest of the petitioner causes or may cause circumstances which constitute a manifest injustice to the petitioner, it shall enter an order requiring the expungement of the police and court records, including electronic records, relating to the charge. Otherwise, it shall deny the petition. However, if the petitioner has no prior criminal record and the arrest was for a misdemeanor violation *or the charge was for a civil offense*, the petitioner shall be entitled, in the absence of good cause shown to the contrary by the Commonwealth, to expungement of the police and court records relating to the charge, and the court shall enter an order of expungement. If the attorney for the Commonwealth of the county or city in which the petition is filed (i) gives written notice to the court pursuant to subsection D that he does not object to the petition and (ii) when the charge to be expunged is a felony, stipulates in such written notice that the continued existence and possible dissemination of information relating to the arrest of the petitioner causes or may cause circumstances which constitute a manifest injustice to the petitioner, the court may enter an order of expungement without conducting a hearing.

G. The Commonwealth shall be made party defendant to the proceeding. Any party aggrieved by the decision of the court may appeal, as provided by law in civil cases.

H. Notwithstanding any other provision of this section, when the charge is dismissed because the court finds that the person arrested or charged is not the person named in the summons, warrant, indictment or presentment, the court dismissing the charge shall, upon motion of the person improperly arrested or charged, enter an order requiring expungement of the police and court records relating to the charge. Such order shall contain a statement that the dismissal and expungement are ordered pursuant to this subsection and shall be accompanied by the complete set of the petitioner's fingerprints filed with his petition. Upon the entry of such order, it shall be treated as provided in subsection K.

I. Notwithstanding any other provision of this section, upon receiving a copy pursuant to § **2.2-402** of an absolute pardon for the commission of a crime that a person did not commit, the court shall enter an order requiring expungement of the police and court records relating to the charge and conviction. Such order shall contain a statement that the expungement is ordered pursuant to this subsection. Upon the entry of such order, it shall be treated as provided in subsection K.

J. Upon receiving a copy of a writ vacating a conviction pursuant to § **19.2-327.5** or **19.2-327.13**, the court shall enter an order requiring expungement of the police and court records relating to the charge and conviction. Such order shall contain a statement that the expungement is ordered pursuant to this subsection. Upon the entry of the order, it shall be treated as provided in subsection K.

K. Upon the entry of an order of expungement, the clerk of the court shall cause a copy of such order to be forwarded to the Department of State Police, which shall, pursuant to rules and regulations adopted pursuant to § **9.1-134**, direct the manner by which the appropriate expungement or removal of such records shall be effected.

L. Costs shall be as provided by § **17.1-275**, but shall not be recoverable against the Commonwealth. If the court enters an order of expungement, the clerk of the court shall refund to the petitioner such costs paid by the petitioner.

M. Any order entered where (i) the court or parties failed to strictly comply with the procedures set forth in this section or (ii) the court enters an order of expungement contrary to law, shall be voidable upon motion and notice made within three years of the entry of such order.

§ **54.1-3401**. (Effective until July 1, 2020) Definitions.

As used in this chapter, unless the context requires a different meaning:

"Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by (i) a practitioner or by his authorized agent and under his direction or (ii) the patient or research subject at the direction and in the presence of the practitioner.

"Advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of drugs or devices.

"Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

"Anabolic steroid" means any drug or hormonal substance, chemically and pharmacologically related to testosterone, other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone.

"Animal" means any nonhuman animate being endowed with the power of voluntary action.

"Automated drug dispensing system" means a mechanical or electronic system that performs operations or activities, other than compounding or administration, relating to pharmacy services, including the storage, dispensing, or distribution of drugs and the collection, control, and maintenance of all transaction information, to provide security and accountability for such drugs.

"Biological product" means a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, protein other than a chemically synthesized polypeptide, or analogous product, or arsphenamine or any derivative of arsphenamine or any other trivalent organic arsenic compound, applicable to the prevention, treatment, or cure of a disease or condition of human beings.

"Biosimilar" means a biological product that is highly similar to a specific reference biological product, notwithstanding minor differences in clinically inactive compounds, such that there are no clinically meaningful differences between the reference biological product and the biological product that has been licensed as a biosimilar pursuant to 42 U.S.C. § 262(k) in terms of safety, purity, and potency of the product.

"Board" means the Board of Pharmacy.

"Bulk drug substance" means any substance that is represented for use, and that, when used in the compounding, manufacturing, processing, or packaging of a drug, becomes an active ingredient or a finished dosage form of the drug; however, "bulk drug substance" shall not include intermediates that are used in the synthesis of such substances.

"Change of ownership" of an existing entity permitted, registered, or licensed by the Board means (i) the sale or transfer of all or substantially all of the assets of the entity or of any corporation that owns or controls the entity; (ii) the creation of a partnership by a sole proprietor, the dissolution of a partnership, or change in partnership composition; (iii) the acquisition or disposal of 50 percent or more of the outstanding shares of voting stock of a corporation owning the entity or of the parent corporation of a wholly owned subsidiary owning the entity, except that this shall not apply to any corporation the voting stock of which is actively traded on any securities exchange or in any over-the-counter market; (iv) the merger of a corporation owning the entity or of the parent corporation of a wholly-owned subsidiary owning the entity with another business or corporation; or (v) the expiration or forfeiture of a corporation's charter.

"Co-licensed partner" means a person who, with at least one other person, has the right to engage in the manufacturing or marketing of a prescription drug, consistent with state and federal law.

"Compounding" means the combining of two or more ingredients to fabricate such ingredients into a single preparation and includes the mixing, assembling, packaging, or labeling of a drug or device (i) by a pharmacist, or within a permitted pharmacy, pursuant to a valid prescription issued for a medicinal or therapeutic purpose in the context of a bona fide practitioner-patient-pharmacist relationship, or in expectation of receiving a valid prescription based on observed historical patterns of prescribing and dispensing; (ii) by a practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine as an incident to his administering or dispensing, if authorized to dispense, a controlled substance in the course of his professional practice; or (iii) for the purpose of, or as incident to, research, teaching, or chemical analysis and not for sale or for dispensing. The mixing, diluting, or reconstituting of a manufacturer's product drugs for the purpose of administration to a patient, when performed by a practitioner of medicine or osteopathy licensed under Chapter 29 (§ **54.1-2900** et seq.), a person supervised by such practitioner pursuant to subdivision A 6 or 19 of § **54.1-2901**, or a person supervised by such practitioner or a licensed nurse practitioner or physician assistant pursuant to subdivision A 4 of § **54.1-2901** shall not be considered compounding.

"Controlled substance" means a drug, substance, or immediate precursor in Schedules I through VI of this chapter. The term shall not include distilled spirits, wine, malt beverages, or tobacco as those terms are defined or used in Title 3.2 or Title 4.1. The term "controlled substance" includes a controlled substance analog that has been placed into Schedule I or II by the Board pursuant to the regulatory authority in subsection D of § **54.1-3443**.

"Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and either (i) which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II or (ii) with respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II. "Controlled substance analog" does not include (a) any substance for which there is an approved new drug application as defined under § 505 of the federal Food, Drug, and Cosmetic Act (21

U.S.C. § 355) or that is generally recognized as safe and effective pursuant to §§ 501, 502, and 503 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. §§ 351, 352, and 353) and 21 C.F.R. Part 330; (b) with respect to a particular person, any substance for which an exemption is in effect for investigational use for that person under § 505 of the federal Food, Drug, and Cosmetic Act to the extent that the conduct with respect to that substance is pursuant to such exemption; or (c) any substance to the extent not intended for human consumption before such an exemption takes effect with respect to that substance.

"DEA" means the Drug Enforcement Administration, U.S. Department of Justice, or its successor agency.

"Deliver" or "delivery" means the actual, constructive, or attempted transfer of any item regulated by this chapter, whether or not there exists an agency relationship, including delivery of a Schedule VI prescription device to an ultimate user or consumer on behalf of a medical equipment supplier by a manufacturer, nonresident manufacturer, wholesale distributor, nonresident wholesale distributor, warehouser, nonresident warehouser, third-party logistics provider, or nonresident third-party logistics provider at the direction of a medical equipment supplier in accordance with § **54.1-3415.1**.

"Device" means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals or to affect the structure or any function of the body of man or animals.

"Dialysis care technician" or "dialysis patient care technician" means an individual who is certified by an organization approved by the Board of Health Professions pursuant to Chapter 27.01 (§ **54.1-2729.1** et seq.) and who, under the supervision of a licensed physician, nurse practitioner, physician assistant, or a registered nurse, assists in the care of patients undergoing renal dialysis treatments in a Medicare-certified renal dialysis facility.

"Dialysis solution" means either the commercially available, unopened, sterile solutions whose purpose is to be instilled into the peritoneal cavity during the medical procedure known as peritoneal dialysis, or commercially available solutions whose purpose is to be used in the performance of hemodialysis not to include any solutions administered to the patient intravenously.

"Dispense" means to deliver a drug to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing and administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery. However, dispensing shall not include the transportation of drugs mixed, diluted, or reconstituted in accordance with this chapter to other sites operated by such practitioner or that practitioner's medical practice for the purpose of administration of such drugs to patients of the practitioner or that practitioner's medical practice at such other sites. For practitioners of medicine or osteopathy, "dispense" shall only include the provision of drugs by a practitioner to patients to take with them away from the practitioner's place of practice.

"Dispenser" means a practitioner who dispenses.

"Distribute" means to deliver other than by administering or dispensing a controlled substance.

"Distributor" means a person who distributes.

"Drug" means (i) articles or substances recognized in the official United States Pharmacopoeia National Formulary or official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them; (ii)

articles or substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals; (iii) articles or substances, other than food, intended to affect the structure or any function of the body of man or animals; (iv) articles or substances intended for use as a component of any article specified in clause (i), (ii), or (iii); or (v) a biological product. "Drug" does not include devices or their components, parts, or accessories.

"Drug product" means a specific drug in dosage form from a known source of manufacture, whether by brand or therapeutically equivalent drug product name.

"Electronic transmission prescription" means any prescription, other than an oral or written prescription or a prescription transmitted by facsimile machine, that is electronically transmitted directly to a pharmacy without interception or intervention from a third party from a practitioner authorized to prescribe or from one pharmacy to another pharmacy.

"Facsimile (FAX) prescription" means a written prescription or order that is transmitted by an electronic device over telephone lines that sends the exact image to the receiving pharmacy in hard copy form.

"FDA" means the U.S. Food and Drug Administration.

~~"Hashish oil" means any oily extract containing one or more cannabinoids, but shall not include any such extract with a tetrahydrocannabinol content of less than 12 percent by weight.~~

"Immediate precursor" means a substance which the Board of Pharmacy has found to be and by regulation designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

"Interchangeable" means a biosimilar that meets safety standards for determining interchangeability pursuant to 42 U.S.C. § 262(k)(4).

"Label" means a display of written, printed, or graphic matter upon the immediate container of any article. A requirement made by or under authority of this chapter that any word, statement, or other information appear on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any, of the retail package of such article or is easily legible through the outside container or wrapper.

"Labeling" means all labels and other written, printed, or graphic matter on an article or any of its containers or wrappers, or accompanying such article.

"Manufacture" means the production, preparation, propagation, conversion, or processing of any item regulated by this chapter, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. This term does not include compounding.

"Manufacturer" means every person who manufactures, a manufacturer's co-licensed partner, or a repackager.

"Marijuana" means any part of a plant of the genus Cannabis whether growing or not, its seeds, ~~or~~ its resin*, or any extract containing one or more cannabinoids*; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or its resin. Marijuana ~~shall~~ *does* not include ~~any oily extract containing one or more cannabinoids unless such extract contains less than 12 percent of tetrahydrocannabinol by weight, nor shall marijuana include~~ the mature stalks of such plant, fiber produced from such stalk, or oil or cake made from the seeds of such plant, unless such stalks, fiber, oil, or cake is combined with other parts of plants of the genus Cannabis. Marijuana ~~shall~~ *does* not include (i) industrial hemp, as defined in § **3.2-4112**, that is possessed by a person registered pursuant to subsection A of § **3.2-4115** or his agent, or (ii) a hemp product, as defined in § **3.2-4112**, containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp, as defined in § **3.2-4112**, that is grown, dealt, or processed in compliance with state or federal law.

"Medical equipment supplier" means any person, as defined in § **1-230**, engaged in the delivery to the ultimate consumer, pursuant to the lawful order of a practitioner, of hypodermic syringes and needles, medicinal oxygen, Schedule VI controlled devices, those Schedule VI controlled substances with no medicinal properties that are used for the operation and cleaning of medical equipment, solutions for peritoneal dialysis, and sterile water or saline for irrigation.

"Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis: (i) opium, opiates, and any salt, compound, derivative, or preparation of opium or opiates; (ii) any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (i), but not including the isoquinoline alkaloids of opium; (iii) opium poppy and poppy straw; (iv) coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extraction of coca leaves which do not contain cocaine or ecgonine.

"New drug" means (i) any drug, except a new animal drug or an animal feed bearing or containing a new animal drug, the composition of which is such that such drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling, except that such a drug not so recognized shall not be deemed to be a "new drug" if at any time prior to the enactment of this chapter it was subject to the Food and Drugs Act of June 30, 1906, as amended, and if at such time its labeling contained the same representations concerning the conditions of its use, or (ii) any drug, except a new animal drug or an animal feed bearing or containing a new animal drug, the composition of which is such that such drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions.

"Nuclear medicine technologist" means an individual who holds a current certification with the American Registry of Radiological Technologists or the Nuclear Medicine Technology Certification Board.

"Official compendium" means the official United States Pharmacopoeia National Formulary, official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them.

"Official written order" means an order written on a form provided for that purpose by the U.S. Drug Enforcement Administration, under any laws of the United States making provision therefor, if such order forms are authorized and required by federal law, and if no such order form is provided then on an official form provided for that purpose by the Board of Pharmacy.

"Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under Article 4 (§ **54.1-3437** et seq.), the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

"Opium poppy" means the plant of the species Papaver somniferum L., except the seeds thereof.

"Original package" means the unbroken container or wrapping in which any drug or medicine is enclosed together with label and labeling, put up by or for the manufacturer, wholesaler, or distributor for use in the delivery or display of such article.

"Outsourcing facility" means a facility that is engaged in the compounding of sterile drugs and is currently registered as an outsourcing facility with the U.S. Secretary of Health and Human Services and that complies with all applicable requirements of federal and state law, including the Federal Food, Drug, and Cosmetic Act.

"Person" means both the plural and singular, as the case demands, and includes an individual, partnership, corporation, association, governmental agency, trust, or other institution or entity.

"Pharmacist-in-charge" means the person who, being licensed as a pharmacist, signs the application for a pharmacy permit and assumes full legal responsibility for the operation of the relevant pharmacy in a manner complying with the laws and regulations for the practice of pharmacy and the sale and dispensing of controlled substances; the "pharmacist-in-charge" shall personally supervise the pharmacy and the pharmacy's personnel as required by § **54.1-3432**.

"Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

"Practitioner" means a physician, dentist, licensed nurse practitioner pursuant to § **54.1-2957.01**, licensed physician assistant pursuant to § **54.1-2952.1**, pharmacist pursuant to § **54.1-3300**, TPA-certified optometrist pursuant to Article 5 (§ **54.1-3222** et seq.) of Chapter 32, veterinarian, scientific investigator, or other person licensed, registered, or otherwise permitted to distribute, dispense, prescribe and administer, or conduct research with respect to a controlled substance in the course of professional practice or research in the Commonwealth.

"Prescriber" means a practitioner who is authorized pursuant to §§ **54.1-3303** and **54.1-3408** to issue a prescription.

"Prescription" means an order for drugs or medical supplies, written or signed or transmitted by word of mouth, telephone, telegraph, or other means of communication to a pharmacist by a duly licensed physician, dentist, veterinarian, or other practitioner authorized by law to prescribe and administer such drugs or medical supplies.

"Prescription drug" means any drug required by federal law or regulation to be dispensed only pursuant to a prescription, including finished dosage forms and active ingredients subject to § 503(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 353(b)).

"Production" or "produce" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance or marijuana.

"Proprietary medicine" means a completely compounded nonprescription drug in its unbroken, original package which does not contain any controlled substance or marijuana as defined in this chapter and is not in itself poisonous, and which is sold, offered, promoted, or advertised directly to the general public by or under the authority of the manufacturer or primary distributor, under a trademark, trade name, or other trade symbol privately owned, and the labeling of which conforms to the requirements of this chapter and applicable federal law. However, this definition shall not include a drug that is only advertised or promoted professionally to licensed practitioners, a narcotic or drug containing a narcotic, a drug that may be dispensed only upon prescription or the label of which bears substantially the statement "Warning — may be habit-forming," or a drug intended for injection.

"Radiopharmaceutical" means any drug that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons and includes any non-radioactive reagent kit or radionuclide generator that is intended to be used in the preparation of any such substance, but does not include drugs such as carbon-containing compounds or potassium-containing salts that include trace quantities of naturally occurring radionuclides. The term also includes any biological product that is labeled with a radionuclide or intended solely to be labeled with a radionuclide.

"Reference biological product" means the single biological product licensed pursuant to 42 U.S.C. § 262(a) against which a biological product is evaluated in an application submitted to the U.S. Food and Drug Administration for licensure of biological products as biosimilar or interchangeable pursuant to 42 U.S.C. § 262(k).

"Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction made by any person, whether as an individual, proprietor, agent, servant, or employee.

"Therapeutically equivalent drug products" means drug products that contain the same active ingredients and are identical in strength or concentration, dosage form, and route of administration and that are classified as being therapeutically equivalent by the U.S. Food and Drug Administration pursuant to the definition of "therapeutically equivalent drug products" set forth in the most recent edition of the Approved Drug Products with Therapeutic Equivalence Evaluations, otherwise known as the "Orange Book."

"Third-party logistics provider" means a person that provides or coordinates warehousing of or other logistics services for a drug or device in interstate commerce on behalf of a manufacturer, wholesale distributor, or dispenser of the drug or device but does not take ownership of the product or have responsibility for directing the sale or disposition of the product.

"USP-NF" means the current edition of the United States Pharmacopeia-National Formulary.

"Warehouser" means any person, other than a wholesale distributor, manufacturer, or third-party logistics provider, engaged in the business of (i) selling or otherwise distributing prescription drugs or devices to any

person who is not the ultimate user or consumer and (ii) delivering Schedule VI prescription devices to the ultimate user or consumer pursuant to § **54.1-3415.1**. No person shall be subject to any state or local tax by reason of this definition.

"Wholesale distribution" means (i) distribution of prescription drugs to persons other than consumers or patients and (ii) delivery of Schedule VI prescription devices to the ultimate user or consumer pursuant to § **54.1-3415.1**, subject to the exemptions set forth in the federal Drug Supply Chain Security Act.

"Wholesale distributor" means any person other than a manufacturer, a manufacturer's co-licensed partner, a third-party logistics provider, or a repackager that engages in wholesale distribution.

The words "drugs" and "devices" as used in Chapter 33 (§ **54.1-3300** et seq.) and in this chapter shall not include surgical or dental instruments, physical therapy equipment, X-ray apparatus, or glasses or lenses for the eyes.

The terms "pharmacist," "pharmacy," and "practice of pharmacy" as used in this chapter shall be defined as provided in Chapter 33 (§ **54.1-3300** et seq.) unless the context requires a different meaning.

§ **54.1-3401**. (Effective July 1, 2020) Definitions.

As used in this chapter, unless the context requires a different meaning:

"Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by (i) a practitioner or by his authorized agent and under his direction or (ii) the patient or research subject at the direction and in the presence of the practitioner.

"Advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of drugs or devices.

"Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

"Anabolic steroid" means any drug or hormonal substance, chemically and pharmacologically related to testosterone, other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone.

"Animal" means any nonhuman animate being endowed with the power of voluntary action.

"Automated drug dispensing system" means a mechanical or electronic system that performs operations or activities, other than compounding or administration, relating to pharmacy services, including the storage, dispensing, or distribution of drugs and the collection, control, and maintenance of all transaction information, to provide security and accountability for such drugs.

"Biological product" means a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, protein other than a chemically synthesized polypeptide, or analogous product, or arsphenamine or any derivative of arsphenamine or any other trivalent organic arsenic compound, applicable to the prevention, treatment, or cure of a disease or condition of human beings.

"Biosimilar" means a biological product that is highly similar to a specific reference biological product, notwithstanding minor differences in clinically inactive compounds, such that there are no clinically meaningful differences between the reference biological product and the biological product that has been licensed as a biosimilar pursuant to 42 U.S.C. § 262(k) in terms of safety, purity, and potency of the product.

"Board" means the Board of Pharmacy.

"Bulk drug substance" means any substance that is represented for use, and that, when used in the compounding, manufacturing, processing, or packaging of a drug, becomes an active ingredient or a finished dosage form of the drug; however, "bulk drug substance" shall not include intermediates that are used in the synthesis of such substances.

"Change of ownership" of an existing entity permitted, registered, or licensed by the Board means (i) the sale or transfer of all or substantially all of the assets of the entity or of any corporation that owns or controls the entity; (ii) the creation of a partnership by a sole proprietor, the dissolution of a partnership, or change in partnership composition; (iii) the acquisition or disposal of 50 percent or more of the outstanding shares of voting stock of a corporation owning the entity or of the parent corporation of a wholly owned subsidiary owning the entity, except that this shall not apply to any corporation the voting stock of which is actively traded on any securities exchange or in any over-the-counter market; (iv) the merger of a corporation owning the entity or of the parent corporation of a wholly-owned subsidiary owning the entity with another business or corporation; or (v) the expiration or forfeiture of a corporation's charter.

"Co-licensed partner" means a person who, with at least one other person, has the right to engage in the manufacturing or marketing of a prescription drug, consistent with state and federal law.

"Compounding" means the combining of two or more ingredients to fabricate such ingredients into a single preparation and includes the mixing, assembling, packaging, or labeling of a drug or device (i) by a pharmacist, or within a permitted pharmacy, pursuant to a valid prescription issued for a medicinal or therapeutic purpose in the context of a bona fide practitioner-patient-pharmacist relationship, or in expectation of receiving a valid prescription based on observed historical patterns of prescribing and dispensing; (ii) by a practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine as an incident to his administering or dispensing, if authorized to dispense, a controlled substance in the course of his professional practice; or (iii) for the purpose of, or as incident to, research, teaching, or chemical analysis and not for sale or for dispensing. The mixing, diluting, or reconstituting of a manufacturer's product drugs for the purpose of administration to a patient, when performed by a practitioner of medicine or osteopathy licensed under Chapter 29 (§ **54.1-2900** et seq.), a person supervised by such practitioner pursuant to subdivision A 6 or 19 of § **54.1-2901**, or a person supervised by such practitioner or a licensed nurse practitioner or physician assistant pursuant to subdivision A 4 of § **54.1-2901** shall not be considered compounding.

"Controlled substance" means a drug, substance, or immediate precursor in Schedules I through VI of this chapter. The term shall not include distilled spirits, wine, malt beverages, or tobacco as those terms are defined or used in Title 3.2 or Title 4.1. The term "controlled substance" includes a controlled substance analog that has been placed into Schedule I or II by the Board pursuant to the regulatory authority in subsection D of § **54.1-3443**.

"Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and either (i) which has a stimulant, depressant,

or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II or (ii) with respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II. "Controlled substance analog" does not include (a) any substance for which there is an approved new drug application as defined under § 505 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. § 355) or that is generally recognized as safe and effective pursuant to §§ 501, 502, and 503 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. §§ 351, 352, and 353) and 21 C.F.R. Part 330; (b) with respect to a particular person, any substance for which an exemption is in effect for investigational use for that person under § 505 of the federal Food, Drug, and Cosmetic Act to the extent that the conduct with respect to that substance is pursuant to such exemption; or (c) any substance to the extent not intended for human consumption before such an exemption takes effect with respect to that substance.

"DEA" means the Drug Enforcement Administration, U.S. Department of Justice, or its successor agency.

"Deliver" or "delivery" means the actual, constructive, or attempted transfer of any item regulated by this chapter, whether or not there exists an agency relationship, including delivery of a Schedule VI prescription device to an ultimate user or consumer on behalf of a medical equipment supplier by a manufacturer, nonresident manufacturer, wholesale distributor, nonresident wholesale distributor, warehouser, nonresident warehouser, third-party logistics provider, or nonresident third-party logistics provider at the direction of a medical equipment supplier in accordance with § **54.1-3415.1**.

"Device" means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals or to affect the structure or any function of the body of man or animals.

"Dialysis care technician" or "dialysis patient care technician" means an individual who is certified by an organization approved by the Board of Health Professions pursuant to Chapter 27.01 (§ **54.1-2729.1** et seq.) and who, under the supervision of a licensed physician, nurse practitioner, physician assistant, or a registered nurse, assists in the care of patients undergoing renal dialysis treatments in a Medicare-certified renal dialysis facility.

"Dialysis solution" means either the commercially available, unopened, sterile solutions whose purpose is to be instilled into the peritoneal cavity during the medical procedure known as peritoneal dialysis, or commercially available solutions whose purpose is to be used in the performance of hemodialysis not to include any solutions administered to the patient intravenously.

"Dispense" means to deliver a drug to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing and administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery. However, dispensing shall not include the transportation of drugs mixed, diluted, or reconstituted in accordance with this chapter to other sites operated by such practitioner or that practitioner's medical practice for the purpose of administration of such drugs to patients of the practitioner or that practitioner's medical practice at such other sites. For practitioners of medicine or osteopathy, "dispense" shall only include the provision of drugs by a practitioner to patients to take with them away from the practitioner's place of practice.

"Dispenser" means a practitioner who dispenses.

"Distribute" means to deliver other than by administering or dispensing a controlled substance.

"Distributor" means a person who distributes.

"Drug" means (i) articles or substances recognized in the official United States Pharmacopoeia National Formulary or official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them; (ii) articles or substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals; (iii) articles or substances, other than food, intended to affect the structure or any function of the body of man or animals; (iv) articles or substances intended for use as a component of any article specified in clause (i), (ii), or (iii); or (v) a biological product. "Drug" does not include devices or their components, parts, or accessories.

"Drug product" means a specific drug in dosage form from a known source of manufacture, whether by brand or therapeutically equivalent drug product name.

"Electronic prescription" means a written prescription that is generated on an electronic application and is transmitted to a pharmacy as an electronic data file; Schedule II through V prescriptions shall be transmitted in accordance with 21 C.F.R. Part 1300.

"Facsimile (FAX) prescription" means a written prescription or order that is transmitted by an electronic device over telephone lines that sends the exact image to the receiving pharmacy in hard copy form.

"FDA" means the U.S. Food and Drug Administration.

~~"Hashish oil" means any oily extract containing one or more cannabinoids, but shall not include any such extract with a tetrahydrocannabinol content of less than 12 percent by weight.~~

"Immediate precursor" means a substance which the Board of Pharmacy has found to be and by regulation designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

"Interchangeable" means a biosimilar that meets safety standards for determining interchangeability pursuant to 42 U.S.C. § 262(k)(4).

"Label" means a display of written, printed, or graphic matter upon the immediate container of any article. A requirement made by or under authority of this chapter that any word, statement, or other information appear on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any, of the retail package of such article or is easily legible through the outside container or wrapper.

"Labeling" means all labels and other written, printed, or graphic matter on an article or any of its containers or wrappers, or accompanying such article.

"Manufacture" means the production, preparation, propagation, conversion, or processing of any item regulated by this chapter, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any

packaging or repackaging of the substance or labeling or relabeling of its container. This term does not include compounding.

"Manufacturer" means every person who manufactures, a manufacturer's co-licensed partner, or a repackager.

"Marijuana" means any part of a plant of the genus Cannabis whether growing or not, its seeds, or its resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds,~~ or~~ its resin*, or any extract containing one or more cannabinoids*. Marijuana~~ shall~~ *does* not include~~ any oily extract containing one or more cannabinoids unless such extract contains less than 12 percent of tetrahydrocannabinol by weight, nor shall marijuana include~~ the mature stalks of such plant, fiber produced from such stalk, or oil or cake made from the seeds of such plant, unless such stalks, fiber, oil, or cake is combined with other parts of plants of the genus Cannabis. Marijuana~~ shall~~ *does* not include (i) industrial hemp, as defined in § **3.2-4112**, that is possessed by a person registered pursuant to subsection A of § **3.2-4115** or his agent, or (ii) a hemp product, as defined in § **3.2-4112**, containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp, as defined in § **3.2-4112**, that is grown, dealt, or processed in compliance with state or federal law.

"Medical equipment supplier" means any person, as defined in § **1-230**, engaged in the delivery to the ultimate consumer, pursuant to the lawful order of a practitioner, of hypodermic syringes and needles, medicinal oxygen, Schedule VI controlled devices, those Schedule VI controlled substances with no medicinal properties that are used for the operation and cleaning of medical equipment, solutions for peritoneal dialysis, and sterile water or saline for irrigation.

"Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis: (i) opium, opiates, and any salt, compound, derivative, or preparation of opium or opiates; (ii) any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (i), but not including the isoquinoline alkaloids of opium; (iii) opium poppy and poppy straw; (iv) coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extraction of coca leaves which do not contain cocaine or ecgonine.

"New drug" means (i) any drug, except a new animal drug or an animal feed bearing or containing a new animal drug, the composition of which is such that such drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling, except that such a drug not so recognized shall not be deemed to be a "new drug" if at any time prior to the enactment of this chapter it was subject to the Food and Drugs Act of June 30, 1906, as amended, and if at such time its labeling contained the same representations concerning the conditions of its use, or (ii) any drug, except a new animal drug or an animal feed bearing or containing a new animal drug, the composition of which is such that such drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions.

"Nuclear medicine technologist" means an individual who holds a current certification with the American Registry of Radiological Technologists or the Nuclear Medicine Technology Certification Board.

"Official compendium" means the official United States Pharmacopoeia National Formulary, official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them.

"Official written order" means an order written on a form provided for that purpose by the U.S. Drug Enforcement Administration, under any laws of the United States making provision therefor, if such order forms are authorized and required by federal law, and if no such order form is provided then on an official form provided for that purpose by the Board of Pharmacy.

"Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under Article 4 (§ **54.1-3437** et seq.), the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

"Opium poppy" means the plant of the species Papaver somniferum L., except the seeds thereof.

"Original package" means the unbroken container or wrapping in which any drug or medicine is enclosed together with label and labeling, put up by or for the manufacturer, wholesaler, or distributor for use in the delivery or display of such article.

"Outsourcing facility" means a facility that is engaged in the compounding of sterile drugs and is currently registered as an outsourcing facility with the U.S. Secretary of Health and Human Services and that complies with all applicable requirements of federal and state law, including the Federal Food, Drug, and Cosmetic Act.

"Person" means both the plural and singular, as the case demands, and includes an individual, partnership, corporation, association, governmental agency, trust, or other institution or entity.

"Pharmacist-in-charge" means the person who, being licensed as a pharmacist, signs the application for a pharmacy permit and assumes full legal responsibility for the operation of the relevant pharmacy in a manner complying with the laws and regulations for the practice of pharmacy and the sale and dispensing of controlled substances; the "pharmacist-in-charge" shall personally supervise the pharmacy and the pharmacy's personnel as required by § **54.1-3432**.

"Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

"Practitioner" means a physician, dentist, licensed nurse practitioner pursuant to § **54.1-2957.01**, licensed physician assistant pursuant to § **54.1-2952.1**, pharmacist pursuant to § **54.1-3300**, TPA-certified optometrist pursuant to Article 5 (§ **54.1-3222** et seq.) of Chapter 32, veterinarian, scientific investigator, or other person licensed, registered, or otherwise permitted to distribute, dispense, prescribe and administer, or conduct research with respect to a controlled substance in the course of professional practice or research in the Commonwealth.

"Prescriber" means a practitioner who is authorized pursuant to §§ **54.1-3303** and **54.1-3408** to issue a prescription.

"Prescription" means an order for drugs or medical supplies, written or signed or transmitted by word of mouth, telephone, telegraph, or other means of communication to a pharmacist by a duly licensed physician, dentist, veterinarian, or other practitioner authorized by law to prescribe and administer such drugs or medical supplies.

"Prescription drug" means any drug required by federal law or regulation to be dispensed only pursuant to a prescription, including finished dosage forms and active ingredients subject to § 503(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 353(b)).

"Production" or "produce" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance or marijuana.

"Proprietary medicine" means a completely compounded nonprescription drug in its unbroken, original package which does not contain any controlled substance or marijuana as defined in this chapter and is not in itself poisonous, and which is sold, offered, promoted, or advertised directly to the general public by or under the authority of the manufacturer or primary distributor, under a trademark, trade name, or other trade symbol privately owned, and the labeling of which conforms to the requirements of this chapter and applicable federal law. However, this definition shall not include a drug that is only advertised or promoted professionally to licensed practitioners, a narcotic or drug containing a narcotic, a drug that may be dispensed only upon prescription or the label of which bears substantially the statement "Warning — may be habit-forming," or a drug intended for injection.

"Radiopharmaceutical" means any drug that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons and includes any non-radioactive reagent kit or radionuclide generator that is intended to be used in the preparation of any such substance, but does not include drugs such as carbon-containing compounds or potassium-containing salts that include trace quantities of naturally occurring radionuclides. The term also includes any biological product that is labeled with a radionuclide or intended solely to be labeled with a radionuclide.

"Reference biological product" means the single biological product licensed pursuant to 42 U.S.C. § 262(a) against which a biological product is evaluated in an application submitted to the U.S. Food and Drug Administration for licensure of biological products as biosimilar or interchangeable pursuant to 42 U.S.C. § 262(k).

"Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction made by any person, whether as an individual, proprietor, agent, servant, or employee.

"Therapeutically equivalent drug products" means drug products that contain the same active ingredients and are identical in strength or concentration, dosage form, and route of administration and that are classified as being therapeutically equivalent by the U.S. Food and Drug Administration pursuant to the definition of "therapeutically equivalent drug products" set forth in the most recent edition of the Approved Drug Products with Therapeutic Equivalence Evaluations, otherwise known as the "Orange Book."

"Third-party logistics provider" means a person that provides or coordinates warehousing of or other logistics services for a drug or device in interstate commerce on behalf of a manufacturer, wholesale distributor, or dispenser of the drug or device but does not take ownership of the product or have responsibility for directing the sale or disposition of the product.

"USP-NF" means the current edition of the United States Pharmacopeia-National Formulary.

"Warehouser" means any person, other than a wholesale distributor, manufacturer, or third-party logistics provider, engaged in the business of (i) selling or otherwise distributing prescription drugs or devices to any

person who is not the ultimate user or consumer and (ii) delivering Schedule VI prescription devices to the ultimate user or consumer pursuant to § **54.1-3415.1**. No person shall be subject to any state or local tax by reason of this definition.

"Wholesale distribution" means (i) distribution of prescription drugs to persons other than consumers or patients and (ii) delivery of Schedule VI prescription devices to the ultimate user or consumer pursuant to § **54.1-3415.1**, subject to the exemptions set forth in the federal Drug Supply Chain Security Act.

"Wholesale distributor" means any person other than a manufacturer, a manufacturer's co-licensed partner, a third-party logistics provider, or a repackager that engages in wholesale distribution.

The words "drugs" and "devices" as used in Chapter 33 (§ **54.1-3300** et seq.) and in this chapter shall not include surgical or dental instruments, physical therapy equipment, X-ray apparatus, or glasses or lenses for the eyes.

The terms "pharmacist," "pharmacy," and "practice of pharmacy" as used in this chapter shall be defined as provided in Chapter 33 (§ **54.1-3300** et seq.) unless the context requires a different meaning.

§ **54.1-3446**. Schedule I.

The controlled substances listed in this section are included in Schedule I:

1. Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

1-(2-phenylethyl)-4-phenyl-4-acetyloxypiperidine (other name: PEPAP);

1-methyl-4-phenyl-4-propionoxypiperidine (other name: MPPP);

2-methoxy-N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-acetamide (other name: Methoxyacetyl fentanyl);

3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methyl-benzamide (other name: U-47700);

3,4-dichloro-N-{[1-(dimethylamino)cyclohexyl]methyl}benzamide (other name: AH-7921);

Acetyl fentanyl (other name: desmethyl fentanyl);

Acetylmethadol;

Allylprodine;

Alphacetylmethadol (except levo-alphacetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM);

Alphameprodine;

Alphamethadol;

Benzethidine;

Betacetylmethadol;

Betameprodine;

Betamethadol;

Betaprodine;

Clonitazene;

Dextromoramide;

Diampromide;

Diethylthiambutene;

Difenoxin;

Dimenoxadol;

Dimepheptanol;

Dimethylthiambutene;

Dioxaphetylbutyrate;

Dipipanone;

Ethylmethylthiambutene;

Etonitazene;

Etoxeridine;

Furethidine;

Hydroxypethidine;

Ketobemidone;

Levomoramide;

Levophenacylmorphan;

Morpheridine;

MT-45 (1-cyclohexyl-4-(1,2-diphenylethyl)piperazine);

N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopropanecarboxamide (other name: Cyclopropyl fentanyl);

N-(1-phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide (other name: Tetrahydrofuranyl fentanyl);

N-[1-[1-methyl-2-(2-thienyl)ethyl]-4-piperidyl]-N-phenylpropanamide (other name: alpha-methylthiofentanyl);

N-[1-(1-methyl-2-phenylethyl)-4-piperidyl]-N-phenylacetamide (other name: acetyl-alpha-methylfentanyl);

N-{1-[2-hydroxy-2-(2-thienyl)ethyl]-4-piperidinyl}-N-phenylpropanamide (other name: beta-hydroxythiofentanyl);

N-[1-(2-hydroxy-2-phenyl)ethyl-4-piperidyl]-N-phenylpropanamide (other name: beta-hydroxyfentanyl);

N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl]propionanilide (other names: 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine, alpha-methylfentanyl);

N-(2-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]-propanamide (other names: 2-fluorofentanyl, ortho-fluorofentanyl);

N-(3-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: 3-fluorofentanyl);

N-[3-methyl-1-(2-hydroxy-2-phenylethyl)4-piperidyl]-N-phenylpropanamide (other name: beta-hydroxy-3-methylfentanyl);

N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide (other name: 3-methylfentanyl);

N-[3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide (other name: 3-methylthiofentanyl);

N-(4-fluorophenyl)-2-methyl-N-[1-(2-phenylethyl)-4-piperidinyl] -propanamide (other name: para-fluoroisobutyryl fentanyl);

N-(4-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]-butanamide (other name: para-fluorobutyrylfentanyl);

N-(4-fluorophenyl)-N-1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: para-fluorofentanyl);

Noracymethadol;

Norlevorphanol;

Normethadone;

Norpipanone;

N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-2-furancarboxamide (other name: Furanyl fentanyl);

N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-2-propenamide (other name: Acryl fentanyl);

N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-butanamide (other name: butyryl fentanyl);

N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-pentanamide (other name: Pentanoyl fentanyl);

N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide (other name: thiofentanyl);

Phenadoxone;

Phenampromide;

Phenomorphan;

Phenoperidine;

Piritramide;

Proheptazine;

Properidine;

Propiram;

Racemoramide;

Tilidine;

Trimeperidine;

N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-1,3-benzodioxole-5 -carboxamide (other name: Benzodioxole fentanyl);

3,4-dichloro-N-[2-(diethylamino)cyclohexyl]-N-methylbenzamide (other name: U-49900);

2-(2,4-dichlorophenyl)-N-[2-(dimethylamino)cyclohexyl]-N-methylacetamide (other name: U-48800);

2-(3,4-dichlorophenyl)-N-[2-(dimethylamino)cyclohexyl]-N-methylacetamide (other name: U-51754);

N-(2-fluorophenyl)-2-methoxy-N-[1-(2-phenylethyl)-4-piperidinyl]-acetamide (other name: Ocfentanil);

N-(4-methoxyphenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]-butanamide (other name: 4-methoxybutyrylfentanyl);

N-phenyl-2-methyl-N-[1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: Isobutyryl fentanyl);

N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-cyclopentanecarboxamide (other name: Cyclopentyl fentanyl);

N-phenyl-N-(1-methyl-4-piperidinyl)-propanamide (other name: N-methyl norfentanyl);

N-[2-(dimethylamino)cyclohexyl]-N-methyl-1,3-benzodioxole-5-carboxamide (other names: 3,4-methylenedioxy U-47700 or 3,4-MDO-U-47700);

N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-2-butenamide (other name: Crotonyl fentanyl);

N-phenyl-N-[4-phenyl-1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: 4-phenylfentanyl).

2. Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

Acetorphine;

Acetyldihydrocodeine;

Benzylmorphine;

Codeine methylbromide;

Codeine-N-Oxide;

Cyprenorphine;

Desomorphine;

Dihydromorphine;

Drotebanol;

Etorphine;

Heroin;

Hydromorphinol;

Methyldesorphine;

Methyldihydromorphine;

Morphine methylbromide;

Morphine methylsulfonate;

Morphine-N-Oxide;

Myrophine;

Nicocodeine;

Nicomorphine;

Normorphine;

Pholcodine;

Thebacon.

3. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this subdivision only, the term "isomer" includes the optical, position, and geometric isomers):

Alpha-ethyltryptamine (some trade or other names: Monase; a-ethyl-1H-indole-3-ethanamine; 3-2-aminobutyl] indole; a-ET; AET);

4-Bromo-2,5-dimethoxyphenethylamine (some trade or other names: 2-4-bromo-2,5-dimethoxyphenyl]-1-aminoethane;alpha-desmethyl DOB; 2C-B; Nexus);

3,4-methylenedioxy amphetamine;

5-methoxy-3,4-methylenedioxy amphetamine;

3,4,5-trimethoxy amphetamine;

Alpha-methyltryptamine (other name: AMT);

Bufotenine;

Diethyltryptamine;

Dimethyltryptamine;

4-methyl-2,5-dimethoxyamphetamine;

2,5-dimethoxy-4-ethylamphetamine (DOET);

4-fluoro-N-ethylamphetamine;

2,5-dimethoxy-4-(n)-propylthiophenethylamine (other name: 2C-T-7);

Ibogaine;

5-methoxy-N,N-diisopropyltryptamine (other name: 5-MeO-DIPT);

Lysergic acid diethylamide;

Mescaline;

Parahexyl (some trade or other names: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenz o [b,d] pyran; Synhexyl);

Peyote;

N-ethyl-3-piperidyl benzilate;

N-methyl-3-piperidyl benzilate;

Psilocybin;

Psilocyn;

Salvinorin A;

Tetrahydrocannabinols, except as present in (i) industrial hemp, as defined in § **3.2-4112**, that is possessed by a person registered pursuant to subsection A of § **3.2-4115** or his agent; (ii) a hemp product, as defined in § **3.2-4112**, containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp, as defined in § **3.2-4112**, that is grown, dealt, or processed in compliance with state or federal law; (iii) marijuana; or (iv) dronabinol in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the U.S. Food and Drug Administration;

~~Hashish oil (some trade or other names: hash oil; liquid marijuana; liquid hashish);~~

2,5-dimethoxyamphetamine (some trade or other names: 2,5-dimethoxy-a-methylphenethylamine; 2,5-DMA);

3,4-methylenedioxymethamphetamine (MDMA), its optical, positional and geometric isomers, salts and salts of isomers;

3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4 (methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA);

N-hydroxy-3,4-methylenedioxyamphetamine (some other names: N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, and N-hydroxy MDA);

4-bromo-2,5-dimethoxyamphetamine (some trade or other names: 4-bromo-2,5-dimethoxy-a-methylphenethylamine; 4-bromo-2,5-DMA);

4-methoxyamphetamine (some trade or other names: 4-methoxy-a-methylphenethylamine; paramethoxyamphetamine; PMA);

Ethylamine analog of phencyclidine (some other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE);

Pyrrolidine analog of phencyclidine (some other names: 1-(1-phenylcyclohexyl) -pyrrolidine, PCPy, PHP);

Thiophene analog of phencyclidine (some other names: 1-[1-(2-thienyl) -cyclohexyl]-piperidine, 2-thienyl analog of phencyclidine, TPCP, TCP);

1-1-(2-thienyl)cyclohexyl]pyrrolidine (other name: TCPy);

3,4-methylenedioxypyrovalerone (other name: MDPV);

4-methylmethcathinone (other names: mephedrone, 4-MMC);

3,4-methylenedioxymethcathinone (other name: methylone);

Naphthylpyrovalerone (other name: naphyrone);

4-fluoromethcathinone (other name: flephedrone, 4-FMC);

4-methoxymethcathinone (other names: methedrone; bk-PMMA);

Ethcathinone (other name: N-ethylcathinone);

3,4-methylenedioxyethcathinone (other name: ethylone);

Beta-keto-N-methyl-3,4-benzodioxolylbutanamine (other name: butylone);

N,N-dimethylcathinone (other name: metamfepramone);

Alpha-pyrrolidinopropiophenone (other name: alpha-PPP);

4-methoxy-alpha-pyrrolidinopropiophenone (other name: MOPPP);

3,4-methylenedioxy-alpha-pyrrolidinopropiophenone (other name: MDPPP);

Alpha-pyrrolidinovalerophenone (other name: alpha-PVP);

6,7-dihydro-5H-indeno-(5,6-d)-1,3-dioxol-6-amine (other name: MDAI);

3-fluoromethcathinone (other name: 3-FMC);

4-Ethyl-2,5-dimethoxyphenethylamine (other name: 2C-E);

4-Iodo-2,5-dimethoxyphenethylamine (other name: 2C-I);

4-Methylethcathinone (other name: 4-MEC);

4-Ethylmethcathinone (other name: 4-EMC);

N,N-diallyl-5-methoxytryptamine (other name: 5-MeO-DALT);

Beta-keto-methylbenzodioxolylpentanamine (other name: Pentylone, bk-MBDP);

Alpha-methylamino-butyrophenone (other name: Buphedrone);

Alpha-methylamino-valerophenone (other name: Pentedrone);

3,4-Dimethylmethcathinone (other name: 3.4-DMMC);

4-methyl-alpha-pyrrolidinopropiophenone (other name: MPPP);

4-Iodo-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names: 25-I, 25I-NBOMe, 2C-I-NBOMe);

Methoxetamine (other names: MXE, 3-MeO-2-Oxo-PCE);

4-Fluoromethamphetamine (other name: 4-FMA);

4-Fluoroamphetamine (other name: 4-FA);

2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (other name: 2C-D);

2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (other name: 2C-C);

2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (other name: 2C-T-2);

2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (other name: 2C-T-4);

2-(2,5-Dimethoxyphenyl)ethanamine (other name: 2C-H);

2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (other name: 2C-N);

2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (other name: 2C-P);

(2-aminopropyl)benzofuran (other name: APB);

(2-aminopropyl)-2,3-dihydrobenzofuran (other name: APDB);

4-chloro-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names: 2C-C-NBOMe, 25C-NBOMe, 25C);

4-bromo-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names: 2C-B-NBOMe, 25B-NBOMe, 25B);

Acetoxydimethyltryptamine (other names: AcO-Psilocin, AcO-DMT, Psilacetin);

Benocyclidine (other names: BCP, BTCP);

Alpha-pyrrolidinobutiophenone (other name: alpha-PBP);

3,4-methylenedioxy-N,N-dimethylcathinone (other names: Dimethylone, bk-MDDMA);

4-bromomethcathinone (other name: 4-BMC);

4-chloromethcathinone (other name: 4-CMC);

4-Iodo-2,5-dimethoxy-N-[(2-hydroxyphenyl)methyl]-benzeneethanamine (other name: 25I-NBOH);

Alpha-Pyrrolidinohexiophenone (other name: alpha-PHP);

Alpha-Pyrrolidinoheptiophenone (other name: PV8);

5-methoxy-N,N-methylisopropyltryptamine (other name: 5-MeO-MIPT);

Beta-keto-N,N-dimethylbenzodioxolylbutanamine (other names: Dibutylone, bk-DMBDB);

Beta-keto-4-bromo-2,5-dimethoxyphenethylamine (other name: bk-2C-B);

1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-1-pentanone (other name: N-ethylpentylone);

1-[1-(3-methoxyphenyl)cyclohexyl]piperidine (other name: 3-methoxy PCP);

1-[1-(4-methoxyphenyl)cyclohexyl]piperidine (other name: 4-methoxy PCP);

4-Chloroethcathinone (other name: 4-CEC);

3-Methoxy-2-(methylamino)-1-(4-methylphenyl)-1-propanone (other name: Mexedrone);

1-propionyl lysergic acid diethylamide (other name: 1P-LSD);

(2-Methylaminopropyl)benzofuran (other name: MAPB);

1-(1,3-benzodioxol-5-yl)-2-(dimethylamino)-1-pentanone (other names: N,N-Dimethylpentylone, Dipentylone);

1-(4-methoxyphenyl)-2-(pyrrolidin-1-yl)octan-1-one (other name: 4-methoxy-PV9);

3,4-tetramethylene-alpha-pyrrolidinovalerophenone (other name: TH-PVP);

4-allyloxy-3,5-dimethoxyphenethylamine (other name: Allylescaline);

4-Bromo-2,5-dimethoxy-N-[(2-hydroxyphenyl)methyl]-benzeneethanamine (other name: 25B-NBOH);

4-chloro-alpha-methylamino-valerophenone (other name: 4-chloropentedrone);

4-chloro-alpha-Pyrrolidinovalerophenone (other name: 4-chloro-alpha-PVP);

4-fluoro-alpha-Pyrrolidinoheptiophenone (other name: 4-fluoro-PV8);

4-hydroxy-N,N-diisopropyltryptamine (other name: 4-OH-DIPT);

4-methyl-alpha-ethylaminopentiophenone;

4-methyl-alpha-Pyrrolidinohexiophenone (other name: MPHP);

5-methoxy-N,N-dimethyltryptamine (other name: 5-MeO-DMT);

5-methoxy-N-ethyl-N-isopropyltryptamine (other name: 5-MeO-EIPT);

6-ethyl-6-nor-lysergic acid diethylamide (other name: ETH-LAD);

6-allyl-6-nor-lysergic acid diethylamide (other name: AL-LAD);

(N-methyl aminopropyl)-2,3-dihydrobenzofuran (other name: MAPDB);

2-(methylamino)-2-phenyl-cyclohexanone (other name: Deschloroketamine);

2-(ethylamino)-2-phenyl-cyclohexanone (other name: deschloro-N-ethyl-ketamine);

2-methyl-1-(4-(methylthio)phenyl)-2-morpholinopropiophenone (other name: MMMP);

Alpha-ethylaminohexanophenone (other name: N-ethylhexedrone);

N-ethyl-1-(3-methoxyphenyl)cyclohexylamine (other name: 3-methoxy-PCE);

4-fluoro-alpha-pyrrolidinohexiophenone (other name: 4-fluoro-alpha-PHP);

N-ethyl-1,2-diphenylethylamine (other name: Ephenidine);

2,5-dimethoxy-4-chloroamphetamine (other name: DOC);

3,4-methylenedioxy-N-tert-butylcathinone.

4. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

Clonazolam;

Etizolam;

Flualprazolam;

Flubromazepam;

Flubromazolam;

Gamma hydroxybutyric acid (some other names include GHB; gamma hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate);

Mecloqualone;

Methaqualone.

5. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:

2-(3-fluorophenyl)-3-methylmorpholine (other name: 3-fluorophenmetrazine);

Aminorex (some trade or other names; aminoxaphen; 2-amino-5-phenyl-2-oxazoline; 4,5-dihydro-5-phenyl-2-oxazolamine);

Cathinone (some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone, norephedrone), and any plant material from which Cathinone may be derived;

Cis-4-methylaminorex (other name: cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);

Ethylamphetamine;

Ethyl phenyl(piperidin-2-yl)acetate (other name: Ethylphenidate);

Fenethylline;

Methcathinone (some other names: 2-(methylamino)-propiophenone; alpha-(methylamino)-propiophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR 1432);

N-Benzylpiperazine (some other names: BZP, 1-benzylpiperazine);

N,N-dimethylamphetamine (other names: N, N-alpha-trimethyl-benzeneethanamine, N, N-alpha-trimethylphenethylamine);

Methyl 2-(4-fluorophenyl)-2-(2-piperidinyl)acetate (other name: 4-fluoromethylphenidate);

Isopropyl-2-phenyl-2-(2-piperidinyl)acetate (other name: Isopropylphenidate).

6. Any substance that contains one or more cannabimimetic agents or that contains their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, and any preparation, mixture, or substance containing, or mixed or infused with, any detectable amount of one or more cannabimimetic agents.

a. "Cannabimimetic agents" includes any substance that is within any of the following structural classes:

2-(3-hydroxycyclohexyl)phenol with substitution at the 5-position of the phenolic ring by alkyl or alkenyl, whether or not substituted on the cyclohexyl ring to any extent;

3-(1-naphthoyl)indole or 1H-indol-3-yl-(1-naphthyl)methane with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the naphthoyl or naphthyl ring to any extent;

3-(1-naphthoyl)pyrrole with substitution at the nitrogen atom of the pyrrole ring, whether or not further substituted in the pyrrole ring to any extent, whether or not substituted on the naphthoyl ring to any extent;

1-(1-naphthylmethyl)indene with substitution of the 3-position of the indene ring, whether or not further substituted in the indene ring to any extent, whether or not substituted on the naphthyl ring to any extent;

3-phenylacetylindole or 3-benzoylindole with substitution at the nitrogen atom of the indole ring, whether or not further substituted in the indole ring to any extent, whether or not substituted on the phenyl ring to any extent;

3-cyclopropoylindole with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the cyclopropyl ring to any extent;

3-adamantoylindole with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the adamantyl ring to any extent;

N-(adamantyl)-indole-3-carboxamide with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the adamantyl ring to any extent; and

N-(adamantyl)-indazole-3-carboxamide with substitution at a nitrogen atom of the indazole ring, whether or not further substituted on the indazole ring to any extent, whether or not substituted on the adamantyl ring to any extent.

b. The term "cannabimimetic agents" includes:

5-(1,1-Dimethylheptyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497);

5-(1,1-Dimethylhexyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C6 homolog);

5-(1,1-Dimethyloctyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C8 homolog);

5-(1,1-Dimethylnonyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C9 homolog);

1-pentyl-3-(1-naphthoyl)indole (other names: JWH-018, AM-678);

1-butyl-3-(1-naphthoyl)indole (other name: JWH-073);

1-pentyl-3-(2-methoxyphenylacetyl)indole (other name: JWH-250);

1-hexyl-3-(naphthalen-1-oyl)indole (other name: JWH-019);

1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (other name: JWH-200);

(6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-ter ahydrobenzo[c]chromen-1-ol (other name: HU-210);

1-pentyl-3-(4-methoxy-1-naphthoyl)indole (other name: JWH-081);

1-pentyl-3-(4-methyl-1-naphthoyl)indole (other name: JWH-122);

1-pentyl-3-(2-chlorophenylacetyl)indole (other name: JWH-203);

1-pentyl-3-(4-ethyl-1-naphthoyl)indole (other name: JWH-210);

1-pentyl-3-(4-chloro-1-naphthoyl)indole (other name: JWH-398);

1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole (other name: AM-694);

1-((N-methylpiperidin-2-yl)methyl)-3-(1-naphthoyl)indole (other name: AM-1220);

1-(5-fluoropentyl)-3-(1-naphthoyl)indole (other name: AM-2201);

1-[(N-methylpiperidin-2-yl)methyl]-3-(2-iodobenzoyl)indole (other name: AM-2233);

Pravadoline (4-methoxyphenyl)-[2-methyl-1-(2-(4-morpholinyl)ethyl)indol-3-yl]methanone (other name: WIN 48,098);

1-pentyl-3-(4-methoxybenzoyl)indole (other names: RCS-4, SR-19);

1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole (other names: RCS-8, SR-18);

1-pentyl-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other name: UR-144);

1-(5-fluoropentyl)-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other names: XLR-11, 5-fluoro-UR-144);

N-adamantyl-1-fluoropentylindole-3-carboxamide (other name: STS-135);

N-adamantyl-1-pentylindazole-3-carboxamide (other names: AKB48, APINACA);

1-pentyl-3-(1-adamantoyl)indole (other name: AB-001);

(8-quinolinyl)(1-pentylindol-3-yl)carboxylate (other name: PB-22);

(8-quinolinyl)(1-(5-fluoropentyl)indol-3-yl)carboxylate (other name: 5-fluoro-PB-22);

(8-quinolinyl)(1-cyclohexylmethyl-indol-3-yl)carboxylate (other name: BB-22);

N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentylindazole-3-carboxamide (other name: AB-PINACA);

N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)indazole-3-carboxamide (other name: AB-FUBINACA);

1-(5-fluoropentyl)-3-(1-naphthoyl)indazole (other name: THJ-2201);

N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentylindazole-3-carboxamide (other name: ADB-PINACA);

N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indazole-3-carboxamide (other name: AB-CHMINACA);

N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)indazole-3-carboxamide (other name: 5-fluoro-AB-PINACA);

N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indazole-3-carboxa mide (other names: ADB-CHMINACA, MAB-CHMINACA);

Methyl-2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate (other name: 5-fluoro-AMB);

1-naphthalenyl 1-(5-fluoropentyl)-1H-indole-3-carboxylate (other name: NM-2201);

1-(4-fluorobenzyl)-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other name: FUB-144);

1-(5-fluoropentyl)-3-(4-methyl-1-naphthoyl)indole (other name MAM-2201);

N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-[(4-fluorophenyl)methyl]-1H-indazole- 3-carboxamide (other name: ADB-FUBINACA);

Methyl 2-[1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other name: MDMB-FUBINACA);

Methyl 2-[1-(5-fluoropentyl)-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other names: 5-fluoro-ADB, 5-Fluoro-MDMB-PINACA;

Methyl 2-({1-[(4-fluorophenyl)methyl]-1H-indazole-3-carbonyl}amino)-3-methylbutanoat e (other names: AMB-FUBINACA, FUB-AMB);

N-(adamantan-1-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide (other name: FUB-AKB48);

N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide (other name: 5F-AKB48);

N-(adamantanyl)-1-(5-chloropentyl) indazole-3-carboxamide (other name: 5-chloro-AKB48);

Naphthalen-1-yl 1-pentyl-1H-indazole-3-carboxylate (other name: SDB-005);

N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indole-3-carboxamide (other name: AB-CHMICA);

1-pentyl-N-(phenylmethyl)-1H-indole-3-carboxamide (other name: SDB-006);

Quinolin-8-yl 1-(4-fluorobenzyl)-1H-indole-3-carboxylate (other name: FUB-PB-22);

Methyl N-[1-(cyclohexylmethyl)-1H-indole-3-carbonyl]valinate (other name: MMB-CHMICA);

N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)indazole-3-carboxamid e (other name: 5-fluoro-ADB-PINACA);

1-(4-cyanobutyl)-N-(1-methyl-1-phenylethyl)-1H-indazole-3-carboxamide (other name: 4-cyano CUMYL-BUTINACA).

2. That the Secretaries of Agriculture and Forestry, Finance, Health and Human Resources, and Public Safety and Homeland Security shall convene a work group to study the impact on the Commonwealth of legalizing the sale and personal use of marijuana. The work group shall consult with the Attorney General of Virginia, the Commissioner of the Department of Taxation, the Commissioner of the Department of Motor Vehicles, the Commissioner of the Virginia Department of Agriculture and Consumer Services, the Executive Director of the Board of Pharmacy, the Director for the Center for Urban and Regional Analysis at the Virginia Commonwealth University L. Douglas Wilder School of Government and Public Affairs, the Virginia State Crime Commission, the Virginia Association of Commonwealth's Attorneys, the Executive Director of Virginia NORML, a representative of the Virginia Alcoholic Beverage Control Authority, a representative of a current manufacturer of medical cannabis in Virginia, a medical professional, a member of a historically disadvantaged community, a representative of a substance abuse organization, and a representative of a community services board. In conducting its study, the work group shall review the legal and regulatory frameworks that have been established in states that have legalized the sale and personal use of marijuana and shall examine the feasibility of legalizing the sale and personal use of marijuana, the potential revenue impact of legalization on the Commonwealth, the legal and regulatory framework necessary to successfully implement legalization in the Commonwealth, and the health effects of marijuana use. The work group shall complete its work and report its recommendations to the General Assembly and the Governor by November 30, 2020.

Grand larceny; threshold. Increases from $500 to $1,000 the threshold amount of money taken or value of goods or chattel taken at which the crime rises from petit larceny to grand larceny. The bill increases the threshold by the same amount for the classification of certain property crimes. This bill incorporates **HB 263** and is identical to **SB 788.**

CHAPTER 89

*An Act to amend and reenact §§ **18.2-23**, **18.2-80**, **18.2-81**, **18.2-95** through **18.2-97**, **18.2-102**, **18.2-103**, **18.2-108.01**, **18.2-145.1**, **18.2-150**, **18.2-152.3**, **18.2-162**, **18.2-181**, **18.2-181.1**, **18.2-182**, **18.2-186**, **18.2-186.3**, **18.2-187.1**, **18.2-188**, **18.2-195**, **18.2-195.2**, **18.2-197**, **18.2-340.37**, **19.2-289**, **19.2-290**, **19.2-386.16**, and **29.1-553** of the Code of Virginia, relating to grand larceny and certain property crimes; threshold.*

[H 995]
Approved March 3, 2020

Be it enacted by the General Assembly of Virginia:

1. That §§ **18.2-23**, **18.2-80**, **18.2-81**, **18.2-95** through **18.2-97**, **18.2-102**, **18.2-103**, **18.2-108.01**, **18.2-145.1**, **18.2-150**, **18.2-152.3**, **18.2-162**, **18.2-181**, **18.2-181.1**, **18.2-182**, **18.2-186**, **18.2-186.3**, **18.2-187.1**, **18.2-188**, **18.2-195**, **18.2-195.2**, **18.2-197**, **18.2-340.37**, **19.2-289**, **19.2-290**, **19.2-386.16**, and **29.1-553** of the Code of Virginia are amended and reenacted as follows:

§ **18.2-23**. Conspiring to trespass or commit larceny.

A. If any person shall conspire, confederate or combine with another or others in the Commonwealth to go upon or remain upon the lands, buildings or premises of another, or any part, portion or area thereof, having knowledge that any of them have been forbidden, either orally or in writing, to do so by the owner, lessee, custodian or other person lawfully in charge thereof, or having knowledge that any of them have been forbidden to do so by a sign or signs posted on such lands, buildings, premises or part, portion or area thereof at a place or places where it or they may reasonably be seen, he shall be deemed guilty of a Class 3 misdemeanor.

B. If any person shall conspire, confederate or combine with another or others in the Commonwealth to commit larceny or counsel, assist, aid or abet another in the performance of a larceny, where the aggregate value of the goods or merchandise involved is ~~$500~~ *$1,000* or more, he is guilty of a felony punishable by confinement in a state correctional facility for not less than one year nor more than 20 years. The willful concealment of goods or merchandise of any store or other mercantile establishment, while still on the premises thereof, shall be prima facie evidence of an intent to convert and defraud the owner thereof out of the value of the goods or merchandise. A violation of this subsection constitutes a separate and distinct felony.

C. Jurisdiction for the trial of any person charged under this section shall be in the county or city wherein any part of such conspiracy is planned, or in the county or city wherein any act is done toward the consummation of such plan or conspiracy.

§ **18.2-80**. Burning or destroying any other building or structure.

If any person maliciously, or with intent to defraud an insurance company or other person, burn, or by the use of any explosive device or substance, maliciously destroy, in whole or in part, or cause to be burned or destroyed, or aid, counsel or procure the burning or destruction of any building, bridge, lock, dam or other structure, whether the property of himself or of another, at a time when any person is therein or thereon, the burning or destruction whereof is not punishable under any other section of this chapter, he shall be guilty of a Class 3

felony. If he commits such offense at a time when no person is in such building, or other structure, and such building, or other structure, with the property therein, be of the value of ~~$500~~ *$1,000* or more, he shall be guilty of a Class 4 felony, and if it and the property therein be of less value, he shall be guilty of a Class 1 misdemeanor.

§ **18.2-81**. Burning or destroying personal property, standing grain, etc.

If any person maliciously, or with intent to defraud an insurance company or other person, set fire to or burn or destroy by any explosive device or substance, or cause to be burned, or destroyed by any explosive device or substance, or aid, counsel, or procure the burning or destroying by any explosive device or substance, of any personal property, standing grain or other crop, he shall, if the thing burnt or destroyed be of the value of ~~$500~~ *$1,000* or more, be guilty of a Class 4 felony; and if the thing burnt or destroyed be of less value, he shall be guilty of a Class 1 misdemeanor.

§ **18.2-95**. Grand larceny defined; how punished.

Any person who (i) commits larceny from the person of another of money or other thing of value of $5 or more, (ii) commits simple larceny not from the person of another of goods and chattels of the value of ~~$500~~ *$1,000* or more, or (iii) commits simple larceny not from the person of another of any firearm, regardless of the firearm's value, shall be guilty of grand larceny, punishable by imprisonment in a state correctional facility for not less than one nor more than 20 years or, in the discretion of the jury or court trying the case without a jury, be confined in jail for a period not exceeding 12 months or fined not more than $2,500, either or both.

§ **18.2-96**. Petit larceny defined; how punished.

Any person who:

1. Commits larceny from the person of another of money or other thing of value of less than $5, or

2. Commits simple larceny not from the person of another of goods and chattels of the value of less than ~~$500~~ *$1,000*, except as provided in clause (iii) of § **18.2-95**, shall be deemed guilty of petit larceny, which shall be punishable as a Class 1 misdemeanor.

§ **18.2-96.1**. Identification of certain personalty.

A. The owner of personal property may permanently mark such property, including any part thereof, for the purpose of identification with the social security number of the owner, preceded by the letters "VA."

B. [Repealed.]

C. It shall be unlawful for any person to remove, alter, deface, destroy, conceal, or otherwise obscure the manufacturer's serial number or marks, including personalty marked with a social security number preceded by the letters "VA," from such personal property or any part thereof, without the consent of the owner, with intent to render it or other property unidentifiable.

D. It shall be unlawful for any person to possess such personal property or any part thereof, without the consent of the owner, knowing that the manufacturer's serial number or any other distinguishing identification number or

mark, including personalty marked with a social security number preceded by the letters "VA," has been removed, altered, defaced, destroyed, concealed, or otherwise obscured with the intent to violate the provisions of this section.

E. A person in possession of such property which is otherwise in violation of this section may apply in writing to the Bureau of Criminal Investigation, Virginia State Police, for assignment of a number for the personal property providing he can show that he is the lawful owner of the property. If a number is issued in conformity with the provisions of this section, then the person to whom it was issued and any person to whom the property is lawfully disposed of shall not be in violation of this section. This subsection shall apply only when the application has been filed by a person prior to arrest or authorization of a warrant of arrest for that person by a court.

F. Any person convicted of an offense under this section, when the value of the personalty is less than ~~$500~~ *$1,000*, shall be guilty of a Class 1 misdemeanor and, when the value of the personalty is ~~$500~~ *$1,000* or more, shall be guilty of a Class 5 felony.

§ **18.2-97**. Larceny of certain animals and poultry.

Any person who shall be guilty of the larceny of a dog, horse, pony, mule, cow, steer, bull, or calf shall be guilty of a Class 5 felony, and any person who shall be guilty of the larceny of any poultry of the value of $5 or more, but of the value of less than ~~$500~~ *$1,000*, or of a sheep, lamb, swine, or goat, of the value of less than ~~$500~~ *$1,000*, shall be guilty of a Class 6 felony.

§ **18.2-102**. Unauthorized use of animal, aircraft, vehicle or boat; consent; accessories or accomplices.

Any person who shall take, drive or use any animal, aircraft, vehicle, boat or vessel, not his own, without the consent of the owner thereof and in the absence of the owner, and with intent temporarily to deprive the owner thereof of his possession thereof, without intent to steal the same, shall be guilty of a Class 6 felony, provided, however, that if the value of such animal, aircraft, vehicle, boat or vessel shall be less than ~~$500~~ *$1,000*, such person shall be guilty of a Class 1 misdemeanor. The consent of the owner of an animal, aircraft, vehicle, boat or vessel to its taking, driving or using shall not in any case be presumed or implied because of such owner's consent on a previous occasion to the taking, driving or using of such animal, aircraft, vehicle, boat or vessel by the same or a different person. Any person who assists in, or is a party or accessory to, or an accomplice in, any such unauthorized taking, driving or using shall be subject to the same punishment as if he were the principal offender.

§ **18.2-103**. Concealing or taking possession of merchandise; altering price tags; transferring goods from one container to another; counseling, etc., another in performance of such acts.

Whoever, without authority, with the intention of converting goods or merchandise to his own or another's use without having paid the full purchase price thereof, or of defrauding the owner of the value of the goods or merchandise, (i) willfully conceals or takes possession of the goods or merchandise of any store or other mercantile establishment, or (ii) alters the price tag or other price marking on such goods or merchandise, or transfers the goods from one container to another, or (iii) counsels, assists, aids or abets another in the performance of any of the above acts, when the value of the goods or merchandise involved in the offense is less than ~~$500~~ *$1,000*, shall be guilty of petit larceny and, when the value of the goods or merchandise involved in the offense is ~~$500~~ *$1,000* or more, shall be guilty of grand larceny. The willful concealment of goods or

merchandise of any store or other mercantile establishment, while still on the premises thereof, shall be prima facie evidence of an intent to convert and defraud the owner thereof out of the value of the goods or merchandise.

§ **18.2-108.01**. Larceny with intent to sell or distribute; sale of stolen property; penalty.

A. Any person who commits larceny of property with a value of ~~$500~~ *$1,000* or more with the intent to sell or distribute such property is guilty of a felony punishable by confinement in a state correctional facility for not less than two years nor more than 20 years. The larceny of more than one item of the same product is prima facie evidence of intent to sell or intent to distribute for sale.

B. Any person who sells, attempts to sell or possesses with intent to sell or distribute any stolen property with an aggregate value of ~~$500~~ *$1,000* or more where he knew or should have known that the property was stolen is guilty of a Class 5 felony.

C. A violation of this section constitutes a separate and distinct offense.

§ **18.2-145.1**. Damaging or destroying research farm product; penalty; restitution.

A. Any person or entity that (i) maliciously damages or destroys any farm product, as defined in § **3.2-4709**, and (ii) knows the product is grown for testing or research purposes in the context of product development in conjunction or coordination with a private research facility or a baccalaureate institution of higher education or any federal, state, or local government agency is guilty of a Class 1 misdemeanor if the value of the farm product was less than ~~$500~~ *$1,000*, or a Class 6 felony if the value of the farm product was ~~$500~~ *$1,000* or more.

B. The court shall order the defendant to make restitution in accordance with § **19.2-305.1** for the damage or destruction caused. For the purpose of awarding restitution under this section, the court shall determine the market value of the farm product prior to its damage or destruction and, in so doing, shall include the cost of: (i) production, (ii) research, (iii) testing, (iv) replacement, and (v) product development directly related to the product damaged or destroyed.

§ **18.2-150**. Willfully destroying vessel, etc.

If any person willfully scuttle, cast away or otherwise dispose of, or in any manner destroy, except as otherwise provided, a ship, vessel or other watercraft, with intent to injure or defraud any owner thereof or of any property on board the same, or any insurer of such ship, vessel or other watercraft, or any part thereof, or of any such property on board the same, if the same be of the value of ~~$500~~ *$1,000* or more, he shall be guilty of a Class 4 felony, but if it be of less value than ~~$500~~ *$1,000*, he shall be guilty of a Class 1 misdemeanor.

§ **18.2-152.3**. Computer fraud; penalty.

Any person who uses a computer or computer network, without authority and:

1. Obtains property or services by false pretenses;

2. Embezzles or commits larceny; or

3. Converts the property of another;

is guilty of the crime of computer fraud.

If the value of the property or services obtained is ~~$500~~ *$1,000* or more, the crime of computer fraud shall be punishable as a Class 5 felony. Where the value of the property or services obtained is less than ~~$500~~ *$1,000*, the crime of computer fraud shall be punishable as a Class 1 misdemeanor.

§ **18.2-162**. Damage or trespass to public services or utilities.

Any person who shall intentionally destroy or damage any facility which is used to furnish oil, telegraph, telephone, electric, gas, sewer, wastewater or water service to the public, shall be guilty of a Class 4 felony, provided that in the event that the destruction or damage may be remedied or repaired for less than ~~$500~~ *$1,000* such act shall constitute a Class 3 misdemeanor. On electric generating property marked with no trespassing signs, the security personnel of a utility may detain a trespasser for a period not to exceed one hour pending arrival of a law-enforcement officer.

Notwithstanding any other provisions of this title, any person who shall intentionally destroy or damage, or attempt to destroy or damage, any such facility, equipment or material connected therewith, the destruction or damage of which might, in any manner, threaten the release of radioactive materials or ionizing radiation beyond the areas in which they are normally used or contained, shall be guilty of a Class 4 felony, provided that in the event the destruction or damage results in the death of another due to exposure to radioactive materials or ionizing radiation, such person shall be guilty of a Class 2 felony; provided further, that in the event the destruction or damage results in injury to another, such person shall be guilty of a Class 3 felony.

§ **18.2-181**. Issuing bad checks, etc., larceny.

Any person who, with intent to defraud, shall make or draw or utter or deliver any check, draft, or order for the payment of money, upon any bank, banking institution, trust company, or other depository, knowing, at the time of such making, drawing, uttering or delivering, that the maker or drawer has not sufficient funds in, or credit with, such bank, banking institution, trust company, or other depository, for the payment of such check, draft or order, although no express representation is made in reference thereto, shall be guilty of larceny; and, if this check, draft, or order has a represented value of ~~$500~~ *$1,000* or more, such person shall be guilty of a Class 6 felony. In cases in which such value is less than ~~$500~~ *$1,000*, the person shall be guilty of a Class 1 misdemeanor.

The word "credit" as used herein, shall be construed to mean any arrangement or understanding with the bank, trust company, or other depository for the payment of such check, draft or order.

Any person making, drawing, uttering or delivering any such check, draft or order in payment as a present consideration for goods or services for the purposes set out in this section shall be guilty as provided herein.

§ **18.2-181.1**. Issuance of bad checks.

It shall be a Class 6 felony for any person, within a period of 90 days, to issue two or more checks, drafts or orders for the payment of money in violation of § **18.2-181** that have an aggregate represented value

of ~~$500~~ *$1,000* or more and that (i) are drawn upon the same account of any bank, banking institution, trust company or other depository and (ii) are made payable to the same person, firm or corporation.

§ **18.2-182**. Issuing bad checks on behalf of business firm or corporation in payment of wages; penalty.

Any person who shall make, draw, or utter, or deliver any check, draft, or order for the payment of money, upon any bank, banking institution, trust company or other depository on behalf of any business firm or corporation, for the purpose of paying wages to any employee of such firm or corporation, or for the purpose of paying for any labor performed by any person for such firm or corporation, knowing, at the time of such making, drawing, uttering or delivering, that the account upon which such check, draft or order is drawn has not sufficient funds, or credit with, such bank, banking institution, trust company or other depository, for the payment of such check, draft or order, although no express representation is made in reference thereto, shall be guilty of a Class 1 misdemeanor; except that if this check, draft, or order has a represented value of ~~$500~~ *$1,000* or more, such person shall be guilty of a Class 6 felony.

The word "credit," as used herein, shall be construed to mean any arrangement or understanding with the bank, banking institution, trust company, or other depository for the payment of such check, draft or order.

In addition to the criminal penalty set forth herein, such person shall be personally liable in any civil action brought upon such check, draft or order.

§ **18.2-186**. False statements to obtain property or credit.

A. A person shall be guilty of a Class 1 misdemeanor if he makes, causes to be made or conspires to make directly, indirectly or through an agency, any materially false statement in writing, knowing it to be false and intending that it be relied upon, concerning the financial condition or means or ability to pay of himself, or of any other person for whom he is acting, or any firm or corporation in which he is interested or for which he is acting, for the purpose of procuring, for his own benefit or for the benefit of such person, firm or corporation, the delivery of personal property, the payment of cash, the making of a loan or credit, the extension of a credit, the discount of an account receivable, or the making, acceptance, discount, sale or endorsement of a bill of exchange or promissory note.

B. Any person who knows that a false statement has been made in writing concerning the financial condition or ability to pay of himself or of any person for whom he is acting, or any firm or corporation in which he is interested or for which he is acting and who, with intent to defraud, procures, upon the faith thereof, for his own benefit, or for the benefit of the person, firm or corporation in which he is interested or for which he is acting, any such delivery, payment, loan, credit, extension, discount making, acceptance, sale or endorsement, shall, if the value of the thing or the amount of the loan, credit or benefit obtained is ~~$500~~ *$1,000* or more, be guilty of grand larceny or, if the value is less than ~~$500~~ *$1,000*, be guilty of petit larceny.

C. Venue for the trial of any person charged with an offense under this section may be in the county or city in which (i) any act was performed in furtherance of the offense, or (ii) the person charged with the offense resided at the time of the offense.

D. As used in this section, "in writing" shall include information transmitted by computer, facsimile, e-mail, Internet, or any other electronic medium, and shall not include information transmitted by any such medium by voice transmission.

§ **18.2-186.3**. Identity theft; penalty; restitution; victim assistance.

A. It shall be unlawful for any person, without the authorization or permission of the person or persons who are the subjects of the identifying information, with the intent to defraud, for his own use or the use of a third person, to:

1. Obtain, record, or access identifying information which is not available to the general public that would assist in accessing financial resources, obtaining identification documents, or obtaining benefits of such other person;

2. Obtain money, credit, loans, goods, or services through the use of identifying information of such other person;

3. Obtain identification documents in such other person's name; or

4. Obtain, record, or access identifying information while impersonating a law-enforcement officer or an official of the government of the Commonwealth.

B. It shall be unlawful for any person without the authorization or permission of the person who is the subject of the identifying information, with the intent to sell or distribute the information to another to:

1. Fraudulently obtain, record, or access identifying information that is not available to the general public that would assist in accessing financial resources, obtaining identification documents, or obtaining benefits of such other person;

2. Obtain money, credit, loans, goods, or services through the use of identifying information of such other person;

3. Obtain identification documents in such other person's name; or

4. Obtain, record, or access identifying information while impersonating a law-enforcement officer or an official of the Commonwealth.

B1. It shall be unlawful for any person to use identification documents or identifying information of another person, whether that person is dead or alive, or of a false or fictitious person, to avoid summons, arrest, prosecution, or to impede a criminal investigation.

C. As used in this section, "identifying information" shall include but not be limited to: (i) name; (ii) date of birth; (iii) social security number; (iv) driver's license number; (v) bank account numbers; (vi) credit or debit card numbers; (vii) personal identification numbers (PIN); (viii) electronic identification codes; (ix) automated or electronic signatures; (x) biometric data; (xi) fingerprints; (xii) passwords; or (xiii) any other numbers or information that can be used to access a person's financial resources, obtain identification, act as identification, or obtain money, credit, loans, goods, or services.

D. Violations of this section shall be punishable as a Class 1 misdemeanor. Any violation resulting in financial loss of ~~$500~~ *$1,000* or more shall be punishable as a Class 6 felony. Any second or subsequent conviction shall be punishable as a Class 6 felony. Any violation of subsection B where five or more persons' identifying information has been obtained, recorded, or accessed in the same transaction or occurrence shall be punishable

as a Class 5 felony. Any violation of subsection B where 50 or more persons' identifying information has been obtained, recorded, or accessed in the same transaction or occurrence shall be punishable as a Class 4 felony. Any violation resulting in the arrest and detention of the person whose identification documents or identifying information were used to avoid summons, arrest, prosecution, or to impede a criminal investigation shall be punishable as a Class 5 felony. In any proceeding brought pursuant to this section, the crime shall be considered to have been committed in any locality where the person whose identifying information was appropriated resides, or in which any part of the offense took place, regardless of whether the defendant was ever actually in such locality.

E. Upon conviction, in addition to any other punishment, a person found guilty of this offense shall be ordered by the court to make restitution as the court deems appropriate to any person whose identifying information was appropriated or to the estate of such person. Such restitution may include the person's or his estate's actual expenses associated with correcting inaccuracies or errors in his credit report or other identifying information.

F. Upon the request of a person whose identifying information was appropriated, the Attorney General may provide assistance to the victim in obtaining information necessary to correct inaccuracies or errors in his credit report or other identifying information; however, no legal representation shall be afforded such person.

§ **18.2-187.1**. Obtaining or attempting to obtain oil, electric, gas, water, telephone, telegraph, cable television or electronic communication service without payment; penalty; civil liability.

A. It shall be unlawful for any person knowingly, with the intent to defraud, to obtain or attempt to obtain, for himself or for another, oil, electric, gas, water, telephone, telegraph, cable television or electronic communication service by the use of any false information, or in any case where such service has been disconnected by the supplier and notice of disconnection has been given.

B. It shall be unlawful for any person to obtain or attempt to obtain oil, electric, gas, water, telephone, telegraph, cable television or electronic communication service by the use of any scheme, device, means or method, or by a false application for service with intent to avoid payment of lawful charges therefor.

B1. It shall be unlawful for any person to obtain, or attempt to obtain, electronic communication service as defined in § **18.2-190.1** by the use of an unlawful electronic communication device as defined in § **18.2-190.1**.

C. The word "notice" as used in subsection A shall be notice given in writing to the person to whom the service was assigned. The sending of a notice in writing by registered or certified mail in the United States mail, duly stamped and addressed to such person at his last known address, requiring delivery to the addressee only with return receipt requested, and the actual signing of the receipt for such mail by the addressee, shall be prima facie evidence that such notice was duly received.

D. Any person who violates any provisions of this section, if the value of service, credit or benefit procured is ~~$500~~ *$1,000* or more, shall be guilty of a Class 6 felony; or if the value is less than ~~$500~~ *$1,000*, shall be guilty of a Class 1 misdemeanor. In addition, the court may order restitution for the value of the services unlawfully used and for all costs. Such costs shall be limited to actual expenses, including the base wages of employees acting as witnesses for the Commonwealth, and suit costs. However, the total amount of allowable costs granted hereunder shall not exceed $250, excluding the value of the service.

E. Any party providing oil, electric, gas, water, telephone, telegraph, cable television or electronic communication service who is aggrieved by a violation of this section may, in a civil proceeding in any court of competent jurisdiction, seek both injunctive and equitable relief, and an award of damages, including attorney fees and costs. In addition to any other remedy provided by law, the party aggrieved may recover an award of actual damages or $500, whichever is greater, for each action.

§ **18.2-188**. Defrauding hotels, motels, campgrounds, boardinghouses, etc.

It shall be unlawful for any person, without paying therefor, and with the intent to cheat or defraud the owner or keeper to:

1. Put up at a hotel, motel, campground or boardinghouse;

2. Obtain food from a restaurant or other eating house;

3. Gain entrance to an amusement park; or

4. Without having an express agreement for credit, procure food, entertainment or accommodation from any hotel, motel, campground, boardinghouse, restaurant, eating house or amusement park.

It shall be unlawful for any person, with intent to cheat or defraud the owner or keeper out of the pay therefor to obtain credit at a hotel, motel, campground, boardinghouse, restaurant or eating house for food, entertainment or accommodation by means of any false show of baggage or effects brought thereto.

It shall be unlawful for any person, with intent to cheat or defraud, to obtain credit at a hotel, motel, campground, boardinghouse, restaurant, eating house or amusement park for food, entertainment or accommodation through any misrepresentation or false statement.

It shall be unlawful for any person, with intent to cheat or defraud, to remove or cause to be removed any baggage or effects from a hotel, motel, campground, boardinghouse, restaurant or eating house while there is a lien existing thereon for the proper charges due from him for fare and board furnished.

Any person who violates any provision of this section is, if the value of service, credit or benefit procured or obtained is ~~$500~~ *$1,000* or more, guilty of a Class 5 felony or is, if the value is less than ~~$500~~ *$1,000*, guilty of a Class 1 misdemeanor.

§ **18.2-195**. Credit card fraud; conspiracy; penalties.

(1) A person is guilty of credit card fraud when, with intent to defraud any person, he:

(a) Uses for the purpose of obtaining money, goods, services or anything else of value a credit card or credit card number obtained or retained in violation of § **18.2-192** or a credit card or credit card number which he knows is expired or revoked;

(b) Obtains money, goods, services or anything else of value by representing (i) without the consent of the cardholder that he is the holder of a specified card or credit card number or (ii) that he is the holder of a card or credit card number and such card or credit card number has not in fact been issued;

(c) Obtains control over a credit card or credit card number as security for debt; or

(d) Obtains money from an issuer by use of an unmanned device of the issuer or through a person other than the issuer when he knows that such advance will exceed his available credit with the issuer and any available balances held by the issuer.

(2) A person who is authorized by an issuer to furnish money, goods, services or anything else of value upon presentation of a credit card or credit card number by the cardholder, or any agent or employee of such person, is guilty of a credit card fraud when, with intent to defraud the issuer or the cardholder, he:

(a) Furnishes money, goods, services or anything else of value upon presentation of a credit card or credit card number obtained or retained in violation of § **18.2-192**, or a credit card or credit card number which he knows is expired or revoked;

(b) Fails to furnish money, goods, services or anything else of value which he represents or causes to be represented in writing or by any other means to the issuer that he has furnished; or

(c) Remits to an issuer or acquirer a record of a credit card or credit card number transaction which is in excess of the monetary amount authorized by the cardholder.

(3) Conviction of credit card fraud is punishable as a Class 1 misdemeanor if the value of all money, goods, services and other things of value furnished in violation of this section, or if the difference between the value of all money, goods, services and anything else of value actually furnished and the value represented to the issuer to have been furnished in violation of this section, is less than ~~$500~~ *$1,000* in any six-month period; conviction of credit card fraud is punishable as a Class 6 felony if such value is ~~$500~~ *$1,000* or more in any six-month period.

(4) Any person who conspires, confederates or combines with another, (i) either within or without the Commonwealth to commit credit card fraud within the Commonwealth or (ii) within the Commonwealth to commit credit card fraud within or without the Commonwealth, is guilty of a Class 6 felony.

§ **18.2-195.2**. Fraudulent application for credit card; penalties.

A. A person shall be guilty of a Class 1 misdemeanor if he makes, causes to be made or conspires to make, directly, indirectly or through an agency, any materially false statement in writing concerning the financial condition or means or ability to pay of himself or of any other person for whom he is acting or any firm or corporation in which he is interested or for which he is acting, knowing the statement to be false and intending that it be relied upon for the purpose of procuring a credit card. However, if the statement is made in response to an unrequested written solicitation from the issuer or an agent of the issuer to apply for a credit card, he shall be guilty of a Class 4 misdemeanor.

B. A person who knows that a false statement has been made in writing concerning the financial condition or ability to pay of himself or of any person for whom he is acting or any firm or corporation in which he is interested or for which he is acting and who with intent to defraud, procures a credit card, upon the faith of such false statement, for his own benefit, or for the benefit of the person, firm or corporation in which he is interested or for which he is acting, and obtains by use of the credit card, money, property, services or any thing of value, is guilty of grand larceny if the value of whatever is obtained is ~~$500~~ *$1,000* or more or petit larceny if the value is less than ~~$500~~ *$1,000*.

C. As used in this section, "in writing" shall include information transmitted by computer, facsimile, e-mail, Internet, or any other electronic medium, and shall not include information transmitted by any such medium by voice transmission.

§ **18.2-197**. Criminally receiving goods and services fraudulently obtained.

A person is guilty of criminally receiving goods and services fraudulently obtained when he receives money, goods, services or anything else of value obtained in violation of subsection (1) of § **18.2-195** with the knowledge or belief that the same were obtained in violation of subsection (1) of § **18.2-195**. Conviction of criminal receipt of goods and services fraudulently obtained is punishable as a Class 1 misdemeanor if the value of all money, goods, services and anything else of value, obtained in violation of this section, is less than ~~$500~~ *$1,000* in any six-month period; conviction of criminal receipt of goods and services fraudulently obtained is punishable as a Class 6 felony if such value is ~~$500~~ *$1,000* or more in any six-month period.

§ **18.2-340.37**. Criminal penalties.

A. Any person who violates the provisions of this article or who willfully and knowingly files, or causes to be filed, a false application, report or other document or who willfully and knowingly makes a false statement, or causes a false statement to be made, on any application, report or other document required to be filed with or made to the Department shall be guilty of a Class 1 misdemeanor.

B. Each day in violation shall constitute a separate offense.

C. Any person who converts funds derived from any charitable gaming to his own or another's use, when the amount of funds is less than ~~$500~~ *$1,000*, shall be guilty of petit larceny and, when the amount of funds is ~~$500~~ *$1,000* or more, shall be guilty of grand larceny. The provisions of this section shall not preclude the applicability of any other provision of the criminal law of the Commonwealth that may apply to any course of conduct that violates this section.

§ **19.2-289**. Conviction of petit larceny.

In a prosecution for grand larceny, if it be found that the thing stolen is of less value than ~~$500~~ *$1,000*, the jury may find the accused guilty of petit larceny.

§ **19.2-290**. Conviction of petit larceny though thing stolen worth $1,000 or more.

In a prosecution for petit larceny, though the thing stolen be of the value of ~~$500~~ *$1,000* or more, the jury may find the accused guilty, and upon a conviction under this section or § **19.2-289** the accused shall be sentenced for petit larceny.

§ **19.2-386.16**. Forfeiture of motor vehicles used in commission of certain crimes.

A. Any vehicle knowingly used by the owner thereof or used by another with his knowledge of and during the commission of, or in an attempt to commit, a second or subsequent offense of § **18.2-346**, **18.2-347**, **18.2-348**, **18.2-348.1**, **18.2-349**, **18.2-355**, **18.2-356** or **18.2-357** or of a similar ordinance of any county, city or town or knowingly used for the transportation of any stolen goods, chattels or other property, when the value of such stolen goods, chattels or other property is ~~$500~~ *$1,000* or more, or any stolen property obtained as a result of a

robbery, without regard to the value of the property, shall be forfeited to the Commonwealth. The vehicle shall be seized by any law-enforcement officer arresting the operator of such vehicle for the criminal offense, and delivered to the sheriff of the county or city in which the offense occurred. The officer shall take a receipt therefor.

B. Any vehicle knowingly used by the owner thereof or used by another with his knowledge of and during the commission of, or in an attempt to commit, a misdemeanor violation of subsection D of § **18.2-47** or a felony violation of (i) Article 3 (§ **18.2-47** et seq.) of Chapter 4 of Title 18.2 or (ii) § **18.2-357** where the prostitute is a minor, shall be forfeited to the Commonwealth. The vehicle shall be seized by any law-enforcement officer arresting the operator of such vehicle for the criminal offense, and delivered to the sheriff of the county or city in which the offense occurred. The officer shall take a receipt therefor.

C. Forfeiture of such vehicle shall be enforced as is provided in Chapter 22.1 (§ **19.2-386.1** et seq.).

§ **29.1-553**. Selling or offering for sale; penalty.

A. Any person who offers for sale, sells, offers to purchase, or purchases any wild bird or wild animal, or any part thereof, or any freshwater fish, except as provided by law, shall be guilty of a Class 1 misdemeanor. However, when the aggregate of such sales or purchases, or any combination thereof, by any person totals ~~$500~~ *$1,000* or more during any 90-day period, that person shall be guilty of a Class 6 felony.

B. Whether or not criminal charges have been placed, when any property is taken possession of by a conservation police officer for the purpose of being used as evidence of a violation of this section or for confiscation, the conservation police officer making such seizure shall immediately report the seizure to the Attorney for the Commonwealth.

C. In any prosecution for a violation of this section, photographs of the wild bird, wild animal, or any freshwater fish, or any part thereof shall be deemed competent evidence of such wild bird, wild animal, or freshwater fish, or part thereof and shall be admissible in any proceeding, hearing, or trial of the case to the same extent as if such wild bird, wild animal, or any freshwater fish, or part thereof had been introduced as evidence. Such photographs shall bear a written description of the wild bird, wild animal, or freshwater fish, or parts thereof, the name of the place where the alleged offense occurred, the date on which the alleged offense occurred, the name of the accused, the name of the arresting officer or investigating officer, the date of the photograph, and the name of the photographer. The photographs shall be identified by the signature of the photographer.

D. Any licensed Virginia auctioneer or licensed auction firm that sells, as a legitimate item of an auction sale, wildlife mounts that have undergone the taxidermy process, shall be exempt from the provisions of this section and subdivision A 11 of § **29.1-521**.

Custodial interrogations; recording. Provides that any law-enforcement officer shall, if practicable, make an audiovisual recording of the entirety of any custodial interrogation of a person conducted in a place of detention. The bill provides that if an audiovisual recording is unable to be made, the law-enforcement officer shall make an audio recording of the entirety of the custodial interrogation. The bill provides that the failure of a law-enforcement officer to make such a recording shall not affect the admissibility of the statements made during the custodial interrogation, but the court or jury may consider such failure in determining the weight given to such evidence. As introduced, the bill was a recommendation of the Virginia Criminal Justice Conference.

CHAPTER 1126

*An Act to amend the Code of Virginia by adding a section numbered **19.2-390.04**, relating to custodial interrogations; recording.*

[H 1023]

Approved April 10, 2020

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered **19.2-390.04** as follows:

*§ **19.2-390.04**. Custodial interrogations; recording.*

A. For purposes of this section:

"Custodial interrogation" means any interview conducted by a law-enforcement officer in such circumstances that would lead a reasonable person to consider himself to be in custody associated with arrest and during which the law-enforcement officer takes actions or asks questions that are reasonably likely to elicit responses from the person that could incriminate him.

"Place of detention" means a police station, sheriff's office, jail, detention center, or other similar facility in which suspects may be detained.

B. A law-enforcement officer conducting a custodial interrogation of any person at a place of detention shall cause an audiovisual recording of the entirety of such custodial interrogation to be made. If such law-enforcement officer is unable to cause an audiovisual recording of such custodial interrogation to be made, the law-enforcement officer shall cause an audio recording of such custodial interrogation to be made.

This subsection shall not apply when a law-enforcement officer conducting a custodial interrogation has good cause not to record such custodial interrogation. Good cause shall include those circumstances where (i) the recording equipment fails, (ii) the recording equipment is unavailable, or (iii) exigent circumstances relating to public safety exist that prevent the recording of such custodial interrogation.

C. The failure of a law-enforcement officer to cause an audiovisual or audio recording to be made in accordance with subsection B shall not affect the admissibility of the statements made by the subject of the custodial interrogation, but such failure may be considered in determining the weight given to such evidence.

D. Any audiovisual or audio recording made in accordance to subsection B shall be preserved until such time as (i) the person is acquitted or the charges against the person are otherwise dismissed and further prosecution of such charges is prohibited by law or (ii) if convicted or adjudicated delinquent, the person has completed service of his sentence and any modification of his sentence.

E. Any policies, standards, and guidelines for the maintenance, exchange, storage, use, sharing, distribution, and security of data developed and adopted pursuant to Chapter 20.1 of Title 2.2 (§ ***2.2-2005*** *et. seq.) shall not apply to any audiovisual or audio recording made in accordance with subsection B. Any policies, standards, and guidelines for the maintenance, exchange, storage, use, sharing, distribution, and security of data for any audiovisual or audio recording made in accordance with subsection B shall be developed and adopted by the law-enforcement agency employing the law-enforcement officer causing the audiovisual or audio recording to be made in accordance with subsection B.*

Custodial interrogation of a child; parental notification and contact. Requires that prior to the custodial interrogation of a child who has been arrested by a law-enforcement officer for a criminal violation, the child's parent, guardian, or legal custodian be notified of the child's arrest and the child have contact with his parent, guardian, or legal custodian. Such notification and contact may be in person, electronically, by telephone, or by video conference. However, notification and contact prior to a custodial interrogation is not required if the parent, guardian, or legal custodian is a codefendant in the alleged offense; the parent, guardian, or legal custodian has been arrested for, has been charged with, or is being investigated for a crime against the child; the person cannot reasonably be located or refuses contact with the child; or the law-enforcement officer conducting the custodial interrogation reasonably believes the information sought is necessary to protect life, limb, or property from an imminent danger and the questions are limited to those that are reasonably necessary to obtain that information.

CHAPTER 480

*An Act to amend the Code of Virginia by adding a section numbered **16.1-247.1**, relating to custodial interrogation of a child; parental notification and contact.*

[H 746]
Approved March 27, 2020

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered **16.1-247.1** as follows:

*§ **16.1-247.1**. Custodial interrogation of a child; parental notification and contact.*

*A. Prior to any custodial interrogation of a child by a law-enforcement officer who has arrested such child pursuant to subsection C, C1, or D of § **16.1-246**, the child's parent, guardian, or legal custodian shall be notified of his arrest and the child shall have contact with his parent, guardian, or legal custodian. The notification and contact required by this subsection may be in person, electronically, by telephone, or by video conference.*

B. Notwithstanding the provisions of subsection A, a custodial interrogation may be conducted if (i) the child's parent, guardian, or legal custodian is a codefendant in the alleged offense; (ii) the child's parent, guardian, or legal custodian has been arrested for, has been charged with, or is being investigated for a crime against the child; (iii) if, after every reasonable effort has been made to comply with subsection A, the child's parent, guardian, or legal custodian cannot be located or refuses contact with the child; or (iv) if the law-enforcement officer conducting the custodial interrogation reasonably believes the information sought is necessary to protect life, limb, or property from an imminent danger and the law-enforcement officer's questions are limited to those that are reasonably necessary to obtain such information.

Strip searches of children. Provides that no child under the age of 18 shall be strip searched or subjected to a search of any body cavity by a law-enforcement officer or a jail officer. The bill provides exceptions for (i) children committed to the Department of Juvenile Justice or confined or detained in a secure local facility for juveniles or a jail or other facility for the detention of adults; (ii) persons taken into custody by or remanded to a law-enforcement officer pursuant to a circuit or district court order; and (iii) children in custodial arrest when there is reasonable cause to believe on the part of a law-enforcement officer or jail officer authorizing the search that the child is concealing a weapon.

CHAPTER 1236

*An Act to amend and reenact § **19.2-59.1** of the Code of Virginia, relating to strip searches of children.*

[H 1544]
Approved April 22, 2020

Be it enacted by the General Assembly of Virginia:

1. That § **19.2-59.1** of the Code of Virginia is amended and reenacted as follows:

§ **19.2-59.1**. Strip searches prohibited; exceptions; how strip searches conducted.

A. No person in custodial arrest for a traffic infraction, Class 3 or Class 4 misdemeanor, or a violation of a city, county, or town ordinance, which is punishable by no more than ~~thirty~~ *30* days in jail shall be strip searched unless there is reasonable cause to believe on the part of a law-enforcement officer authorizing the search that the individual is concealing a weapon. All strip searches conducted under this section shall be performed by persons of the same sex as the person arrested and on premises where the search cannot be observed by persons not physically conducting the search.

B. A regional jail superintendent or the chief of police or the sheriff of the county or city shall develop a written policy regarding strip searches.

C. A search of any body cavity must be performed under sanitary conditions and a search of any body cavity, other than the mouth, shall be conducted either by or under the supervision of medically trained personnel.

D. Strip searches authorized pursuant to the exceptions stated in subsection A ~~of this section~~ shall be conducted by a law-enforcement officer as defined in § **9.1-101**.

E. The provisions of this section shall not apply when the person is taken into custody by or remanded to a law-enforcement officer pursuant to a circuit or district court order.

F. For purposes of this section, "strip search" ~~shall mean~~ *means* having an arrested person remove or arrange some or all of his clothing so as to permit a visual inspection of the genitals, buttocks, anus, female breasts, or undergarments of such person.

G. Nothing in this section shall prohibit a sheriff or a regional jail superintendent from requiring that inmates take hot water and soap showers and be subjected to visual inspection upon assignment to the general population area of the jail or upon determination by the sheriff or regional jail superintendent that the inmate must be held at the jail by reason of his inability to post bond after reasonable opportunity to do so.

*H. Except for children committed to the Department of Juvenile Justice or confined or detained in a secure local facility for juveniles or a jail or other facility for the detention of adults and except as provided in subsection E, no child under the age of 18 shall be strip searched or subjected to a search of any body cavity by a law-enforcement officer, as defined in § **9.1-101**, or a jail officer unless the child is in custodial arrest and there is reasonable cause to believe on the part of a law-enforcement officer or jail officer authorizing the search that the child is concealing a weapon.*

Profane swearing in public. Removes the crime of profane swearing in public, which is currently punishable as a Class 4 misdemeanor. This bill incorporates **HB 132.**

CHAPTER 160

*An Act to amend and reenact § **18.2-388** of the Code of Virginia, relating to profane swearing in public.*

[H 1071]
Approved March 4, 2020

Be it enacted by the General Assembly of Virginia:

1. That § **18.2-388** of the Code of Virginia is amended and reenacted as follows:

§ **18.2-388**. Intoxication in public; penalty; transportation of public inebriates to detoxification center.

If any person ~~profanely curses or swears or~~ is intoxicated in public, whether such intoxication results from alcohol, narcotic drug, or other intoxicant or drug of whatever nature, he ~~shall be deemed~~ *is* guilty of a Class 4 misdemeanor. In any area in which there is located a court-approved detoxification center, a law-enforcement officer may authorize the transportation, by police or otherwise, of public inebriates to such detoxification center in lieu of arrest; however, no person shall be involuntarily detained in such center.

Hemp products intended for smoking. Prohibits the sale to persons under age 21 of hemp products intended or smoking.

CHAPTER 406

*An Act to amend and reenact § **18.2-371.2** of the Code of Virginia, relating to hemp products intended for smoking.*

[H 962]
Approved March 23, 2020

Be it enacted by the General Assembly of Virginia:

1. That § **18.2-371.2** of the Code of Virginia is amended and reenacted as follows:

§ **18.2-371.2**. Prohibiting purchase or possession of tobacco products, nicotine vapor products, alternative nicotine products, and hemp products intended for smoking by a person under 21 years of age or sale of tobacco products, nicotine vapor products, alternative nicotine products, and hemp products intended for smoking to persons under 21 years of age.

A. No person shall sell to, distribute to, purchase for, or knowingly permit the purchase by any person less than 21 years of age, knowing or having reason to believe that such person is less than 21 years of age, any tobacco product, nicotine vapor product,~~ or~~ alternative nicotine product*, or hemp product intended for smoking*.

Tobacco products, nicotine vapor products,~~ and~~ alternative nicotine products*, and hemp products intended for smoking* may be sold from a vending machine only if the machine is (i) posted with a notice, in a conspicuous manner and place, indicating that the purchase or possession of~~ tobacco~~ *such* products by persons under 21 years of age is unlawful and (ii) located in a place that is not open to the general public and is not generally accessible to persons under 21 years of age. An establishment that prohibits the presence of persons under 21 years of age unless accompanied by a person 21 years of age or older is not open to the general public.

B. No person less than 21 years of age shall attempt to purchase, purchase, or possess any tobacco product, nicotine vapor product,~~ or~~ alternative nicotine product*, or hemp product intended for smoking*. The provisions of this subsection shall not be applicable to the possession of tobacco products, nicotine vapor products,~~ or~~ alternative nicotine products*, or hemp products intended for smoking* by a person less than 21 years of age making a delivery of tobacco products, nicotine vapor products,~~ or~~ alternative nicotine products*, or hemp products intended for smoking* in pursuance of his employment. This subsection shall not apply to purchase, attempt to purchase, or possession by a law-enforcement officer or his agent when the same is necessary in the performance of his duties.

C. No person shall sell a tobacco product, nicotine vapor product,~~ or~~ alternative nicotine product*, or hemp product intended for smoking* to any individual who does not demonstrate, by producing a driver's license or similar photo identification issued by a government agency, that the individual is at least 21 years of age. Such identification is not required from an individual whom the person has reason to believe is at least 21 years of age or who the person knows is at least 21 years of age. Proof that the person demanded, was shown, and reasonably relied upon a photo identification stating that the individual was at least 21 years of age shall be a defense to any action brought under this subsection. In determining whether a person had reason to believe an individual is at least 21 years of age, the trier of fact may consider, but is not limited to, proof of the general appearance, facial characteristics, behavior, and manner of the individual.

This subsection shall not apply to mail order or Internet sales, provided that the person offering the tobacco product, nicotine vapor product, ~~or~~ alternative nicotine product*, or hemp product intended for smoking* for sale through mail order or the Internet (i) prior to the sale of the tobacco product, nicotine vapor product, ~~or~~ alternative nicotine product*, or hemp product intended for smoking* verifies that the purchaser is at least 21 years of age through a commercially available database that is regularly used by businesses or governmental entities for the purpose of age and identity verification and (ii) uses a method of mailing, shipping, or delivery that requires the signature of a person at least 21 years of age before the tobacco product, nicotine vapor product, ~~or~~ alternative nicotine product*, or hemp product intended for smoking* will be released to the purchaser.

D. The provisions of subsections B and C shall not apply to the sale, giving, or furnishing of any tobacco product, nicotine vapor product, ~~or~~ alternative nicotine product*, or hemp product intended for smoking* to any active duty military personnel who are 18 years of age or older. An identification card issued by the Armed Forces of the United States shall be accepted as proof of age for this purpose.

E. A violation of subsection A or C by an individual or by a separate retail establishment that involves a nicotine vapor product, alternative nicotine product, *hemp product intended for smoking,* or tobacco product other than a bidi is punishable by a civil penalty not to exceed $100 for a first violation, a civil penalty not to exceed $200 for a second violation, and a civil penalty not to exceed $500 for a third or subsequent violation.

A violation of subsection A or C by an individual or by a separate retail establishment that involves the sale, distribution, or purchase of a bidi is punishable by a civil penalty in the amount of $500 for a first violation, a civil penalty in the amount of $1,000 for a second violation, and a civil penalty in the amount of $2,500 for a third or subsequent violation. Where a defendant retail establishment offers proof that it has trained its employees concerning the requirements of this section, the court shall suspend all of the penalties imposed hereunder. However, where the court finds that a retail establishment has failed to so train its employees, the court may impose a civil penalty not to exceed $1,000 in lieu of any penalties imposed hereunder for a violation of subsection A or C involving a nicotine vapor product, alternative nicotine product, *hemp product intended for smoking,* or tobacco product other than a bidi.

A violation of subsection B is punishable by a civil penalty not to exceed $100 for a first violation and a civil penalty not to exceed $250 for a second or subsequent violation. A court may, as an alternative to the civil penalty, and upon motion of the defendant, prescribe the performance of up to 20 hours of community service for a first violation of subsection B and up to 40 hours of community service for a second or subsequent violation. If the defendant fails or refuses to complete the community service as prescribed, the court may impose the civil penalty. Upon a violation of subsection B, the judge may enter an order pursuant to subdivision A 9 of § **16.1-278.8**.

Any attorney for the Commonwealth of the county or city in which an alleged violation occurred may bring an action to recover the civil penalty, which shall be paid into the state treasury. Any law-enforcement officer may issue a summons for a violation of subsection A, B, or C.

F. 1. Cigarettes *and hemp products intended for smoking* shall be sold only in sealed packages provided by the manufacturer, with the required health warning. The proprietor of every retail establishment that offers for sale any tobacco product, nicotine vapor product, ~~or~~ alternative nicotine product*, or hemp product intended for smoking* shall post in a conspicuous manner and place a sign or signs indicating that the sale of tobacco products, nicotine vapor products, ~~or~~ alternative nicotine products*, or hemp products intended for smoking* to any person

under 21 years of age is prohibited by law. Any attorney for the county, city, or town in which an alleged violation of this subsection occurred may enforce this subsection by civil action to recover a civil penalty not to exceed $50. The civil penalty shall be paid into the local treasury. No filing fee or other fee or cost shall be charged to the county, city, or town which instituted the action.

2. For the purpose of compliance with regulations of the Substance Abuse and Mental Health Services Administration published at 61 Federal Register 1492, the Department of Agriculture and Consumer Services may promulgate regulations which allow the Department to undertake the activities necessary to comply with such regulations.

3. Any attorney for the county, city, or town in which an alleged violation of this subsection occurred may enforce this subsection by civil action to recover a civil penalty not to exceed $100. The civil penalty shall be paid into the local treasury. No filing fee or other fee or cost shall be charged to the county, city, or town which instituted the action.

G. Nothing in this section shall be construed to create a private cause of action.

H. Agents of the Virginia Alcoholic Beverage Control Authority designated pursuant to § **4.1-105** may issue a summons for any violation of this section.

I. As used in this section:

"Alternative nicotine product" means any noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. "Alternative nicotine product" does not include any nicotine vapor product, tobacco product, or product regulated as a drug or device by the U.S. Food and Drug Administration (FDA) under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

"Bidi" means a product containing tobacco that is wrapped in temburni leaf (diospyros melanoxylon) or tendu leaf (diospyros exculpra), or any other product that is offered to, or purchased by, consumers as a bidi or beedie.

*"Hemp product" means the same as that term is defined in § **3.2-4112**.*

"Nicotine vapor product" means any noncombustible product containing nicotine that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form. "Nicotine vapor product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Nicotine vapor product" does not include any product regulated by the FDA under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

"Tobacco product" means any product made of tobacco and includes cigarettes, cigars, smokeless tobacco, pipe tobacco, bidis, and wrappings. "Tobacco product" does not include any nicotine vapor product, alternative nicotine product, or product that is regulated by the FDA under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

"Wrappings" includes papers made or sold for covering or rolling tobacco or other materials for smoking in a manner similar to a cigarette or cigar.

CRIMINAL – SUMMARY ONLY

SB1003 – **§ 18.2-152.7:2 – Computer crimes; monetary harm; penalty.** Provides that it is a Class 1 misdemeanor for any person who, without the intent to receive any direct or indirect benefit, maliciously sends an electronically transmitted communication containing a false representation intended to cause another person to spend money, and such false representation causes such person to spend money.

SB492 – **§ 9.1-902**. **– Sex offenses requiring registration.** Clarifies the registration and reregistration obligations imposed upon a person convicted of a foreign sex offense for the purposes of registration with the Sex Offender and Crimes Against Minors Registry.

SB579 – **§§ 2.2-515.2, 9.1-900, 9.1-901, 9.1-902, 9.1-903, 9.1-904, as it shall become effective, 9.1-906 through 9.1-914, 9.1-918, 15.2-2283.1, 16.1-228, 18.2-348.1, 18.2-370.5, 18.2-472.1, 22.1-79, 23.1-407, 32.1-127, 46.2-116, 46.2-117, 46.2-118, 46.2-323, 46.2-324, 46.2-330, 46.2-345, 46.2-2011.33, 63.2-100, 63.2-1205.1, 63.2-1503, 63.2-1506, and 63.2-1732 – Sex Offender and Crimes Against Minors Registry.** Makes numerous changes to the provisions governing the Sex Offender and Crimes Against Minors Registry. The bill changes the number of classifications of offenders who are required to register under the Registry to match the number of classifications under federal law and redesignates the classifications as Tier I, Tier II, and Tier III offenses. The bill also streamlines the reregistration process, eliminates the need for lower-level offenders to reregister annually, and allows offenders to electronically verify their registration information.

HB660 and SB286 – **§ 19.2-303.2 – Deferred dispositions; property crimes; larceny and receiving stolen goods.** Provides that a court, upon such plea if the facts found by the court would justify a finding of guilt, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on probation subject to terms and conditions for a first offense misdemeanor larceny provided such person has not previously been convicted of any felony or had a prior deferred disposition for the same offense. The bill also provides that deferred disposition will no longer be allowed for peeping crimes. As introduced, this bill was a recommendation of the Virginia Criminal Justice Conference. This bill incorporates **HB 1592** and is identical to **SB 286.**

HB1627 – **§§ 18.2-60, 18.2-60.1, 18.2-83, 18.2-152.7:1, and 18.2-430 – Threats and harassment of certain officials and property; venue.** Provides that certain crimes relating to threats and harassment may be prosecuted in the City of Richmond if venue cannot otherwise be established and the victim is (i) the Governor, Governor-elect, Lieutenant Governor, Lieutenant Governor-elect, Attorney General, or Attorney General-elect, a member or employee of the General Assembly, a justice of the Supreme Court of Virginia, or a judge of the Court of Appeals of Virginia and (ii) such official or employee was threatened or harassed while engaged in the performance of his public duties or because of his position with the Commonwealth. In addition, threats to damage property may be prosecuted in the City of Richmond if venue cannot otherwise be established and the property is owned by the Commonwealth and located in the Capitol District.

SB42 – **§ 18.2-67.3 – Aggravated sexual battery; penalty.** Provides that any massage therapist, person practicing the healing arts, or physical therapist, or a person purporting to be such practitioner, who sexually abuses another person without the express consent of the complaining witness is guilty of aggravated sexual battery.

SB133 – **§§ 16.1-69.48:1, 17.1-275.2, 17.1-275.7, 19.2-303.4, 19.2-335, 19.2-336 and 19.2-303.6 – Deferred disposition in criminal cases.** Allows a court to defer and dismiss a criminal case where the defendant has been diagnosed with autism or an intellectual disability and the court finds by clear and convincing evidence that the criminal conduct was caused by or had a direct and substantial relationship to the person's disorder or disability.

HB752 and SB312 – §§ 18.2-10, 19.2-295.2, and 19.2-295.2:1 – Postrelease incarceration of felons sentenced for certain offenses. Clarifies that offenders who are convicted of knowingly failing to register or reregister with, or knowingly providing materially false information to, the Sex Offender and Crimes Against Minors Registry are subject to added terms of postrelease incarceration. The bill also clarifies that when a sentence is imposed upon conviction of a felony that includes an active term of incarceration and the court does not order a suspended term of confinement of at least six months, a period of postrelease incarceration shall be imposed that is not less than six months or more than three years. The bill also clarifies that it is the period of postrelease incarceration that is required to be suspended, not the period of postrelease supervision. As introduced, this bill was a recommendation of the Judicial Council. This bill is identical to **SB 312.**

HB1573 – §§ 3.2-6587, 18.2-403.1, and 18.2-403.3 – Rabid animals. Makes it a Class 1 misdemeanor for an owner of a dog or cat who permits such dog or cat to stray from his premises when he knows or has been told by the local health department, law-enforcement agency, animal control agency, or any other person who has a duty to control or respond to a risk of rabies exposure that the dog or cat is suspected of having rabies.

HB881 and SB971 – § 18.2-325 and adding sections 2.2-115.1 and 18.2-334.5 – Illegal gambling; skill games; exception. Includes the playing or offering for play of any skill game in the definition of "illegal gambling." The bill also includes skill games within the definition of "gambling devices." The bill defines a "skill game" as an electronic, computerized, or mechanical contrivance, terminal, machine, or other device that requires the insertion of a coin, currency, ticket, token, or similar object to operate, activate, or play a game, the outcome of which is determined by any element of skill of the player and that may deliver or entitle the person playing or operating the device to receive cash; cash equivalents, gift cards, vouchers, billets, tickets, tokens, or electronic credits to be exchanged for cash; merchandise; or anything of value whether the payoff is made automatically from the device or manually. The bill exempts family entertainment centers from the prohibition against the playing or offering of any skill game, provided the prize won or distributed to a player by the skill games offered by such centers is a noncash, merchandise prize or a voucher, billet, ticket, token, or electronic credit redeemable only for a noncash, merchandise prize that also meets certain other requirements.

The provisions related to the prohibition of skill games have a delayed effective date of July 1, 2021. The bill provides for a one-year phase-out of currently existing skill games. Each distributor, defined as a person who distributes skill games to Virginia Alcoholic Beverage Control Authority (ABC) licensees and truck stops, would pay a monthly tax of $1,200 for each skill game provided for play during the previous month. Revenues would accrue two percent to the Problem Gambling Treatment and Support Fund, two percent to the ABC for administering the bill's provisions, 12 percent to localities in which the skill games are located, and 84 percent to the COVID-19 Relief Fund, created by the bill. The COVID-19 Relief Fund would be used by the Governor solely for the purposes of responding to the Commonwealth's needs related to the Coronavirus Disease of 2019 pandemic.

Distributors would be required to report monthly to the ABC the number of skill games provided for play. Distributors would be prohibited from increasing the number of machines above the number provided for play as of July 1, 2020 and would be prohibited from operating new skill games. Distributors would be subject to a civil penalty of up to $50,000 for violations the provisions of the bill.

The remaining provisions of the bill, which prohibit skill games, would become effective on July 1, 2021. This bill is identical to **SB 971.**

HB253 – § 9.1-902 – Offenses requiring registration under the Sex Offender and Crimes Against Minors Registry Act; unlawful dissemination or sale of images of another. Adds a third or subsequent conviction of unlawful dissemination or sale of images of another to the list of offenses requiring registration under the Sex

Offender and Crimes Against Minors Registry if the offense was committed on or after July 1, 2020. The bill contains technical amendments.

HB1570 – § 18.2-371.2 – Possession of tobacco products, nicotine vapor products, and alternative nicotine products by persons under 21 years of age; exception; scientific study. Provides an exception to the law prohibiting possession of tobacco products, nicotine vapor products, or alternative nicotine products by a person less than 21 years of age when such possession is part of a scientific study being conducted by an organization for the purpose of medical research to further efforts in cigarette and tobacco use prevention and cessation and tobacco product regulation, provided that such medical research has been approved by an institutional review board pursuant to applicable federal regulations or by a research review committee.

HB1524 – §§ 18.2-346, 18.2-348, and 18.2-356 – Prostitution; touching the unclothed genitals or anus of another; penalty. Provides that any person who touches the unclothed genitals or anus of another with the intent to sexually arouse or gratify for money is guilty of prostitution, which is punishable as a Class 1 misdemeanor. The bill also provides that any person who receives any money on account of procuring for or placing in a house of prostitution any person for the purpose of causing such person to engage in the touching of the unclothed genitals or anus of another person with the intent to sexually arouse or gratify is guilty of a Class 4 felony. As introduced, this bill is a recommendation of the Virginia State Crime Commission.

HB618 – §§ 8.01-42.1, 8.01-49.1, 18.2-57, 18.2-121, and 52-8.5 – Hate crimes; gender, disability, gender identity, or sexual orientation; penalty. Adds gender, disability, gender identity, and sexual orientation to the categories of victims whose intentional selection for a hate crime involving assault, assault and battery, or trespass for the purpose of damaging another's property results in a higher criminal penalty for the offense. The bill also adds gender, disability, gender identity, and sexual orientation to the categories of hate crimes that are to be reported to the central repository of information regarding hate crimes maintained by the Virginia State Police. The bill provides that a person who is subjected to acts of intimidation or harassment, violence directed against his person, or vandalism to his real or personal property, where such acts are motivated by gender, disability, gender identity, or sexual orientation, may bring a civil action to recover his damages. The bill also provides that no provider or user of an interactive computer service on the Internet shall be liable for any action voluntarily taken by it in good faith to restrict access to material that the provider or user considers to be intended to incite hatred on the basis of gender, disability, gender identity, or sexual orientation. The bill also eliminates the mandatory minimum terms of confinement for such hate crimes. The provisions of the bill are contingent on funding in a general appropriation act. This bill incorporates **HB 488.**

HB787 – § 19.2-215.1 – Multi-jurisdiction grand jury; hate crimes. Adds the following to the list of crimes that a multi-jurisdiction grand jury may investigate: (i) simple assault or assault and battery where the victim was intentionally selected because of his race, religious conviction, gender, disability, gender identity, sexual orientation, color, or national origin; (ii) entering the property of another for purposes of damaging such property or its contents or interfering with the rights of the owner, user, or occupant where such property was intentionally selected because of the race, religious conviction, gender, disability, gender identity, sexual orientation, color, or national origin of the owner, user, or occupant; and (iii) various offenses that tend to cause violence.

SB752 – § 8.01-216.3 – Virginia Fraud Against Taxpayers Act; illegal gambling device. Adds possession of an illegal gambling device and knowingly concealing, avoiding, or decreasing an obligation to pay or transmit money to the Commonwealth that is derived from the operation of such device to the list of violations for which a civil penalty may be assessed against a person who is found to have committed any such violation.

SB378 – § 18.2-152.4 – Computer trespass; penalty. Expands the crime of computer trespass to provide that the prohibited actions that constitute computer trespass are criminalized if done through intentionally deceptive means and without authority and specifies that a computer hardware or software provider, an interactive computer service, or a telecommunications or cable operator does not have to provide notice of its activities to a computer user that a reasonable computer user should expect may occur. This bill incorporates **SB 844.**

HB821 – § 19.2-310.2:1 – Saliva or tissue sample required for DNA analysis after arrest for a violent felony. Clarifies that the Department of Forensic Science may retain a DNA sample from a person who was arrested for a violent felony if such person was convicted of a misdemeanor offense that would otherwise require the sample to remain in the DNA data bank.

HB1263 and SB538 – § 54.1-3446 – Drug Control Act; Schedule I. Adds certain chemicals to Schedule I of the Drug Control Act. The Board of Pharmacy has added these substances to Schedule I in an expedited regulatory process. A substance added via this process is removed from the schedule after 18 months unless a general law is enacted adding the substance to the schedule. This bill is identical to **SB 538.**

HB245 – §§ 4.1-225, 15.2-907, 15.2-1724, 17.1-275.13, 18.2-67.5:2, 18.2-67.9, 18.2-346, and 18.2-366 – Fornication; repeal. Repeals the crime of fornication, i.e., voluntary sexual intercourse by an unmarried person, punishable under current law as a Class 4 misdemeanor.

HB1044 – § 18.2-60.5 – Unauthorized use of electronic tracking device; penalty. Increases from a Class 3 misdemeanor to a Class 1 misdemeanor the punishment for a person who installs or places an electronic tracking device through intentionally deceptive means and without consent, or causes an electronic tracking device to be installed or placed through intentionally deceptive means and without consent, and uses such device to track the location of any person.

HB1076 – § 18.2-308 – Carrying concealed weapons; sling bow. Replaces "slingshot" with "sling bow" in the list of weapons a person is prohibited from carrying concealed. The bill also removes the Harbormaster of the City of Hopewell from the list of individuals who, while in the discharge of their official duties, or while in transit to or from such duties, are exempted from the prohibition on carrying a concealed weapon.

HB1006 and SB706 – § 63.2-1506.1 – Human trafficking assessments by local departments. Changes the name of sex trafficking assessments to human trafficking assessments and allows local departments of social services conducting such human trafficking assessments to interview the alleged child victim or his siblings without the consent and outside the presence of such child's or siblings' parent, guardian, legal custodian, or other person standing in loco parentis, or school personnel. This bill is a recommendation of the Virginia State Crime Commission. This bill is identical to **SB 706.**

HB1244 and SB812 – §§ 59.1-510, 59.1-513, 59.1-515, and 59.1-517 – Virginia Telephone Privacy Protection Act. Provides that for the purposes of the Virginia Telephone Privacy Act (the Act), "telephone solicitation call" includes any text message sent to any wireless telephone with a Virginia area code, or to a wireless telephone registered to any natural person who is a resident of the Commonwealth, for the purpose of offering or advertising any property, goods, or services for sale, lease, license, or investment, including offering or advertising an extension of credit or for the purpose of fraudulent activity. The bill prohibits a telephone solicitor from engaging in any conduct that results in the display of false or misleading caller identification information on the called party's telephone. The bill increases the amount of damages and the amount of the civil penalty for violations of the Act from $500 for each such violation to $500 for a first violation, $1,000 for a second violation, and $5,000 for each subsequent violation and increases to $5,000 the maximum civil penalty the court may impose for a willful first or second violation. This bill is identical to **SB 812.**

HB298 and SB724 – § 19.2-8 – Misdemeanor sexual offenses where the victim is a minor; statute of limitations. Increases the statute of limitations for prosecuting misdemeanor violations where the victim is a minor from one year after the victim reaches the age of majority to five years after the victim reaches the age of majority if the offender was an adult at the time of the offense and more than three years older than the victim for the following misdemeanor violations: carnal knowledge of detainee by employee of bail bond company, sexual battery, attempted sexual battery, infected sexual battery, sexual abuse of a child age 13 or 14 by an adult, and tongue penetration by adult of mouth of child under age 13 with lascivious intent. This bill is identical to **SB 724.**

HB904 – **§ 63.2-1509 – Child abuse and neglect reporting; public sports programs.** Adds to the list of mandatory reporters of suspected child abuse and neglect athletic coaches, directors, and other persons 18 years of age or older that are employed by or volunteering with a public sports organization or team. Current law applies only to such individuals involved with private sports organizations or teams.

HB557 – **§ 18.2-64.2 – Carnal knowledge of pretrial or posttrial offender; bail bondsmen; penalty.** Increases to a Class 6 felony from a Class 1 misdemeanor the penalty for an owner or employee of a bail bond company that posted bond for a person to carnally know such person if the owner or employee has the authority to revoke the person's bond.

HB1096 – **§ 18.2-127 – Injuries to churches or church property; dead animals.** Makes it a Class 1 misdemeanor for any person to maliciously place a dead animal within any church or on church property.

HB1330 – **§§ 18.2-374.1 and 18.2-374.1:1 – Possession, distribution, production, publication, sale, financing, etc., of child pornography; venue.** Provides that venue for a prosecution of child pornography possession, distribution, or production may lie in the jurisdiction where the alleged offender resides. Under current law, venue for a prosecution of such offense may lie only in the jurisdiction where the unlawful act occurs or where any sexually explicit visual material associated with the unlawful act is produced, reproduced, found, stored, or possessed. This bill incorporates **HB 478.**

FIREARMS – FULL TEXT

Firearms; removal from persons posing substantial risk; penalties. Creates a procedure by which any attorney for the Commonwealth or law-enforcement officer may apply to a general district court, circuit court, or juvenile and domestic relations district court judge or magistrate for an emergency substantial risk order to prohibit a person who poses a substantial risk of injury to himself or others from purchasing, possessing, or transporting a firearm. Upon service of an emergency substantial risk order, the person who is subject to the order shall be given the opportunity to voluntarily relinquish any firearm. An emergency substantial risk order shall expire on the fourteenth day following issuance of the order. The bill requires a court hearing in the circuit court for the jurisdiction where the order was issued within 14 days from issuance of an emergency substantial risk order to determine whether a substantial risk order should be issued. Seized firearms shall be retained by a law-enforcement agency for the duration of an emergency substantial risk order or a substantial risk order or, for a substantial risk order and with court approval, may be transferred to a third party 21 years of age or older chosen by the person from whom they were seized. The bill allows the complainant of the original warrant to file a motion for a hearing to extend the substantial risk order prior to its expiration. The court may extend the substantial risk order for a period not longer than 180 days. The bill provides that persons who are subject to a substantial risk order, until such order has been dissolved by a court, are guilty of a Class 1 misdemeanor for purchasing, possessing, or transporting a firearm; are disqualified from having a concealed handgun permit; and may not be employed by a licensed firearms dealer. The bill also provides that a person who transfers a firearm to a person he knows has been served with a warrant or who is the subject of a substantial risk order is guilty of a Class 4 felony. The bill creates a computerized substantial risk order registry for the entry of orders issued pursuant to provisions in the bill. This bill is identical to **SB 240.**

CHAPTER 887

*An Act to amend and reenact §§ **18.2-308.09**, **18.2-308.2:1**, **18.2-308.2:2**, and **18.2-308.2:3** of the Code of Virginia and to amend the Code of Virginia by adding a section numbered **18.2-308.1:6**, by adding in Title 19.2 a chapter numbered 9.2, consisting of sections numbered **19.2-152.13** through **19.2-152.17**, and by adding a section numbered **19.2-387.3**, relating to firearms; removal from persons posing substantial risk; penalties.*

[H 674]
Approved April 8, 2020

Be it enacted by the General Assembly of Virginia:

1. That §§ **18.2-308.09**, **18.2-308.2:1**, **18.2-308.2:2**, and **18.2-308.2:3** of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered **18.2-308.1:6**, by adding in Title 19.2 a chapter numbered 9.2, consisting of sections numbered **19.2-152.13** through **19.2-152.17**, and by adding a section numbered **19.2-387.3** as follows:

§ **18.2-308.09**. Disqualifications for a concealed handgun permit.

The following persons shall be deemed disqualified from obtaining a permit:

1. An individual who is ineligible to possess a firearm pursuant to § **18.2-308.1:1**, **18.2-308.1:2**, ~~or~~ **18.2-308.1:3**, *or* ***18.2-308.1:6*** or the substantially similar law of any other state or of the United States.

2. An individual who was ineligible to possess a firearm pursuant to § **18.2-308.1:1** and who was discharged from the custody of the Commissioner pursuant to § **19.2-182.7** less than five years before the date of his application for a concealed handgun permit.

3. An individual who was ineligible to possess a firearm pursuant to § **18.2-308.1:2** and whose competency or capacity was restored pursuant to § **64.2-2012** less than five years before the date of his application for a concealed handgun permit.

4. An individual who was ineligible to possess a firearm under § **18.2-308.1:3** and who was released from commitment less than five years before the date of this application for a concealed handgun permit.

5. An individual who is subject to a restraining order, or to a protective order and prohibited by § **18.2-308.1:4** from purchasing, possessing, or transporting a firearm.

6. (Effective until January 1, 2021) An individual who is prohibited by § **18.2-308.2** from possessing or transporting a firearm, except that a permit may be obtained in accordance with subsection C of that section.

6. (Effective January 1, 2021) An individual who is prohibited by § **18.2-308.2** from possessing or transporting a firearm, except that a restoration order may be obtained in accordance with subsection C of that section.

7. An individual who has been convicted of two or more misdemeanors within the five-year period immediately preceding the application, if one of the misdemeanors was a Class 1 misdemeanor, but the judge shall have the discretion to deny a permit for two or more misdemeanors that are not Class 1. Traffic infractions and misdemeanors set forth in Title 46.2 shall not be considered for purposes of this disqualification.

8. An individual who is addicted to, or is an unlawful user or distributor of, marijuana, synthetic cannabinoids, or any controlled substance.

9. An individual who has been convicted of a violation of § **18.2-266** or a substantially similar local ordinance, or of public drunkenness, or of a substantially similar offense under the laws of any other state, the District of Columbia, the United States, or its territories within the three-year period immediately preceding the application, or who is a habitual drunkard as determined pursuant to § **4.1-333**.

10. An alien other than an alien lawfully admitted for permanent residence in the United States.

11. An individual who has been discharged from the armed forces of the United States under dishonorable conditions.

12. An individual who is a fugitive from justice.

13. An individual who the court finds, by a preponderance of the evidence, based on specific acts by the applicant, is likely to use a weapon unlawfully or negligently to endanger others. The sheriff, chief of police, or attorney for the Commonwealth may submit to the court a sworn, written statement indicating that, in the opinion of such sheriff, chief of police, or attorney for the Commonwealth, based upon a disqualifying conviction or upon the specific acts set forth in the statement, the applicant is likely to use a weapon unlawfully or negligently to endanger others. The statement of the sheriff, chief of police, or the attorney for the Commonwealth shall be based upon personal knowledge of such individual or of a deputy sheriff, police officer, or assistant attorney for the Commonwealth of the specific acts, or upon a written statement made under oath before a notary public of a competent person having personal knowledge of the specific acts.

14. An individual who has been convicted of any assault, assault and battery, sexual battery, discharging of a firearm in violation of § **18.2-280** or **18.2-286.1** or brandishing of a firearm in violation of § **18.2-282** within the three-year period immediately preceding the application.

15. An individual who has been convicted of stalking.

16. An individual whose previous convictions or adjudications of delinquency were based on an offense that would have been at the time of conviction a felony if committed by an adult under the laws of any state, the District of Columbia, the United States or its territories. For purposes of this disqualifier, only convictions occurring within 16 years following the later of the date of (i) the conviction or adjudication or (ii) release from any incarceration imposed upon such conviction or adjudication shall be deemed to be "previous convictions." Disqualification under this subdivision shall not apply to an individual with previous adjudications of delinquency who has completed a term of service of no less than two years in the Armed Forces of the United States and, if such person has been discharged from the Armed Forces of the United States, received an honorable discharge.

17. An individual who has a felony charge pending or a charge pending for an offense listed in subdivision 14 or 15.

18. An individual who has received mental health treatment or substance abuse treatment in a residential setting within five years prior to the date of his application for a concealed handgun permit.

19. An individual not otherwise ineligible pursuant to this article, who, within the three-year period immediately preceding the application for the permit, was found guilty of any criminal offense set forth in Article 1 (§ **18.2-247** et seq.) or former § **18.2-248.1:1** or of a criminal offense of illegal possession or distribution of marijuana, synthetic cannabinoids, or any controlled substance, under the laws of any state, the District of Columbia, or the United States or its territories.

20. An individual, not otherwise ineligible pursuant to this article, with respect to whom, within the three-year period immediately preceding the application, upon a charge of any criminal offense set forth in Article 1 (§ **18.2-247** et seq.) or former § **18.2-248.1:1** or upon a charge of illegal possession or distribution of marijuana, synthetic cannabinoids, or any controlled substance under the laws of any state, the District of Columbia, or the United States or its territories, the trial court found that the facts of the case were sufficient for a finding of guilt and disposed of the case pursuant to § **18.2-251** or the substantially similar law of any other state, the District of Columbia, or the United States or its territories.

*§ **18.2-308.1:6**. Purchase, possession, or transportation of firearms by persons subject to substantial risk orders; penalty.*

*It is unlawful for any person who is subject to an emergency substantial risk order or a substantial risk order entered pursuant to § **19.2-152.13** or **19.2-152.14** or an order issued by a tribunal of another state, the United States or any of its territories, possessions, or commonwealths, or the District of Columbia pursuant to a statute that is substantially similar to § **19.2-152.13** or **19.2-152.14** to purchase, possess, or transport any firearm while the order is in effect. Any such person with a concealed handgun permit is prohibited from carrying any concealed firearm while the order is in effect and shall surrender his permit to the court entering the order pursuant to § **19.2-152.13** or **19.2-152.14**. A violation of this section is a Class 1 misdemeanor.*

§ **18.2-308.2:1**. Prohibiting the selling, etc., of firearms to certain persons.

Any person who sells, barters, gives or furnishes, or has in his possession or under his control with the intent of selling, bartering, giving or furnishing, any firearm to any person he knows is prohibited from possessing or transporting a firearm pursuant to § **18.2-308.1:1**, **18.2-308.1:2**, **18.2-308.1:3**, ***18.2-308.1:6***, *or* **18.2-308.2**, subsection B of § **18.2-308.2:01**, or § **18.2-308.7** ~~shall be~~ *is* guilty of a Class 4 felony. However, this prohibition shall not be applicable when the person convicted of the felony, adjudicated delinquent*,* or acquitted by reason of insanity has (i) been issued a permit pursuant to subsection C of § **18.2-308.2** or been granted relief pursuant to subsection B of § **18.2-308.1:1**~~,~~ or § **18.2-308.1:2** or **18.2-308.1:3**; (ii) been pardoned or had his political disabilities removed in accordance with subsection B of § **18.2-308.2**; or (iii) obtained a permit to ship, transport, possess or receive firearms pursuant to the laws of the United States.

§ **18.2-308.2:2**. Criminal history record information check required for the transfer of certain firearms.

A. Any person purchasing from a dealer a firearm as herein defined shall consent in writing, on a form to be provided by the Department of State Police, to have the dealer obtain criminal history record information. Such form shall include only the written consent; the name, birth date, gender, race, citizenship, and social security number and/or any other identification number; the number of firearms by category intended to be sold, rented, traded, or transferred; and answers by the applicant to the following questions: (i) has the applicant been convicted of a felony offense or found guilty or adjudicated delinquent as a juvenile 14 years of age or older at the time of the offense of a delinquent act that would be a felony if committed by an adult; (ii) is the applicant subject to a court order restraining the applicant from harassing, stalking, or threatening the applicant's child or intimate partner, or a child of such partner, or is the applicant subject to a protective order;~~ and~~ (iii) has the applicant ever been acquitted by reason of insanity and prohibited from purchasing, possessing*,* or transporting a firearm pursuant to § **18.2-308.1:1** or any substantially similar law of any other jurisdiction, been adjudicated legally incompetent, mentally incapacitated or adjudicated an incapacitated person and prohibited from purchasing a firearm pursuant to § **18.2-308.1:2** or any substantially similar law of any other jurisdiction, or been involuntarily admitted to an inpatient facility or involuntarily ordered to outpatient mental health treatment and prohibited from purchasing a firearm pursuant to § **18.2-308.1:3** or any substantially similar law of any other jurisdiction*; and (iv) is the applicant subject to an emergency substantial risk order or a substantial risk order entered pursuant to § **19.2-152.13** or **19.2-152.14** and prohibited from purchasing, possessing, or transporting a firearm pursuant to § **18.2-308.1:6** or any substantially similar law of any other jurisdiction*.

B. 1. No dealer shall sell, rent, trade or transfer from his inventory any such firearm to any other person who is a resident of Virginia until he has (i) obtained written consent and the other information on the consent form specified in subsection A, and provided the Department of State Police with the name, birth date, gender, race, citizenship, and social security and/or any other identification number and the number of firearms by category intended to be sold, rented, traded or transferred and (ii) requested criminal history record information by a telephone call to or other communication authorized by the State Police and is authorized by subdivision 2 to complete the sale or other such transfer. To establish personal identification and residence in Virginia for purposes of this section, a dealer must require any prospective purchaser to present one photo-identification form issued by a governmental agency of the Commonwealth or by the United States Department of Defense that demonstrates that the prospective purchaser resides in Virginia. For the purposes of this section and establishment of residency for firearm purchase, residency of a member of the armed forces shall include both the state in which the member's permanent duty post is located and any nearby state in which the member resides and from which he commutes to the permanent duty post. A member of the armed forces whose photo identification issued by the Department of Defense does not have a Virginia address may establish his Virginia

residency with such photo identification and either permanent orders assigning the purchaser to a duty post, including the Pentagon, in Virginia or the purchaser's Leave and Earnings Statement. When the photo identification presented to a dealer by the prospective purchaser is a driver's license or other photo identification issued by the Department of Motor Vehicles, and such identification form contains a date of issue, the dealer shall not, except for a renewed driver's license or other photo identification issued by the Department of Motor Vehicles, sell or otherwise transfer a firearm to the prospective purchaser until 30 days after the date of issue of an original or duplicate driver's license unless the prospective purchaser also presents a copy of his Virginia Department of Motor Vehicles driver's record showing that the original date of issue of the driver's license was more than 30 days prior to the attempted purchase.

In addition, no dealer shall sell, rent, trade, or transfer from his inventory any assault firearm to any person who is not a citizen of the United States or who is not a person lawfully admitted for permanent residence.

Upon receipt of the request for a criminal history record information check, the State Police shall (a) review its criminal history record information to determine if the buyer or transferee is prohibited from possessing or transporting a firearm by state or federal law, (b) inform the dealer if its record indicates that the buyer or transferee is so prohibited, and (c) provide the dealer with a unique reference number for that inquiry.

2. The State Police shall provide its response to the requesting dealer during the dealer's request, or by return call without delay. If the criminal history record information check indicates the prospective purchaser or transferee has a disqualifying criminal record or has been acquitted by reason of insanity and committed to the custody of the Commissioner of Behavioral Health and Developmental Services, the State Police shall have until the end of the dealer's next business day to advise the dealer if its records indicate the buyer or transferee is prohibited from possessing or transporting a firearm by state or federal law. If not so advised by the end of the dealer's next business day, a dealer who has fulfilled the requirements of subdivision 1 may immediately complete the sale or transfer and shall not be deemed in violation of this section with respect to such sale or transfer. In case of electronic failure or other circumstances beyond the control of the State Police, the dealer shall be advised immediately of the reason for such delay and be given an estimate of the length of such delay. After such notification, the State Police shall, as soon as possible but in no event later than the end of the dealer's next business day, inform the requesting dealer if its records indicate the buyer or transferee is prohibited from possessing or transporting a firearm by state or federal law. A dealer who fulfills the requirements of subdivision 1 and is told by the State Police that a response will not be available by the end of the dealer's next business day may immediately complete the sale or transfer and shall not be deemed in violation of this section with respect to such sale or transfer.

3. Except as required by subsection D of § **9.1-132**, the State Police shall not maintain records longer than 30 days, except for multiple handgun transactions for which records shall be maintained for 12 months, from any dealer's request for a criminal history record information check pertaining to a buyer or transferee who is not found to be prohibited from possessing and transporting a firearm under state or federal law. However, the log on requests made may be maintained for a period of 12 months, and such log shall consist of the name of the purchaser, the dealer identification number, the unique approval number and the transaction date.

4. On the last day of the week following the sale or transfer of any firearm, the dealer shall mail or deliver the written consent form required by subsection A to the Department of State Police. The State Police shall immediately initiate a search of all available criminal history record information to determine if the purchaser is prohibited from possessing or transporting a firearm under state or federal law. If the search discloses information indicating that the buyer or transferee is so prohibited from possessing or transporting a firearm, the

State Police shall inform the chief law-enforcement officer in the jurisdiction where the sale or transfer occurred and the dealer without delay.

5. Notwithstanding any other provisions of this section, rifles and shotguns may be purchased by persons who are citizens of the United States or persons lawfully admitted for permanent residence but residents of other states under the terms of subsections A and B upon furnishing the dealer with one photo-identification form issued by a governmental agency of the person's state of residence and one other form of identification determined to be acceptable by the Department of Criminal Justice Services.

6. For the purposes of this subsection, the phrase "dealer's next business day" shall not include December 25.

C. No dealer shall sell, rent, trade or transfer from his inventory any firearm, except when the transaction involves a rifle or a shotgun and can be accomplished pursuant to the provisions of subdivision B 5 to any person who is not a resident of Virginia unless he has first obtained from the Department of State Police a report indicating that a search of all available criminal history record information has not disclosed that the person is prohibited from possessing or transporting a firearm under state or federal law. The dealer shall obtain the required report by mailing or delivering the written consent form required under subsection A to the State Police within 24 hours of its execution. If the dealer has complied with the provisions of this subsection and has not received the required report from the State Police within 10 days from the date the written consent form was mailed to the Department of State Police, he shall not be deemed in violation of this section for thereafter completing the sale or transfer.

D. Nothing herein shall prevent a resident of the Commonwealth, at his option, from buying, renting or receiving a firearm from a dealer in Virginia by obtaining a criminal history record information check through the dealer as provided in subsection C.

E. If any buyer or transferee is denied the right to purchase a firearm under this section, he may exercise his right of access to and review and correction of criminal history record information under § **9.1-132** or institute a civil action as provided in § **9.1-135**, provided any such action is initiated within 30 days of such denial.

F. Any dealer who willfully and intentionally requests, obtains, or seeks to obtain criminal history record information under false pretenses, or who willfully and intentionally disseminates or seeks to disseminate criminal history record information except as authorized in this section shall be guilty of a Class 2 misdemeanor.

G. For purposes of this section:

"Actual buyer" means a person who executes the consent form required in subsection B or C, or other such firearm transaction records as may be required by federal law.

"Antique firearm" means:

1. Any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898;

2. Any replica of any firearm described in subdivision 1 of this definition if such replica (i) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition or (ii) uses rimfire or conventional

centerfire fixed ammunition that is no longer manufactured in the United States and that is not readily available in the ordinary channels of commercial trade;

3. Any muzzle-loading rifle, muzzle-loading shotgun, or muzzle-loading pistol that is designed to use black powder, or a black powder substitute, and that cannot use fixed ammunition. For purposes of this subdivision, the term "antique firearm" shall not include any weapon that incorporates a firearm frame or receiver, any firearm that is converted into a muzzle-loading weapon, or any muzzle-loading weapon that can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breech-block, or any combination thereof; or

4. Any curio or relic as defined in this subsection.

"Assault firearm" means any semi-automatic center-fire rifle or pistol which expels single or multiple projectiles by action of an explosion of a combustible material and is equipped at the time of the offense with a magazine which will hold more than 20 rounds of ammunition or designed by the manufacturer to accommodate a silencer or equipped with a folding stock.

"Curios or relics" means firearms that are of special interest to collectors by reason of some quality other than is associated with firearms intended for sporting use or as offensive or defensive weapons. To be recognized as curios or relics, firearms must fall within one of the following categories:

1. Firearms that were manufactured at least 50 years prior to the current date, which use rimfire or conventional centerfire fixed ammunition that is no longer manufactured in the United States and that is not readily available in the ordinary channels of commercial trade, but not including replicas thereof;

2. Firearms that are certified by the curator of a municipal, state, or federal museum that exhibits firearms to be curios or relics of museum interest; and

3. Any other firearms that derive a substantial part of their monetary value from the fact that they are novel, rare, bizarre, or because of their association with some historical figure, period, or event. Proof of qualification of a particular firearm under this category may be established by evidence of present value and evidence that like firearms are not available except as collectors' items, or that the value of like firearms available in ordinary commercial channels is substantially less.

"Dealer" means any person licensed as a dealer pursuant to 18 U.S.C. § 921 et seq.

"Firearm" means any handgun, shotgun, or rifle that will or is designed to or may readily be converted to expel single or multiple projectiles by action of an explosion of a combustible material.

"Handgun" means any pistol or revolver or other firearm originally designed, made and intended to fire single or multiple projectiles by means of an explosion of a combustible material from one or more barrels when held in one hand.

"Lawfully admitted for permanent residence" means the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed.

H. The Department of Criminal Justice Services shall promulgate regulations to ensure the identity, confidentiality and security of all records and data provided by the Department of State Police pursuant to this section.

I. The provisions of this section shall not apply to (i) transactions between persons who are licensed as firearms importers or collectors, manufacturers or dealers pursuant to 18 U.S.C. § 921 et seq.; (ii) purchases by or sales to any law-enforcement officer or agent of the United States, the Commonwealth or any local government, or any campus police officer appointed under Article 3 (§ **23.1-809** et seq.) of Chapter 8 of Title 23.1; or (iii) antique firearms, curios or relics.

J. The provisions of this section shall not apply to restrict purchase, trade or transfer of firearms by a resident of Virginia when the resident of Virginia makes such purchase, trade or transfer in another state, in which case the laws and regulations of that state and the United States governing the purchase, trade or transfer of firearms shall apply. A National Instant Criminal Background Check System (NICS) check shall be performed prior to such purchase, trade or transfer of firearms.

J1. All licensed firearms dealers shall collect a fee of $2 for every transaction for which a criminal history record information check is required pursuant to this section, except that a fee of $5 shall be collected for every transaction involving an out-of-state resident. Such fee shall be transmitted to the Department of State Police by the last day of the month following the sale for deposit in a special fund for use by the State Police to offset the cost of conducting criminal history record information checks under the provisions of this section.

K. Any person willfully and intentionally making a materially false statement on the consent form required in subsection B or C or on such firearm transaction records as may be required by federal law, shall be guilty of a Class 5 felony.

L. Except as provided in § **18.2-308.2:1**, any dealer who willfully and intentionally sells, rents, trades or transfers a firearm in violation of this section shall be guilty of a Class 6 felony.

L1. Any person who attempts to solicit, persuade, encourage, or entice any dealer to transfer or otherwise convey a firearm other than to the actual buyer, as well as any other person who willfully and intentionally aids or abets such person, shall be guilty of a Class 6 felony. This subsection shall not apply to a federal law-enforcement officer or a law-enforcement officer as defined in § **9.1-101**, in the performance of his official duties, or other person under his direct supervision.

M. Any person who purchases a firearm with the intent to (i) resell or otherwise provide such firearm to any person who he knows or has reason to believe is ineligible to purchase or otherwise receive from a dealer a firearm for whatever reason or (ii) transport such firearm out of the Commonwealth to be resold or otherwise provided to another person who the transferor knows is ineligible to purchase or otherwise receive a firearm, shall be guilty of a Class 4 felony and sentenced to a mandatory minimum term of imprisonment of one year. However, if the violation of this subsection involves such a transfer of more than one firearm, the person shall be sentenced to a mandatory minimum term of imprisonment of five years. The prohibitions of this subsection shall not apply to the purchase of a firearm by a person for the lawful use, possession, or transport thereof, pursuant to § **18.2-308.7**, by his child, grandchild, or individual for whom he is the legal guardian if such child, grandchild, or individual is ineligible, solely because of his age, to purchase a firearm.

N. Any person who is ineligible to purchase or otherwise receive or possess a firearm in the Commonwealth who solicits, employs or assists any person in violating subsection M shall be guilty of a Class 4 felony and shall be sentenced to a mandatory minimum term of imprisonment of five years.

O. Any mandatory minimum sentence imposed under this section shall be served consecutively with any other sentence.

P. All driver's licenses issued on or after July 1, 1994, shall carry a letter designation indicating whether the driver's license is an original, duplicate or renewed driver's license.

Q. Prior to selling, renting, trading, or transferring any firearm owned by the dealer but not in his inventory to any other person, a dealer may require such other person to consent to have the dealer obtain criminal history record information to determine if such other person is prohibited from possessing or transporting a firearm by state or federal law. The Department of State Police shall establish policies and procedures in accordance with 28 C.F.R. § 25.6 to permit such determinations to be made by the Department of State Police, and the processes established for making such determinations shall conform to the provisions of this section.

§ **18.2-308.2:3**. Criminal background check required for employees of a gun dealer to transfer firearms; exemptions; penalties.

A. No person, corporation, or proprietorship licensed as a firearms dealer pursuant to 18 U.S.C. § 921 et seq. shall employ any person to act as a seller, whether full-time or part-time, permanent, temporary, paid or unpaid, for the transfer of firearms under § **18.2-308.2:2**, if such employee would be prohibited from possessing a firearm under § **18.2-308.1:1**, **18.2-308.1:2**, ~~or~~ **18.2-308.1:3**, *or* ***18.2-308.1:6***, subsection B of § **18.2-308.1:4**, or § **18.2-308.2** or **18.2-308.2:01** or is an illegal alien, or is prohibited from purchasing or transporting a firearm pursuant to subsection A of § **18.2-308.1:4** or § **18.2-308.1:5**.

B. Prior to permitting an applicant to begin employment, the dealer shall obtain a written statement or affirmation from the applicant that he is not disqualified from possessing a firearm and shall submit the applicant's fingerprints and personal descriptive information to the Central Criminal Records Exchange to be forwarded to the Federal Bureau of Investigation (FBI) for the purpose of obtaining national criminal history record information regarding the applicant.

C. Prior to August 1, 2000, the dealer shall obtain written statements or affirmations from persons employed before July 1, 2000, to act as a seller under § **18.2-308.2:2** that they are not disqualified from possessing a firearm. Within five working days of the employee's next birthday, after August 1, 2000, the dealer shall submit the employee's fingerprints and personal descriptive information to the Central Criminal Records Exchange to be forwarded to the Federal Bureau of Investigation (FBI) for the purpose of obtaining national criminal history record information regarding the request.

C1. In lieu of submitting fingerprints pursuant to this section, any dealer holding a valid federal firearms license (FFL) issued by the Bureau of Alcohol, Tobacco and Firearms (ATF) may submit a sworn and notarized affidavit to the Department of State Police on a form provided by the Department, stating that the dealer has been subjected to a record check prior to the issuance and that the FFL was issued by the ATF. The affidavit may also contain the names of any employees that have been subjected to a record check and approved by the ATF. This exemption shall apply regardless of whether the FFL was issued in the name of the dealer or in the name of the business. The affidavit shall contain the valid FFL number, state the name of each person requesting the

exemption, together with each person's identifying information, including their social security number and the following statement: "I hereby swear, under the penalty of perjury, that as a condition of obtaining a federal firearms license, each person requesting an exemption in this affidavit has been subjected to a fingerprint identification check by the Bureau of Alcohol, Tobacco and Firearms and the Bureau of Alcohol, Tobacco and Firearms subsequently determined that each person satisfied the requirements of 18 U.S.C. § 921 et seq. I understand that any person convicted of making a false statement in this affidavit is guilty of a Class 5 felony and that in addition to any other penalties imposed by law, a conviction under this section shall result in the forfeiture of my federal firearms license."

D. The Department of State Police, upon receipt of an individual's record or notification that no record exists, shall submit an eligibility report to the requesting dealer within 30 days of the applicant beginning his duties for new employees or within 30 days of the applicant's birthday for a person employed prior to July 1, 2000.

E. If any applicant is denied employment because of information appearing on the criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon written request, furnish to the applicant the procedures for obtaining a copy of the criminal history record from the Federal Bureau of Investigation. The information provided to the dealer shall not be disseminated except as provided in this section.

F. The applicant shall bear the cost of obtaining the criminal history record unless the dealer, at his option, decides to pay such cost.

G. Upon receipt of the request for a criminal history record information check, the State Police shall establish a unique number for that firearm seller. Beginning September 1, 2001, the firearm seller's signature, firearm seller's number and the dealer's identification number shall be on all firearm transaction forms. The State Police shall void the firearm seller's number when a disqualifying record is discovered. The State Police may suspend a firearm seller's identification number upon the arrest of the firearm seller for a potentially disqualifying crime.

H. This section shall not restrict the transfer of a firearm at any place other than at a dealership or at any event required to be registered as a gun show.

I. Any person who willfully and intentionally requests, obtains, or seeks to obtain criminal history record information under false pretenses, or who willfully and intentionally disseminates or seeks to disseminate criminal history record information except as authorized by this section and § **18.2-308.2:2**, shall be guilty of a Class 2 misdemeanor.

J. Any person willfully and intentionally making a materially false statement on the personal descriptive information required in this section shall be guilty of a Class 5 felony. Any person who offers for transfer any firearm in violation of this section shall be guilty of a Class 1 misdemeanor. Any dealer who willfully and knowingly employs or permits a person to act as a firearm seller in violation of this section shall be guilty of a Class 1 misdemeanor.

K. There is no civil liability for any seller for the actions of any purchaser or subsequent transferee of a firearm lawfully transferred pursuant to this section.

L. The provisions of this section requiring a seller's background check shall not apply to a licensed dealer.

M. Any person who willfully and intentionally makes a false statement in the affidavit as set out in subdivision C 1 shall be guilty of a Class 5 felony.

N. For purposes of this section:

"Dealer" means any person, corporation or proprietorship licensed as a dealer pursuant to 18 U.S.C. § 921 et seq.

"Firearm" means any handgun, shotgun, or rifle that will or is designed to or may readily be converted to expel single or multiple projectiles by action of an explosion of a combustible material.

"Place of business" means any place or premises where a dealer may lawfully transfer firearms.

"Seller" means for the purpose of any single sale of a firearm any person who is a dealer or an agent of a dealer, who may lawfully transfer firearms and who actually performs the criminal background check in accordance with the provisions of § **18.2-308.2:2**.

"Transfer" means any act performed with intent to sell, rent, barter, trade or otherwise transfer ownership or permanent possession of a firearm at the place of business of a dealer.

CHAPTER 9.2.
SUBSTANTIAL RISK ORDERS.

*§ **19.2-152.13**. Emergency substantial risk order.*

*A. Upon the petition of an attorney for the Commonwealth or a law-enforcement officer, a judge of a circuit court, general district court, or juvenile and domestic relations district court or a magistrate, upon a finding that there is probable cause to believe that a person poses a substantial risk of personal injury to himself or others in the near future by such person's possession or acquisition of a firearm, shall issue an ex parte emergency substantial risk order. Such order shall prohibit the person who is subject to the order from purchasing, possessing, or transporting a firearm for the duration of the order. In determining whether probable cause for the issuance of an order exists, the judge or magistrate shall consider any relevant evidence, including any recent act of violence, force, or threat as defined in § **19.2-152.7:1** by such person directed toward another person or toward himself. No petition shall be filed unless an independent investigation has been conducted by law enforcement that determines that grounds for the petition exist. The order shall contain a statement (i) informing the person who is subject to the order of the requirements and penalties under § **18.2-308.1:6**, including that it is unlawful for such person to purchase, possess, or transport a firearm for the duration of the order and that such person is required to surrender his concealed handgun permit if he possesses such permit, and (ii) advising such person to voluntarily relinquish any firearm within his custody to the law-enforcement agency that serves the order.*

B. The petition for an emergency substantial risk order shall be made under oath and shall be supported by an affidavit.

C. Upon service of an emergency substantial risk order, the person who is subject to the order shall be given the opportunity to voluntarily relinquish any firearm in his possession. The law-enforcement agency that executed the emergency substantial risk order shall take custody of all firearms that are voluntarily relinquished by such person. The law-enforcement agency that takes into custody a firearm pursuant to the order shall prepare a

written receipt containing the name of the person who is subject to the order and the manufacturer, model, condition, and serial number of the firearm and shall provide a copy thereof to such person. Nothing in this subsection precludes a law-enforcement officer from later obtaining a search warrant for any firearms if the law-enforcement officer has reason to believe that the person who is subject to an emergency substantial risk order has not relinquished all firearms in his possession.

D. An emergency substantial risk order issued pursuant to this section shall expire at 11:59 p.m. on the fourteenth day following issuance of the order. If the expiration occurs on a day that the circuit court for the jurisdiction where the order was issued is not in session, the order shall be extended until 11:59 p.m. on the next day that the circuit court is in session. The person who is subject to the order may at any time file with the circuit court a motion to dissolve the order.

*E. An emergency substantial risk order issued pursuant to this section is effective upon personal service on the person who is subject to the order. The order shall be served forthwith after issuance. A copy of the order, petition, and supporting affidavit shall be given to the person who is subject to the order together with a notice informing the person that he has a right to a hearing under § **19.2-152.14** and may be represented by counsel at the hearing.*

*F. The court or magistrate shall forthwith, but in all cases no later than the end of the business day on which the emergency substantial risk order was issued, enter and transfer electronically to the Virginia Criminal Information Network (VCIN) established and maintained by the Department of State Police (Department) pursuant to Chapter 2 (§ **52-12** et seq.) of Title 52 the identifying information of the person who is subject to the order provided to the court or magistrate. A copy of an order issued pursuant to this section containing any such identifying information shall be forwarded forthwith to the primary law-enforcement agency responsible for service and entry of the order. Upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department into the VCIN, and the order shall be served forthwith upon the person who is subject to the order. However, if the order is issued by the circuit court, the clerk of the circuit court shall forthwith forward an attested copy of the order containing the identifying information of the person who is subject to the order provided to the court to the primary law-enforcement agency providing service and entry of the order. Upon receipt of the order by the primary law-enforcement agency, the agency shall enter the name of the person subject to the order and other appropriate information required by the Department into the VCIN and the order shall be served forthwith upon the person who is subject to the order. Upon service, the agency making service shall enter the date and time of service and other appropriate information required into the VCIN and make due return to the court. If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be attested and forwarded forthwith to the primary law-enforcement agency responsible for service and entry of the order. Upon receipt of the dissolution or modification order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department into the VCIN and the order shall be served forthwith.*

G. The law-enforcement agency that serves the emergency substantial risk order shall make due return to the circuit court, which shall be accompanied by a written inventory of all firearms relinquished.

H. Proceedings in which an emergency substantial risk order is sought pursuant to this section shall be commenced where the person who is subject to the order (i) has his principal residence or (ii) has engaged in any conduct upon which the petition for the emergency substantial risk order is based.

I. A proceeding for a substantial risk order shall be a separate civil legal proceeding subject to the same rules as civil proceedings.

*§ **19.2-152.14**. Substantial risk order.*

*A. Not later than 14 days after the issuance of an emergency substantial risk order pursuant to § **19.2-152.13**, the circuit court for the jurisdiction where the order was issued shall hold a hearing to determine whether a substantial risk order should be entered. The attorney for the Commonwealth for the jurisdiction that issued the emergency substantial risk order shall represent the interests of the Commonwealth. Notice of the hearing shall be given to the person subject to the emergency substantial risk order and the attorney for the Commonwealth. Upon motion of the respondent and for good cause shown, the court may continue the hearing, provided that the order shall remain in effect until the hearing. The Commonwealth shall have the burden of proving all material facts by clear and convincing evidence. If the court finds by clear and convincing evidence that the person poses a substantial risk of personal injury to himself or to other individuals in the near future by such person's possession or acquisition of a firearm, the court shall issue a substantial risk order. Such order shall prohibit the person who is subject to the order from purchasing, possessing, or transporting a firearm for the duration of the order. In determining whether clear and convincing evidence for the issuance of an order exists, the judge shall consider any relevant evidence including any recent act of violence, force, or threat as defined in § **19.2-152.7:1** by such person directed toward another person or toward himself. The order shall contain a statement (i) informing the person who is subject to the order of the requirements and penalties under § **18.2-308.1:6**, including that it is unlawful for such person to purchase, possess, or transport a firearm for the duration of the order and that such person is required to surrender his concealed handgun permit if he possesses such permit, and (ii) advising such person to voluntarily relinquish any firearm that has not been taken into custody to the law-enforcement agency that served the emergency substantial risk order.*

*B. If the court issues a substantial risk order pursuant to subsection A, the court shall (i) order that any firearm that was previously relinquished pursuant to § **19.2-152.13** from the person who is subject to the substantial risk order continue to be held by the agency that has custody of the firearm for the duration of the order and (ii) advise such person that a law-enforcement officer may obtain a search warrant to search for any firearms from such person if such law-enforcement officer has reason to believe that such person has not relinquished all firearms in his possession.*

*If the court finds that the person does not pose a substantial risk of personal injury to himself or to other individuals in the near future, the court shall order that any firearm that was previously relinquished be returned to such person in accordance with the provisions of § **19.2-152.15**.*

C. The substantial risk order may be issued for a specified period of time up to a maximum of 180 days. The order shall expire at 11:59 p.m. on the last day specified or at 11:59 p.m. on the last day of the 180-day period if no date is specified. Prior to the expiration of the order, an attorney for the Commonwealth or a law-enforcement officer may file a written motion requesting a hearing to extend the order. Proceedings to extend an order shall be given precedence on the docket of the court. The court may extend the order for a period not longer than 180 days if the court finds by clear and convincing evidence that the person continues to pose a substantial risk of personal injury to himself or to other individuals in the near future by such person's possession or acquisition of a firearm at the time the request for an extension is made. The extension of the order shall expire at 11:59 p.m. on the last day specified or at 11:59 p.m. on the last day of the 180-day period if no date is specified. Nothing herein shall limit the number of extensions that may be requested or issued. The

person who is subject to the order may file a motion to dissolve the order one time during the duration of the order; however, such motion may not be filed earlier than 30 days from the date the order was issued.

*D. Any person whose firearm has been voluntarily relinquished pursuant to § **19.2-152.13** or this section, or such person's legal representative, may transfer the firearm to another individual 21 years of age or older who is not otherwise prohibited by law from possessing such firearm, provided that:*

1. The person subject to the order and the transferee appear at the hearing;

2. At the hearing, the attorney for the Commonwealth advises the court that a law-enforcement agency has determined that the transferee is not prohibited from possessing or transporting a firearm;

3. The transferee does not reside with the person subject to the order;

*4. The court informs the transferee of the requirements and penalties under § **18.2-308.2:1**; and*

5. The court, after considering all relevant factors and any evidence or testimony from the person subject to the order, approves the transfer of the firearm subject to such restrictions as the court deems necessary.

The law-enforcement agency holding the firearm shall deliver the firearm to the transferee within five days of receiving a copy of the court's approval of the transfer.

*E. The court shall forthwith, but in all cases no later than the end of the business day on which the substantial risk order was issued, enter and transfer electronically to the Virginia Criminal Information Network (VCIN) established and maintained by the Department of State Police (Department) pursuant to Chapter 2 (§ **52-12** et seq.) of Title 52 the identifying information of the person who is subject to the order provided to the court and shall forthwith forward the attested copy of the order containing any such identifying information to the primary law-enforcement agency responsible for service and entry of the order. Upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department into the VCIN and the order shall be served forthwith upon the person who is subject to the order and due return made to the court. Upon service, the agency making service shall enter the date and time of service and other appropriate information required by the Department into the VCIN and make due return to the court. If the person who is subject to an emergency substantial risk order fails to appear at the hearing conducted pursuant to this section because such person was not personally served with notice of the hearing pursuant to subsection A, or if personally served was incarcerated and not transported to the hearing, the court may extend the emergency substantial risk order for a period not to exceed 14 days. The extended emergency substantial risk order shall specify a date for a hearing to be conducted pursuant to this section and shall be served forthwith on such person and due return made to the court. If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be attested and forwarded forthwith to the primary law-enforcement agency responsible for service and entry of the order. Upon receipt of the dissolution or modification order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network, and the order shall be served forthwith and due return made to the court.*

*§ **19.2-152.15**. Return or disposal of firearms.*

*A. Any firearm taken into custody pursuant to § **19.2-152.13** or **19.2-152.14** and held by a law-enforcement agency shall be returned by such agency to the person from whom the firearm was taken upon a court order for the return of the firearm issued pursuant to § **19.2-152.14** or the expiration or dissolution of an order issued pursuant to § **19.2-152.13** or **19.2-152.14**. Such agency shall return the firearm within five days of receiving a written request for the return of the firearm by the person from whom the firearm was taken and a copy of the receipt provided to such person pursuant to § **19.2-152.13**. Prior to returning the firearm to such person, the law-enforcement agency holding the firearm shall confirm that such person is no longer subject to an order issued pursuant to § **19.2-152.13** or **19.2-152.14** and is not otherwise prohibited by law from possessing a firearm.*

*B. A firearm taken into custody pursuant to pursuant to § **19.2-152.13** or **19.2-152.14** and held by a law-enforcement agency may be disposed of in accordance with the provisions of § **15.2-1721** if (i) the person from whom the firearm was taken provides written authorization for such disposal to the agency or (ii) the firearm remains in the possession of the agency more than 120 days after such person is no longer subject to an order issued pursuant to § **19.2-152.13** or **19.2-152.14** and such person has not submitted a request in writing for the return of the firearm.*

*§ **19.2-152.16**. False statement to law-enforcement officer, etc.; penalty.*

Any person who knowingly and willfully makes any materially false statement or representation to a law-enforcement officer or attorney for the Commonwealth who is in the course of conducting an investigation undertaken pursuant to this chapter is guilty of a Class 1 misdemeanor.

*§ **19.2-152.17**. Immunity of law-enforcement officers, etc.; chapter not exclusive.*

A. An attorney for the Commonwealth or a law-enforcement officer shall be immune from civil liability for any act or omission related to petitioning or declining to petition for a substantial risk order pursuant to this chapter.

*B. Any law-enforcement agency or law-enforcement officer that takes into custody, stores, possesses, or transports a firearm pursuant to § **19.2-152.13** or **19.2-152.14**, or by a search warrant for a person who has failed to voluntarily relinquish his firearm, shall be immune from civil or criminal liability for any damage to or deterioration, loss, or theft of such firearm.*

C. Nothing in this chapter precludes a law-enforcement officer from conducting a search for a firearm or removing a firearm from a person under any other lawful authority.

*§ **19.2-387.3**. Substantial Risk Order Registry; maintenance; access.*

*A. The Department of State Police shall keep and maintain a computerized Substantial Risk Order Registry (the Registry) for the entry of orders issued pursuant to § **19.2-152.13** or **19.2-152.14**. The purpose of the Registry shall be to assist the efforts of law-enforcement agencies to protect their communities and their citizens. The Department of State Police shall make the Registry information available, upon request, to criminal justice agencies, including local law-enforcement agencies, through the Virginia Criminal Information Network. Registry information provided under this section shall be used only for the purposes of the administration of criminal justice as defined in § **9.1-101**.*

B. No liability shall be imposed upon any law-enforcement official who disseminates information or fails to disseminate information in good faith compliance with the requirements of this section, but this provision shall not be construed to grant immunity for gross negligence or willful misconduct.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § **30-19.1:4** of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 854 of the Acts of Assembly of 2019 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § **30-19.1:4** of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

3. That the Supreme Court shall create standard forms to implement the intent of this act.

Allowing access to firearms by minors; penalty. Provides that any person who recklessly leaves a loaded, unsecured firearm in such a manner as to endanger the life or limb of any person under the age of 14 is guilty of a Class 1 misdemeanor. Current law provides that any person who recklessly leaves a loaded, unsecured firearm in such a manner as to endanger the life or limb of any child under the age of 14 is guilty of a Class 3 misdemeanor. This bill incorporates **HB 72** and **HB 463.**

CHAPTER 742

*An Act to amend and reenact § **18.2-56.2** of the Code of Virginia, relating to allowing access to firearms by minors; penalty.*

[H 1083]

Approved April 6, 2020

Be it enacted by the General Assembly of Virginia:

1. That § **18.2-56.2** of the Code of Virginia is amended and reenacted as follows:

§ **18.2-56.2**. Allowing access to firearms by children; penalty.

A. It shall be unlawful for any person to recklessly leave a loaded, unsecured firearm in such a manner as to endanger the life or limb of any child under the age of fourteen. Any person violating the provisions of this subsection shall be guilty of a ~~Class 3 misdemeanor~~ *Class 1 misdemeanor*.

B. It shall be unlawful for any person knowingly to authorize a child under the age of twelve to use a firearm except when the child is under the supervision of an adult. Any person violating this subsection shall be guilty of a Class 1 misdemeanor. For purposes of this subsection, "adult" shall mean a parent, guardian, person standing in loco parentis to the child or a person twenty-one years or over who has the permission of the parent, guardian, or person standing in loco parentis to supervise the child in the use of a firearm.

Firearm sales; criminal history record information checks; penalty. Requires a background check for any firearm sale and directs the Department of State Police (the Department) to establish a process for transferors to obtain such a background check from licensed firearms dealers. A person who sells a firearm to another person without obtaining the required background check is guilty of a Class 1 misdemeanor. The bill also provides that a purchaser who receives a firearm from another person without obtaining the required background check is guilty of a Class 1 misdemeanor. The bill removes the provision that makes background checks of prospective purchasers or transferees at firearms shows voluntary. The bill also provides that the Department shall have three business days to complete a background check before a firearm may be transferred. This bill incorporates **HB 355** and is identical to **SB 70.**

CHAPTER 1111

*An Act to amend and reenact §§ **18.2-308.2**, as it is currently effective and as it shall become effective, **18.2-308.2:2**, **22.1-277.07**, and **54.1-4201.2** of the Code of Virginia and to amend the Code of Virginia by adding a section numbered **18.2-308.2:5**, relating to firearm sales; criminal history record information check; penalty.*

[H 2]
Approved April 10, 2020

Be it enacted by the General Assembly of Virginia:

1. That §§ **18.2-308.2**, as it is currently effective and as it shall become effective, **18.2-308.2:2**, **22.1-277.07**, and **54.1-4201.2** of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered **18.2-308.2:5** as follows:

§ **18.2-308.2**. (Effective until January 1, 2021) Possession or transportation of firearms, firearms ammunition, stun weapons, explosives or concealed weapons by convicted felons; penalties; petition for permit; when issued.

A. It shall be unlawful for (i) any person who has been convicted of a felony; (ii) any person adjudicated delinquent as a juvenile 14 years of age or older at the time of the offense of murder in violation of § **18.2-31** or **18.2-32**, kidnapping in violation of § **18.2-47**, robbery by the threat or presentation of firearms in violation of § **18.2-58**, or rape in violation of § **18.2-61**; or (iii) any person under the age of 29 who was adjudicated delinquent as a juvenile 14 years of age or older at the time of the offense of a delinquent act which would be a felony if committed by an adult, other than those felonies set forth in clause (ii), whether such conviction or adjudication occurred under the laws of the Commonwealth, or any other state, the District of Columbia, the United States or any territory thereof, to knowingly and intentionally possess or transport any firearm or ammunition for a firearm, any stun weapon as defined by § **18.2-308.1**, or any explosive material, or to knowingly and intentionally carry about his person, hidden from common observation, any weapon described in subsection A of § **18.2-308**. However, such person may possess in his residence or the curtilage thereof a stun weapon as defined by § **18.2-308.1**. Any person who violates this section shall be guilty of a Class 6 felony. However, any person who violates this section by knowingly and intentionally possessing or transporting any firearm and who was previously convicted of a violent felony as defined in § **17.1-805** shall be sentenced to a mandatory minimum term of imprisonment of five years. Any person who violates this section by knowingly and intentionally possessing or transporting any firearm and who was previously convicted of any other felony within the prior 10 years shall be sentenced to a mandatory minimum term of imprisonment of two years. The mandatory minimum terms of imprisonment prescribed for violations of this section shall be served consecutively with any other sentence.

B. The prohibitions of subsection A shall not apply to (i) any person who possesses a firearm, ammunition for a firearm, explosive material or other weapon while carrying out his duties as a member of the Armed Forces of

the United States or of the National Guard of Virginia or of any other state, (ii) any law-enforcement officer in the performance of his duties, (iii) any person who has been pardoned or whose political disabilities have been removed pursuant to Article V, Section 12 of the Constitution of Virginia provided the Governor, in the document granting the pardon or removing the person's political disabilities, may expressly place conditions upon the reinstatement of the person's right to ship, transport, possess or receive firearms, (iv) any person whose right to possess firearms or ammunition has been restored under the law of another state subject to conditions placed upon the reinstatement of the person's right to ship, transport, possess, or receive firearms by such state, or (v) any person adjudicated delinquent as a juvenile who has completed a term of service of no less than two years in the Armed Forces of the United States and, if such person has been discharged from the Armed Forces of the United States, received an honorable discharge and who is not otherwise prohibited under clause (i) or (ii) of subsection A.

C. Any person prohibited from possessing, transporting, or carrying a firearm, ammunition for a firearm, or a stun weapon under subsection A may petition the circuit court of the jurisdiction in which he resides or, if the person is not a resident of the Commonwealth, the circuit court of any county or city where such person was last convicted of a felony or adjudicated delinquent of a disqualifying offense pursuant to subsection A, for a permit to possess or carry a firearm, ammunition for a firearm, or a stun weapon; however, no person who has been convicted of a felony shall be qualified to petition for such a permit unless his civil rights have been restored by the Governor or other appropriate authority. A copy of the petition shall be mailed or delivered to the attorney for the Commonwealth for the jurisdiction where the petition was filed who shall be entitled to respond and represent the interests of the Commonwealth. The court shall conduct a hearing if requested by either party. The court may, in its discretion and for good cause shown, grant such petition and issue a permit. The provisions of this section relating to firearms, ammunition for a firearm, and stun weapons shall not apply to any person who has been granted a permit pursuant to this subsection.

C1. Any person who was prohibited from possessing, transporting or carrying explosive material under subsection A may possess, transport or carry such explosive material if his right to possess, transport or carry explosive material has been restored pursuant to federal law.

C2. The prohibitions of subsection A shall not prohibit any person other than a person convicted of an act of violence as defined in § **19.2-297.1** or a violent felony as defined in subsection C of § **17.1-805** from possessing, transporting, or carrying (i) antique firearms or (ii) black powder in a quantity not exceeding five pounds if it is intended to be used solely for sporting, recreational, or cultural purposes in antique firearms. For the purposes of this subsection, "antique firearms" means any firearm described in subdivision 3 of the definition of "antique firearm" in subsection ~~G~~ *F* of § **18.2-308.2:2**.

D. For the purpose of this section:

"Ammunition for a firearm" means the combination of a cartridge, projectile, primer, or propellant designed for use in a firearm other than an antique firearm as defined in § **18.2-308.2:2**.

"Explosive material" means any chemical compound mixture, or device, the primary or common purpose of which is to function by explosion; the term includes, but is not limited to, dynamite and other high explosives, black powder, pellet powder, smokeless gun powder, detonators, blasting caps and detonating cord but shall not include fireworks or permissible fireworks as defined in § **27-95**.

§ **18.2-308.2**. (Effective January 1, 2021) Possession or transportation of firearms, firearms ammunition, stun weapons, explosives or concealed weapons by convicted felons; penalties; petition for restoration order; when issued.

A. It shall be unlawful for (i) any person who has been convicted of a felony; (ii) any person adjudicated delinquent as a juvenile 14 years of age or older at the time of the offense of murder in violation of § **18.2-31** or **18.2-32**, kidnapping in violation of § **18.2-47**, robbery by the threat or presentation of firearms in violation of § **18.2-58**, or rape in violation of § **18.2-61**; or (iii) any person under the age of 29 who was adjudicated delinquent as a juvenile 14 years of age or older at the time of the offense of a delinquent act which would be a felony if committed by an adult, other than those felonies set forth in clause (ii), whether such conviction or adjudication occurred under the laws of the Commonwealth, or any other state, the District of Columbia, the United States or any territory thereof, to knowingly and intentionally possess or transport any firearm or ammunition for a firearm, any stun weapon as defined by § **18.2-308.1**, or any explosive material, or to knowingly and intentionally carry about his person, hidden from common observation, any weapon described in subsection A of § **18.2-308**. However, such person may possess in his residence or the curtilage thereof a stun weapon as defined by § **18.2-308.1**. Any person who violates this section shall be guilty of a Class 6 felony. However, any person who violates this section by knowingly and intentionally possessing or transporting any firearm and who was previously convicted of a violent felony as defined in § **17.1-805** shall be sentenced to a mandatory minimum term of imprisonment of five years. Any person who violates this section by knowingly and intentionally possessing or transporting any firearm and who was previously convicted of any other felony within the prior 10 years shall be sentenced to a mandatory minimum term of imprisonment of two years. The mandatory minimum terms of imprisonment prescribed for violations of this section shall be served consecutively with any other sentence.

B. The prohibitions of subsection A shall not apply to (i) any person who possesses a firearm, ammunition for a firearm, explosive material or other weapon while carrying out his duties as a member of the Armed Forces of the United States or of the National Guard of Virginia or of any other state, (ii) any law-enforcement officer in the performance of his duties, (iii) any person who has been pardoned or whose political disabilities have been removed pursuant to Article V, Section 12 of the Constitution of Virginia provided the Governor, in the document granting the pardon or removing the person's political disabilities, may expressly place conditions upon the reinstatement of the person's right to ship, transport, possess or receive firearms, (iv) any person whose right to possess firearms or ammunition has been restored under the law of another state subject to conditions placed upon the reinstatement of the person's right to ship, transport, possess, or receive firearms by such state, or (v) any person adjudicated delinquent as a juvenile who has completed a term of service of no less than two years in the Armed Forces of the United States and, if such person has been discharged from the Armed Forces of the United States, received an honorable discharge and who is not otherwise prohibited under clause (i) or (ii) of subsection A.

C. Any person prohibited from possessing, transporting, or carrying a firearm, ammunition for a firearm, or a stun weapon under subsection A may petition the circuit court of the jurisdiction in which he resides or, if the person is not a resident of the Commonwealth, the circuit court of any county or city where such person was last convicted of a felony or adjudicated delinquent of a disqualifying offense pursuant to subsection A, for a restoration order that unconditionally authorizes possessing, transporting, or carrying a firearm, ammunition for a firearm, or a stun weapon; however, no person who has been convicted of a felony shall be qualified to petition for such an order unless his civil rights have been restored by the Governor or other appropriate authority. A copy of the petition shall be mailed or delivered to the attorney for the Commonwealth for the jurisdiction where the petition was filed who shall be entitled to respond and represent the interests of the Commonwealth. The

court shall conduct a hearing if requested by either party. The court may, in its discretion and for good cause shown, grant such petition and issue a restoration order. Such order shall contain the petitioner's name and date of birth. The clerk shall certify and forward forthwith to the Central Criminal Records Exchange (CCRE), on a form provided by the CCRE, a copy of the order to be accompanied by a complete set of the petitioner's fingerprints. The Department of State Police shall forthwith enter the petitioner's name and description in the CCRE so that the order's existence will be made known to law-enforcement personnel accessing the computerized criminal history records for investigative purposes. The provisions of this section relating to firearms, ammunition for a firearm, and stun weapons shall not apply to any person who has been issued a restoration order pursuant to this subsection.

C1. Any person who was prohibited from possessing, transporting or carrying explosive material under subsection A may possess, transport or carry such explosive material if his right to possess, transport or carry explosive material has been restored pursuant to federal law.

C2. The prohibitions of subsection A shall not prohibit any person other than a person convicted of an act of violence as defined in § **19.2-297.1** or a violent felony as defined in subsection C of § **17.1-805** from possessing, transporting, or carrying (i) antique firearms or (ii) black powder in a quantity not exceeding five pounds if it is intended to be used solely for sporting, recreational, or cultural purposes in antique firearms. For the purposes of this subsection, "antique firearms" means any firearm described in subdivision 3 of the definition of "antique firearm" in subsection ~~G~~ *F* of § **18.2-308.2:2**.

D. For the purpose of this section:

"Ammunition for a firearm" means the combination of a cartridge, projectile, primer, or propellant designed for use in a firearm other than an antique firearm as defined in § **18.2-308.2:2**.

"Explosive material" means any chemical compound mixture, or device, the primary or common purpose of which is to function by explosion; the term includes, but is not limited to, dynamite and other high explosives, black powder, pellet powder, smokeless gun powder, detonators, blasting caps and detonating cord but shall not include fireworks or permissible fireworks as defined in § **27-95**.

§ **18.2-308.2:2**. Criminal history record information check required for the transfer of certain firearms.

A. Any person purchasing from a dealer a firearm as herein defined shall consent in writing, on a form to be provided by the Department of State Police, to have the dealer obtain criminal history record information. Such form shall include only the written consent; the name, birth date, gender, race, citizenship, and social security number and/or any other identification number; the number of firearms by category intended to be sold, rented, traded, or transferred; and answers by the applicant to the following questions: (i) has the applicant been convicted of a felony offense or found guilty or adjudicated delinquent as a juvenile 14 years of age or older at the time of the offense of a delinquent act that would be a felony if committed by an adult; (ii) is the applicant subject to a court order restraining the applicant from harassing, stalking, or threatening the applicant's child or intimate partner, or a child of such partner, or is the applicant subject to a protective order; and (iii) has the applicant ever been acquitted by reason of insanity and prohibited from purchasing, possessing or transporting a firearm pursuant to § **18.2-308.1:1** or any substantially similar law of any other jurisdiction, been adjudicated legally incompetent, mentally incapacitated or adjudicated an incapacitated person and prohibited from purchasing a firearm pursuant to § **18.2-308.1:2** or any substantially similar law of any other jurisdiction, ~~or~~ been involuntarily admitted to an inpatient facility or involuntarily ordered to outpatient mental health treatment and

prohibited from purchasing a firearm pursuant to § **18.2-308.1:3** or any substantially similar law of any other jurisdiction*, or been the subject of a temporary detention order pursuant to § **37.2-809** and subsequently agreed to a voluntary admission pursuant to § **37.2-805***.

B. 1. No dealer shall sell, rent, trade or transfer from his inventory any such firearm to any other person who is a resident of Virginia until he has (i) obtained written consent and the other information on the consent form specified in subsection A, and provided the Department of State Police with the name, birth date, gender, race, citizenship, and social security and/or any other identification number and the number of firearms by category intended to be sold, rented, traded or transferred and (ii) requested criminal history record information by a telephone call to or other communication authorized by the State Police and is authorized by subdivision 2 to complete the sale or other such transfer. To establish personal identification and residence in Virginia for purposes of this section, a dealer must require any prospective purchaser to present one photo-identification form issued by a governmental agency of the Commonwealth or by the United States Department of Defense that demonstrates that the prospective purchaser resides in Virginia. For the purposes of this section and establishment of residency for firearm purchase, residency of a member of the armed forces shall include both the state in which the member's permanent duty post is located and any nearby state in which the member resides and from which he commutes to the permanent duty post. A member of the armed forces whose photo identification issued by the Department of Defense does not have a Virginia address may establish his Virginia residency with such photo identification and either permanent orders assigning the purchaser to a duty post, including the Pentagon, in Virginia or the purchaser's Leave and Earnings Statement. When the photo identification presented to a dealer by the prospective purchaser is a driver's license or other photo identification issued by the Department of Motor Vehicles, and such identification form contains a date of issue, the dealer shall not, except for a renewed driver's license or other photo identification issued by the Department of Motor Vehicles, sell or otherwise transfer a firearm to the prospective purchaser until 30 days after the date of issue of an original or duplicate driver's license unless the prospective purchaser also presents a copy of his Virginia Department of Motor Vehicles driver's record showing that the original date of issue of the driver's license was more than 30 days prior to the attempted purchase.

In addition, no dealer shall sell, rent, trade, or transfer from his inventory any assault firearm to any person who is not a citizen of the United States or who is not a person lawfully admitted for permanent residence.

Upon receipt of the request for a criminal history record information check, the State Police shall (a) review its criminal history record information to determine if the buyer or transferee is prohibited from possessing or transporting a firearm by state or federal law, (b) inform the dealer if its record indicates that the buyer or transferee is so prohibited, and (c) provide the dealer with a unique reference number for that inquiry.

2. The State Police shall provide its response to the requesting dealer during the dealer's request~~,~~ or by return call without delay.~~ If the criminal history record information check indicates the prospective purchaser or transferee has a disqualifying criminal record or has been acquitted by reason of insanity and committed to the custody of the Commissioner of Behavioral Health and Developmental Services, the State Police shall have until the end of the dealer's next business day to advise the dealer if its records indicate the buyer or transferee is prohibited from possessing or transporting a firearm by state or federal law. If not so advised by the end of the dealer's next business day, a dealer who has fulfilled the requirements of subdivision 1 may immediately complete the sale or transfer and shall not be deemed in violation of this section with respect to such sale or transfer. In case of electronic failure or other circumstances beyond the control of the State Police, the dealer shall be advised immediately of the reason for such delay and be given an estimate of the length of such delay. After such notification, the State Police shall, as soon as possible but in no event later than the end of the dealer's next~~

~~business day, inform the requesting dealer if its records indicate the buyer or transferee is prohibited from possessing or transporting a firearm by state or federal law.~~ A dealer who fulfills the requirements of subdivision 1 and is told by the State Police that a response will not be available by the end of the dealer's ~~next~~ *third* business day may immediately complete the sale or transfer and shall not be deemed in violation of this section with respect to such sale or transfer.

3. Except as required by subsection D of § **9.1-132**, the State Police shall not maintain records longer than 30 days, except for multiple handgun transactions for which records shall be maintained for 12 months, from any dealer's request for a criminal history record information check pertaining to a buyer or transferee who is not found to be prohibited from possessing and transporting a firearm under state or federal law. However, the log on requests made may be maintained for a period of 12 months, and such log shall consist of the name of the purchaser, the dealer identification number, the unique approval number and the transaction date.

4. On the last day of the week following the sale or transfer of any firearm, the dealer shall mail or deliver the written consent form required by subsection A to the Department of State Police. The State Police shall immediately initiate a search of all available criminal history record information to determine if the purchaser is prohibited from possessing or transporting a firearm under state or federal law. If the search discloses information indicating that the buyer or transferee is so prohibited from possessing or transporting a firearm, the State Police shall inform the chief law-enforcement officer in the jurisdiction where the sale or transfer occurred and the dealer without delay.

5. Notwithstanding any other provisions of this section, rifles and shotguns may be purchased by persons who are citizens of the United States or persons lawfully admitted for permanent residence but residents of other states under the terms of subsections A and B upon furnishing the dealer with one photo-identification form issued by a governmental agency of the person's state of residence and one other form of identification determined to be acceptable by the Department of Criminal Justice Services.

6. For the purposes of this subsection, the phrase "dealer's ~~next~~ *third* business day" shall not include December 25.

C. No dealer shall sell, rent, trade*,* or transfer from his inventory any firearm, except when the transaction involves a rifle or a shotgun and can be accomplished pursuant to the provisions of subdivision B 5*,* to any person who is ~~not~~ a *dual* resident of Virginia *and another state pursuant to applicable federal law* unless he has first obtained from the Department of State Police a report indicating that a search of all available criminal history record information has not disclosed that the person is prohibited from possessing or transporting a firearm under state or federal law. ~~The dealer shall obtain the required report by mailing or delivering the written consent form required under subsection A to the State Police within 24 hours of its execution. If the dealer has complied with the provisions of this subsection and has not received the required report from the State Police within 10 days from the date the written consent form was mailed to the Department of State Police, he shall not be deemed in violation of this section for thereafter completing the sale or transfer.~~

To establish personal identification and dual resident eligibility for purposes of this subsection, a dealer shall require any prospective purchaser to present one photo-identification form issued by a governmental agency of the prospective purchaser's state of legal residence and other documentation of dual residence within the Commonwealth. The other documentation of dual residence in the Commonwealth may include (i) evidence of currently paid personal property tax or real estate tax or a current (a) lease, (b) utility or telephone bill, (c) voter registration card, (d) bank check, (e) passport, (f) automobile registration, or (g) hunting or fishing

license; (ii) other current identification allowed as evidence of residency by 27 C.F.R. § 178.124 and ATF Ruling ***2001-5****; or (iii) other documentation of residence determined to be acceptable by the Department of Criminal Justice Services and that corroborates that the prospective purchaser currently resides in Virginia.*

D. ~~Nothing herein shall prevent a resident of the Commonwealth, at his option, from buying, renting or receiving a firearm from a dealer in Virginia by obtaining a criminal history record information check through the dealer as provided in subsection C.~~

~~E.~~ If any buyer or transferee is denied the right to purchase a firearm under this section, he may exercise his right of access to and review and correction of criminal history record information under § **9.1-132** or institute a civil action as provided in § **9.1-135**, provided any such action is initiated within 30 days of such denial.

~~F.~~ *E.* Any dealer who willfully and intentionally requests, obtains, or seeks to obtain criminal history record information under false pretenses, or who willfully and intentionally disseminates or seeks to disseminate criminal history record information except as authorized in this section shall be guilty of a Class 2 misdemeanor.

~~G.~~ *F.* For purposes of this section:

"Actual buyer" means a person who executes the consent form required in subsection B or C, or other such firearm transaction records as may be required by federal law.

"Antique firearm" means:

1. Any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898;

2. Any replica of any firearm described in subdivision 1 of this definition if such replica (i) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition or (ii) uses rimfire or conventional centerfire fixed ammunition that is no longer manufactured in the United States and that is not readily available in the ordinary channels of commercial trade;

3. Any muzzle-loading rifle, muzzle-loading shotgun, or muzzle-loading pistol that is designed to use black powder, or a black powder substitute, and that cannot use fixed ammunition. For purposes of this subdivision, the term "antique firearm" shall not include any weapon that incorporates a firearm frame or receiver, any firearm that is converted into a muzzle-loading weapon, or any muzzle-loading weapon that can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breech-block, or any combination thereof; or

4. Any curio or relic as defined in this subsection.

"Assault firearm" means any semi-automatic center-fire rifle or pistol which expels single or multiple projectiles by action of an explosion of a combustible material and is equipped at the time of the offense with a magazine which will hold more than 20 rounds of ammunition or designed by the manufacturer to accommodate a silencer or equipped with a folding stock.

"Curios or relics" means firearms that are of special interest to collectors by reason of some quality other than is associated with firearms intended for sporting use or as offensive or defensive weapons. To be recognized as curios or relics, firearms must fall within one of the following categories:

1. Firearms that were manufactured at least 50 years prior to the current date, which use rimfire or conventional centerfire fixed ammunition that is no longer manufactured in the United States and that is not readily available in the ordinary channels of commercial trade, but not including replicas thereof;

2. Firearms that are certified by the curator of a municipal, state, or federal museum that exhibits firearms to be curios or relics of museum interest; and

3. Any other firearms that derive a substantial part of their monetary value from the fact that they are novel, rare, bizarre, or because of their association with some historical figure, period, or event. Proof of qualification of a particular firearm under this category may be established by evidence of present value and evidence that like firearms are not available except as collectors' items, or that the value of like firearms available in ordinary commercial channels is substantially less.

"Dealer" means any person licensed as a dealer pursuant to 18 U.S.C. § 921 et seq.

"Firearm" means any handgun, shotgun, or rifle that will or is designed to or may readily be converted to expel single or multiple projectiles by action of an explosion of a combustible material.

"Handgun" means any pistol or revolver or other firearm originally designed, made and intended to fire single or multiple projectiles by means of an explosion of a combustible material from one or more barrels when held in one hand.

"Lawfully admitted for permanent residence" means the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed.

~~H.~~ *G.* The Department of Criminal Justice Services shall promulgate regulations to ensure the identity, confidentiality and security of all records and data provided by the Department of State Police pursuant to this section.

~~I.~~ *H.* The provisions of this section shall not apply to (i) transactions between persons who are licensed as firearms importers or collectors, manufacturers or dealers pursuant to 18 U.S.C. § 921 et seq.; (ii) purchases by or sales to any law-enforcement officer or agent of the United States, the Commonwealth or any local government, or any campus police officer appointed under Article 3 (§ **23.1-809** et seq.) of Chapter 8 of Title 23.1; or (iii) antique firearms, curios or relics.

~~J.~~ *I.* The provisions of this section shall not apply to restrict purchase, trade or transfer of firearms by a resident of Virginia when the resident of Virginia makes such purchase, trade or transfer in another state, in which case the laws and regulations of that state and the United States governing the purchase, trade or transfer of firearms shall apply. A National Instant Criminal Background Check System (NICS) check shall be performed prior to such purchase, trade or transfer of firearms.

~~J1.~~ *J.* All licensed firearms dealers shall collect a fee of $2 for every transaction for which a criminal history record information check is required pursuant to this section, except that a fee of $5 shall be collected for every transaction involving an out-of-state resident. Such fee shall be transmitted to the Department of State Police by the last day of the month following the sale for deposit in a special fund for use by the State Police to offset the cost of conducting criminal history record information checks under the provisions of this section.

K. Any person willfully and intentionally making a materially false statement on the consent form required in subsection B or C or on such firearm transaction records as may be required by federal law, shall be guilty of a Class 5 felony.

L. Except as provided in § **18.2-308.2:1**, any dealer who willfully and intentionally sells, rents, trades or transfers a firearm in violation of this section shall be guilty of a Class 6 felony.

L1. Any person who attempts to solicit, persuade, encourage, or entice any dealer to transfer or otherwise convey a firearm other than to the actual buyer, as well as any other person who willfully and intentionally aids or abets such person, shall be guilty of a Class 6 felony. This subsection shall not apply to a federal law-enforcement officer or a law-enforcement officer as defined in § **9.1-101**, in the performance of his official duties, or other person under his direct supervision.

M. Any person who purchases a firearm with the intent to (i) resell or otherwise provide such firearm to any person who he knows or has reason to believe is ineligible to purchase or otherwise receive from a dealer a firearm for whatever reason or (ii) transport such firearm out of the Commonwealth to be resold or otherwise provided to another person who the transferor knows is ineligible to purchase or otherwise receive a firearm, shall be guilty of a Class 4 felony and sentenced to a mandatory minimum term of imprisonment of one year. However, if the violation of this subsection involves such a transfer of more than one firearm, the person shall be sentenced to a mandatory minimum term of imprisonment of five years. The prohibitions of this subsection shall not apply to the purchase of a firearm by a person for the lawful use, possession, or transport thereof, pursuant to § **18.2-308.7**, by his child, grandchild, or individual for whom he is the legal guardian if such child, grandchild, or individual is ineligible, solely because of his age, to purchase a firearm.

N. Any person who is ineligible to purchase or otherwise receive or possess a firearm in the Commonwealth who solicits, employs or assists any person in violating subsection M shall be guilty of a Class 4 felony and shall be sentenced to a mandatory minimum term of imprisonment of five years.

O. Any mandatory minimum sentence imposed under this section shall be served consecutively with any other sentence.

P. All driver's licenses issued on or after July 1, 1994, shall carry a letter designation indicating whether the driver's license is an original, duplicate or renewed driver's license.

Q. Prior to selling, renting, trading, or transferring any firearm owned by the dealer but not in his inventory to any other person, a dealer may require such other person to consent to have the dealer obtain criminal history record information to determine if such other person is prohibited from possessing or transporting a firearm by state or federal law. The Department of State Police shall establish policies and procedures in accordance with 28 C.F.R. § 25.6 to permit such determinations to be made by the Department of State Police, and the processes established for making such determinations shall conform to the provisions of this section.

*§ **18.2-308.2:5**. Criminal history record information check required to sell firearm; penalty.*

*A. No person shall sell a firearm for money, goods, services or anything else of value unless he has obtained verification from a licensed dealer in firearms that information on the prospective purchaser has been submitted for a criminal history record information check as set out in § **18.2-308.2:2** and that a determination has been received from the Department of State Police that the prospective purchaser is not prohibited under state or*

*federal law from possessing a firearm or such sale is specifically exempted by state or federal law. The Department of State Police shall provide a means by which sellers may obtain from designated licensed dealers the approval or denial of firearm transfer requests, based on criminal history record information checks. The processes established shall conform to the provisions of § **18.2-308.2:2**, and the definitions and provisions of § **18.2-308.2:2** regarding criminal history record information checks shall apply to this section mutatis mutandis. The designated dealer shall collect and disseminate the fees prescribed in § **18.2-308.2:2** as required by that section. The dealer may charge and retain an additional fee not to exceed $15 for obtaining a criminal history record information check on behalf of a seller.*

B. Notwithstanding the provisions of subsection A and unless otherwise prohibited by state or federal law, a person may sell a firearm to another person if:

1. The sale of a firearm is to an authorized representative of the Commonwealth or any subdivision thereof as part of an authorized voluntary gun buy-back or give-back program; or

*2. The sale occurs at a firearms show, as defined in § **54.1-4200**, and the seller has received a determination from the Department of State Police that the purchaser is not prohibited under state or federal law from possessing a firearm in accordance with § **54.1-4201.2**.*

C. Any person who willfully and intentionally sells a firearm to another person without obtaining verification in accordance with this section is guilty of a Class 1 misdemeanor.

D. Any person who willfully and intentionally purchases a firearm from another person without obtaining verification in accordance with this section is guilty of a Class 1 misdemeanor.

§ **22.1-277.07**. Expulsion of students under certain circumstances; exceptions.

A. In compliance with the federal Improving America's Schools Act of 1994 (Part F-Gun-Free Schools Act of 1994), a school board shall expel from school attendance for a period of not less than one year any student whom such school board has determined, in accordance with the procedures set forth in this article, to have possessed a firearm on school property or at a school-sponsored activity as prohibited by § **18.2-308.1** or to have possessed a firearm or destructive device as defined in subsection E, a firearm muffler or firearm silencer, or a pneumatic gun as defined in subsection E of § **15.2-915.4** on school property or at a school-sponsored activity. A school administrator, pursuant to school board policy, or a school board may, however, determine, based on the facts of a particular situation, that special circumstances exist and no disciplinary action or another disciplinary action or another term of expulsion is appropriate. A school board may promulgate guidelines for determining what constitutes special circumstances. In addition, a school board may, by regulation, authorize the division superintendent or his designee to conduct a preliminary review of such cases to determine whether a disciplinary action other than expulsion is appropriate. Such regulations shall ensure that, if a determination is made that another disciplinary action is appropriate, any such subsequent disciplinary action is to be taken in accordance with the procedures set forth in this article. Nothing in this section shall be construed to require a student's expulsion regardless of the facts of the particular situation.

B. The Board of Education is designated as the state education agency to carry out the provisions of the federal Improving America's Schools Act of 1994 and shall administer the funds to be appropriated to the Commonwealth under this act.

C. Each school board shall revise its standards of student conduct no later than three months after the date on which this act becomes effective. Local school boards requesting moneys apportioned to the Commonwealth through the federal Improving America's Schools Act of 1994 shall submit to the Department of Education an application requesting such assistance. Applications for assistance shall include:

1. Documentation that the local school board has adopted and implemented student conduct policies in compliance with this section; and

2. A description of the circumstances pertaining to expulsions imposed under this section, including (i) the schools from which students were expelled under this section, (ii) the number of students expelled from each such school in the school division during the school year, and (iii) the types of firearms involved in the expulsions.

D. No school operating a Junior Reserve Officers Training Corps (JROTC) program shall prohibit the JROTC program from conducting marksmanship training when such training is a normal element of such programs. Such programs may include training in the use of pneumatic guns. The administration of a school operating a JROTC program shall cooperate with the JROTC staff in implementing such marksmanship training.

E. As used in this section:

"Destructive device" means (i) any explosive, incendiary, or poison gas, bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine, or other similar device; (ii) any weapon, except a shotgun or a shotgun shell generally recognized as particularly suitable for sporting purposes, by whatever name known that will, or may be readily converted to, expel a projectile by the action of an explosive or other propellant, and that has any barrel with a bore of more than one-half inch in diameter that is homemade or was not made by a duly licensed weapon manufacturer, any fully automatic firearm, any sawed-off shotgun or sawed-off rifle as defined in § **18.2-299** or any firearm prohibited from civilian ownership by federal law; and (iii) any combination of parts either designed or intended for use in converting any device into any destructive device described in this subsection and from which a destructive device may be readily assembled. "Destructive device" does not include any device that is not designed or redesigned for use as a weapon, or any device originally designed for use as a weapon and that is redesigned for use as a signaling, pyrotechnic, line-throwing, safety, or other similar device, nor shall it include any antique firearm as defined in ~~subsection G of~~ § **18.2-308.2:2**.

"Firearm" means any weapon, including a starter gun, that will, or is designed or may readily be converted to, expel single or multiple projectiles by the action of an explosion of a combustible material or the frame or receiver of any such weapon. "Firearm" does not include any pneumatic gun, as defined in subsection E of § **15.2-915.4**.

"One year" means 365 calendar days as required in federal regulations.

"School property" means any real property owned or leased by the school board or any vehicle owned or leased by the school board or operated by or on behalf of the school board.

F. The exemptions set out in §§ **18.2-308** and **18.2-308.016** regarding concealed weapons shall apply, mutatis mutandis, to the provisions of this section. The provisions of this section shall not apply to persons who possess such firearm or firearms or pneumatic guns as a part of the curriculum or other programs sponsored by the

schools in the school division or any organization permitted by the school to use its premises or to any law-enforcement officer while engaged in his duties as such.

G. This section shall not be construed to diminish the authority of the Board of Education or the Governor concerning decisions on whether, or the extent to which, Virginia shall participate in the federal Improving America's Schools Act of 1994, or to diminish the Governor's authority to coordinate and provide policy direction on official communications between the Commonwealth and the United States government.

§ **54.1-4201.2**. Firearm transactions by persons other than dealers; voluntary background checks.

A. The Department of State Police shall be available at every firearms show held in the Commonwealth to make determinations in accordance with the procedures set out in § **18.2-308.2:2** of whether a prospective purchaser or transferee is prohibited under state or federal law from possessing a firearm. The Department of State Police shall establish policies and procedures in accordance with 28 C.F.R. § 25.6 to permit such determinations to be made by the Department of State Police.

~~Unless otherwise required by state or federal law, any party involved in the transaction may decide whether or not to have such a determination made.~~

The Department of State Police may charge a reasonable fee for the determination.

B. The promoter, as defined in § **54.1-4201.1**, shall give the Department of State Police notice of the time and location of a firearms show at least 30 days prior to the show. The promoter shall provide the Department of State Police with adequate space, at no charge, to conduct such prohibition determinations. The promoter shall ensure that a notice that such determinations are available is prominently displayed at the show.

C. No person who sells or transfers a firearm at a firearms show after receiving a determination from the Department of State Police that the purchaser or transferee is not prohibited by state or federal law from possessing a firearm shall be liable for selling or transferring a firearm to such person.

D. The provisions of § **18.2-308.2:2**, including definitions, procedures, and prohibitions, shall apply, mutatis mutandis, to the provisions of this section.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § **30-19.1:4** of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 854 of the Acts of Assembly of 2019 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § **30-19.1:4** of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

Reporting lost or stolen firearms; civil penalty. Requires that, if a firearm is lost or stolen from a person who lawfully possessed it, such person shall report the loss or theft of the firearm to any local law-enforcement agency or the Department of State Police within 48 hours after such person discovers the loss or theft or is informed by a person with personal knowledge of the loss or theft. The bill requires the relevant law-enforcement agency to enter the report information into the National Crime Information Center. A violation is punishable by a civil penalty of not more than $250. The bill provides that a person who, in good faith, reports the loss or theft is immune from criminal or civil liability for acts or omissions that result from the loss or theft. The immunity does not apply to a person who knowingly gives a false report. The bill does not apply to the loss or theft of an antique firearm.

CHAPTER 743

*An Act to amend the Code of Virginia by adding in Article 4 of Chapter 7 of Title 18.2 a section numbered **18.2-287.5**, relating to reporting lost or stolen firearms; civil penalty.*

[H 9]
Approved April 6, 2020

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 4 of Chapter 7 of Title 18.2 a section numbered **18.2-287.5** as follows:

*§ **18.2-287.5**. Reporting lost or stolen firearms; civil penalty.*

*A. If a firearm is lost or stolen from a person who lawfully possessed it, then such person shall report the loss or theft to any local law-enforcement agency or the Department of State Police within 48 hours after such person discovers the loss or theft or is informed by a person with personal knowledge of the loss or theft. The law-enforcement agency shall enter such report information into the National Crime Information Center maintained by the Federal Bureau of Investigation. The provisions of this subsection shall not apply to the loss or theft of an antique firearm as defined in § **18.2-308.2:2**.*

B. A violation of this section is punishable by a civil penalty of not more than $250. The attorney for the county, city, or town in which an alleged violation of this section has occurred is authorized to enforce the provisions of this section and may bring an action to recover the civil penalty, which shall be paid into the local treasury.

*C. No person who, in good faith, reports a lost or stolen firearm shall be held criminally or civilly liable for any damages from acts or omissions resulting from the loss or theft. This subsection shall not apply to any person who makes a report in violation of § **18.2-461**.*

Firearms shows; mandatory background check. Requires the Department of State Police to perform a criminal history record information check on the prospective purchaser or transferee prior to the completion of any firearms transaction at a firearms show held in the Commonwealth. Current law requires the Department of State Police to be available at every firearms show held in the Commonwealth to perform criminal history record information checks but does not require such checks to be performed unless requested by a party involved in the transaction.

CHAPTER 828

*An Act to amend and reenact § **54.1-4201.2** of the Code of Virginia, relating to firearms shows; mandatory background check.*

[S 543]

Approved April 7, 2020

Be it enacted by the General Assembly of Virginia:

1. That § **54.1-4201.2** of the Code of Virginia is amended and reenacted as follows:

§ **54.1-4201.2**. Firearm transactions by persons other than dealers; mandatory background checks.

A. The Department of State Police shall be available at every firearms show held in the Commonwealth ~~to~~ *and shall* make determinations in accordance with the procedures set out in § **18.2-308.2:2** of whether a prospective purchaser or transferee is prohibited under state or federal law from possessing a firearm *prior to the completion of any firearm transaction at a firearms show held in the Commonwealth*. The Department of State Police shall establish policies and procedures in accordance with 28 C.F.R. § 25.6 to permit such determinations to be made by the Department of State Police.

~~Unless otherwise required by state or federal law, any party involved in the transaction may decide whether or not to have such a determination made.~~

The Department of State Police may charge a reasonable fee for the determination.

B. The promoter, as defined in § **54.1-4201.1**, shall give the Department of State Police notice of the time and location of a firearms show at least 30 days prior to the show. The promoter shall provide the Department of State Police with adequate space, at no charge, to conduct such prohibition determinations. The promoter shall ensure that a notice that such determinations are available is prominently displayed at the show.

C. No person who sells or transfers a firearm at a firearms show after receiving a determination from the Department of State Police that the purchaser or transferee is not prohibited by state or federal law from possessing a firearm shall be liable for selling or transferring a firearm to such person.

D. The provisions of § **18.2-308.2:2**, including definitions, procedures, and prohibitions, shall apply, mutatis mutandis, to the provisions of this section.

Purchase of handguns; limitation on handgun purchases; penalty. Prohibits any person who is not a licensed firearms dealer from purchasing more than one handgun in a 30-day period and establishes such an offense as a Class 1 misdemeanor. The bill exempts from this provision (i) persons who have been issued a certificate by the Department of State Police under certain circumstances and with an enhanced background check, (ii) law-enforcement agencies and officers, (iii) state and local correctional facilities, (iv) licensed private security companies, (v) persons who hold a valid Virginia concealed handgun permit, (vi) persons whose handgun has been stolen or irretrievably lost or who are trading in a handgun, (vii) purchases of handguns in a private sale, and (viii) purchases of antique firearms. This bill incorporates **HB 1502.** This bill is identical to **SB 69.**

CHAPTER 991

*An Act to amend and reenact § **18.2-308.2:2** of the Code of Virginia, relating to purchase of handguns; limitation on handgun purchases; penalty.*

[H 812]

Approved April 9, 2020

Be it enacted by the General Assembly of Virginia:

1. That § **18.2-308.2:2** of the Code of Virginia is amended and reenacted as follows:

§ **18.2-308.2:2**. Criminal history record information check required for the transfer of certain firearms.

A. Any person purchasing from a dealer a firearm as herein defined shall consent in writing, on a form to be provided by the Department of State Police, to have the dealer obtain criminal history record information. Such form shall include only the written consent; the name, birth date, gender, race, citizenship, and social security number and/or any other identification number; the number of firearms by category intended to be sold, rented, traded, or transferred; and answers by the applicant to the following questions: (i) has the applicant been convicted of a felony offense or found guilty or adjudicated delinquent as a juvenile 14 years of age or older at the time of the offense of a delinquent act that would be a felony if committed by an adult; (ii) is the applicant subject to a court order restraining the applicant from harassing, stalking, or threatening the applicant's child or intimate partner, or a child of such partner, or is the applicant subject to a protective order; and (iii) has the applicant ever been acquitted by reason of insanity and prohibited from purchasing, possessing or transporting a firearm pursuant to § **18.2-308.1:1** or any substantially similar law of any other jurisdiction, been adjudicated legally incompetent, mentally incapacitated or adjudicated an incapacitated person and prohibited from purchasing a firearm pursuant to § **18.2-308.1:2** or any substantially similar law of any other jurisdiction, or been involuntarily admitted to an inpatient facility or involuntarily ordered to outpatient mental health treatment and prohibited from purchasing a firearm pursuant to § **18.2-308.1:3** or any substantially similar law of any other jurisdiction.

B. 1. No dealer shall sell, rent, trade or transfer from his inventory any such firearm to any other person who is a resident of Virginia until he has (i) obtained written consent and the other information on the consent form specified in subsection A, and provided the Department of State Police with the name, birth date, gender, race, citizenship, and social security and/or any other identification number and the number of firearms by category intended to be sold, rented, traded or transferred and (ii) requested criminal history record information by a telephone call to or other communication authorized by the State Police and is authorized by subdivision 2 to complete the sale or other such transfer. To establish personal identification and residence in Virginia for purposes of this section, a dealer must require any prospective purchaser to present one photo-identification form issued by a governmental agency of the Commonwealth or by the United States Department of Defense that demonstrates that the prospective purchaser resides in Virginia. For the purposes of this section and

establishment of residency for firearm purchase, residency of a member of the armed forces shall include both the state in which the member's permanent duty post is located and any nearby state in which the member resides and from which he commutes to the permanent duty post. A member of the armed forces whose photo identification issued by the Department of Defense does not have a Virginia address may establish his Virginia residency with such photo identification and either permanent orders assigning the purchaser to a duty post, including the Pentagon, in Virginia or the purchaser's Leave and Earnings Statement. When the photo identification presented to a dealer by the prospective purchaser is a driver's license or other photo identification issued by the Department of Motor Vehicles, and such identification form contains a date of issue, the dealer shall not, except for a renewed driver's license or other photo identification issued by the Department of Motor Vehicles, sell or otherwise transfer a firearm to the prospective purchaser until 30 days after the date of issue of an original or duplicate driver's license unless the prospective purchaser also presents a copy of his Virginia Department of Motor Vehicles driver's record showing that the original date of issue of the driver's license was more than 30 days prior to the attempted purchase.

In addition, no dealer shall sell, rent, trade, or transfer from his inventory any assault firearm to any person who is not a citizen of the United States or who is not a person lawfully admitted for permanent residence.

Upon receipt of the request for a criminal history record information check, the State Police shall (a) review its criminal history record information to determine if the buyer or transferee is prohibited from possessing or transporting a firearm by state or federal law, (b) inform the dealer if its record indicates that the buyer or transferee is so prohibited, and (c) provide the dealer with a unique reference number for that inquiry.

2. The State Police shall provide its response to the requesting dealer during the dealer's request, or by return call without delay. If the criminal history record information check indicates the prospective purchaser or transferee has a disqualifying criminal record or has been acquitted by reason of insanity and committed to the custody of the Commissioner of Behavioral Health and Developmental Services, the State Police shall have until the end of the dealer's next business day to advise the dealer if its records indicate the buyer or transferee is prohibited from possessing or transporting a firearm by state or federal law. If not so advised by the end of the dealer's next business day, a dealer who has fulfilled the requirements of subdivision 1 may immediately complete the sale or transfer and shall not be deemed in violation of this section with respect to such sale or transfer. In case of electronic failure or other circumstances beyond the control of the State Police, the dealer shall be advised immediately of the reason for such delay and be given an estimate of the length of such delay. After such notification, the State Police shall, as soon as possible but in no event later than the end of the dealer's next business day, inform the requesting dealer if its records indicate the buyer or transferee is prohibited from possessing or transporting a firearm by state or federal law. A dealer who fulfills the requirements of subdivision 1 and is told by the State Police that a response will not be available by the end of the dealer's next business day may immediately complete the sale or transfer and shall not be deemed in violation of this section with respect to such sale or transfer.

3. Except as required by subsection D of § **9.1-132**, the State Police shall not maintain records longer than 30 days, except for multiple handgun transactions for which records shall be maintained for 12 months, from any dealer's request for a criminal history record information check pertaining to a buyer or transferee who is not found to be prohibited from possessing and transporting a firearm under state or federal law. However, the log on requests made may be maintained for a period of 12 months, and such log shall consist of the name of the purchaser, the dealer identification number, the unique approval number and the transaction date.

4. On the last day of the week following the sale or transfer of any firearm, the dealer shall mail or deliver the written consent form required by subsection A to the Department of State Police. The State Police shall immediately initiate a search of all available criminal history record information to determine if the purchaser is prohibited from possessing or transporting a firearm under state or federal law. If the search discloses information indicating that the buyer or transferee is so prohibited from possessing or transporting a firearm, the State Police shall inform the chief law-enforcement officer in the jurisdiction where the sale or transfer occurred and the dealer without delay.

5. Notwithstanding any other provisions of this section, rifles and shotguns may be purchased by persons who are citizens of the United States or persons lawfully admitted for permanent residence but residents of other states under the terms of subsections A and B upon furnishing the dealer with one photo-identification form issued by a governmental agency of the person's state of residence and one other form of identification determined to be acceptable by the Department of Criminal Justice Services.

6. For the purposes of this subsection, the phrase "dealer's next business day" shall not include December 25.

C. No dealer shall sell, rent, trade or transfer from his inventory any firearm, except when the transaction involves a rifle or a shotgun and can be accomplished pursuant to the provisions of subdivision B 5 to any person who is not a resident of Virginia unless he has first obtained from the Department of State Police a report indicating that a search of all available criminal history record information has not disclosed that the person is prohibited from possessing or transporting a firearm under state or federal law. The dealer shall obtain the required report by mailing or delivering the written consent form required under subsection A to the State Police within 24 hours of its execution. If the dealer has complied with the provisions of this subsection and has not received the required report from the State Police within 10 days from the date the written consent form was mailed to the Department of State Police, he shall not be deemed in violation of this section for thereafter completing the sale or transfer.

D. Nothing herein shall prevent a resident of the Commonwealth, at his option, from buying, renting or receiving a firearm from a dealer in Virginia by obtaining a criminal history record information check through the dealer as provided in subsection C.

E. If any buyer or transferee is denied the right to purchase a firearm under this section, he may exercise his right of access to and review and correction of criminal history record information under § **9.1-132** or institute a civil action as provided in § **9.1-135**, provided any such action is initiated within 30 days of such denial.

F. Any dealer who willfully and intentionally requests, obtains, or seeks to obtain criminal history record information under false pretenses, or who willfully and intentionally disseminates or seeks to disseminate criminal history record information except as authorized in this section shall be guilty of a Class 2 misdemeanor.

G. For purposes of this section:

"Actual buyer" means a person who executes the consent form required in subsection B or C, or other such firearm transaction records as may be required by federal law.

"Antique firearm" means:

1. Any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898;

2. Any replica of any firearm described in subdivision 1 of this definition if such replica (i) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition or (ii) uses rimfire or conventional centerfire fixed ammunition that is no longer manufactured in the United States and that is not readily available in the ordinary channels of commercial trade;

3. Any muzzle-loading rifle, muzzle-loading shotgun, or muzzle-loading pistol that is designed to use black powder, or a black powder substitute, and that cannot use fixed ammunition. For purposes of this subdivision, the term "antique firearm" shall not include any weapon that incorporates a firearm frame or receiver, any firearm that is converted into a muzzle-loading weapon, or any muzzle-loading weapon that can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breech-block, or any combination thereof; or

4. Any curio or relic as defined in this subsection.

"Assault firearm" means any semi-automatic center-fire rifle or pistol which expels single or multiple projectiles by action of an explosion of a combustible material and is equipped at the time of the offense with a magazine which will hold more than 20 rounds of ammunition or designed by the manufacturer to accommodate a silencer or equipped with a folding stock.

"Curios or relics" means firearms that are of special interest to collectors by reason of some quality other than is associated with firearms intended for sporting use or as offensive or defensive weapons. To be recognized as curios or relics, firearms must fall within one of the following categories:

1. Firearms that were manufactured at least 50 years prior to the current date, which use rimfire or conventional centerfire fixed ammunition that is no longer manufactured in the United States and that is not readily available in the ordinary channels of commercial trade, but not including replicas thereof;

2. Firearms that are certified by the curator of a municipal, state, or federal museum that exhibits firearms to be curios or relics of museum interest; and

3. Any other firearms that derive a substantial part of their monetary value from the fact that they are novel, rare, bizarre, or because of their association with some historical figure, period, or event. Proof of qualification of a particular firearm under this category may be established by evidence of present value and evidence that like firearms are not available except as collectors' items, or that the value of like firearms available in ordinary commercial channels is substantially less.

"Dealer" means any person licensed as a dealer pursuant to 18 U.S.C. § 921 et seq.

"Firearm" means any handgun, shotgun, or rifle that will or is designed to or may readily be converted to expel single or multiple projectiles by action of an explosion of a combustible material.

"Handgun" means any pistol or revolver or other firearm originally designed, made and intended to fire single or multiple projectiles by means of an explosion of a combustible material from one or more barrels when held in one hand.

"Lawfully admitted for permanent residence" means the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed.

H. The Department of Criminal Justice Services shall promulgate regulations to ensure the identity, confidentiality and security of all records and data provided by the Department of State Police pursuant to this section.

I. The provisions of this section shall not apply to (i) transactions between persons who are licensed as firearms importers or collectors, manufacturers or dealers pursuant to 18 U.S.C. § 921 et seq.; (ii) purchases by or sales to any law-enforcement officer or agent of the United States, the Commonwealth or any local government, or any campus police officer appointed under Article 3 (§ **23.1-809** et seq.) of Chapter 8 of Title 23.1; or (iii) antique firearms, curios or relics.

J. The provisions of this section shall not apply to restrict purchase, trade or transfer of firearms by a resident of Virginia when the resident of Virginia makes such purchase, trade or transfer in another state, in which case the laws and regulations of that state and the United States governing the purchase, trade or transfer of firearms shall apply. A National Instant Criminal Background Check System (NICS) check shall be performed prior to such purchase, trade or transfer of firearms.

J1. All licensed firearms dealers shall collect a fee of $2 for every transaction for which a criminal history record information check is required pursuant to this section, except that a fee of $5 shall be collected for every transaction involving an out-of-state resident. Such fee shall be transmitted to the Department of State Police by the last day of the month following the sale for deposit in a special fund for use by the State Police to offset the cost of conducting criminal history record information checks under the provisions of this section.

K. Any person willfully and intentionally making a materially false statement on the consent form required in subsection B or C or on such firearm transaction records as may be required by federal law, shall be guilty of a Class 5 felony.

L. Except as provided in § **18.2-308.2:1**, any dealer who willfully and intentionally sells, rents, trades or transfers a firearm in violation of this section shall be guilty of a Class 6 felony.

L1. Any person who attempts to solicit, persuade, encourage, or entice any dealer to transfer or otherwise convey a firearm other than to the actual buyer, as well as any other person who willfully and intentionally aids or abets such person, shall be guilty of a Class 6 felony. This subsection shall not apply to a federal law-enforcement officer or a law-enforcement officer as defined in § **9.1-101**, in the performance of his official duties, or other person under his direct supervision.

M. Any person who purchases a firearm with the intent to (i) resell or otherwise provide such firearm to any person who he knows or has reason to believe is ineligible to purchase or otherwise receive from a dealer a firearm for whatever reason or (ii) transport such firearm out of the Commonwealth to be resold or otherwise provided to another person who the transferor knows is ineligible to purchase or otherwise receive a firearm, shall be guilty of a Class 4 felony and sentenced to a mandatory minimum term of imprisonment of one year. However, if the violation of this subsection involves such a transfer of more than one firearm, the person shall be sentenced to a mandatory minimum term of imprisonment of five years. The prohibitions of this subsection shall not apply to the purchase of a firearm by a person for the lawful use, possession, or transport thereof, pursuant to

§ **18.2-308.7**, by his child, grandchild, or individual for whom he is the legal guardian if such child, grandchild, or individual is ineligible, solely because of his age, to purchase a firearm.

N. Any person who is ineligible to purchase or otherwise receive or possess a firearm in the Commonwealth who solicits, employs or assists any person in violating subsection M shall be guilty of a Class 4 felony and shall be sentenced to a mandatory minimum term of imprisonment of five years.

O. Any mandatory minimum sentence imposed under this section shall be served consecutively with any other sentence.

P. All driver's licenses issued on or after July 1, 1994, shall carry a letter designation indicating whether the driver's license is an original, duplicate or renewed driver's license.

Q. Prior to selling, renting, trading, or transferring any firearm owned by the dealer but not in his inventory to any other person, a dealer may require such other person to consent to have the dealer obtain criminal history record information to determine if such other person is prohibited from possessing or transporting a firearm by state or federal law. The Department of State Police shall establish policies and procedures in accordance with 28 C.F.R. § 25.6 to permit such determinations to be made by the Department of State Police, and the processes established for making such determinations shall conform to the provisions of this section.

R. Except as provided in subdivisions 1 and 2, it shall be unlawful for any person who is not a licensed firearms dealer to purchase more than one handgun within any 30-day period. For the purposes of this subsection, "purchase" does not include the exchange or replacement of a handgun by a seller for a handgun purchased from such seller by the same person seeking the exchange or replacement within the 30-day period immediately preceding the date of exchange or replacement. A violation of this subsection is punishable as a Class 1 misdemeanor.

*1. Purchases in excess of one handgun within a 30-day period may be made upon completion of an enhanced background check, as described in this subsection, by special application to the Department of State Police listing the number and type of handguns to be purchased and transferred for lawful business or personal use, in a collector series, for collections, as a bulk purchase from estate sales, and for similar purposes. Such applications shall be signed under oath by the applicant on forms provided by the Department of State Police, shall state the purpose for the purchase above the limit, and shall require satisfactory proof of residency and identity. Such application shall be in addition to the firearms sales report required by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). The Superintendent of State Police shall promulgate regulations, pursuant to the Administrative Process Act (§ **2.2-4000** et seq.), for the implementation of an application process for purchases of handguns above the limit.*

*Upon being satisfied that these requirements have been met, the Department of State Police shall immediately issue to the applicant a nontransferable certificate, which shall be valid for seven days from the date of issue. The certificate shall be surrendered to the dealer by the prospective purchaser prior to the consummation of such sale and shall be kept on file at the dealer's place of business for inspection as provided in § **54.1-4201** for a period of not less than two years. Upon request of any local law-enforcement agency, and pursuant to its regulations, the Department of State Police may certify such local law-enforcement agency to serve as its agent to receive applications and, upon authorization by the Department of State Police, issue certificates immediately pursuant to this subdivision. Applications and certificates issued under this subdivision shall be maintained as records as provided in subdivision B 3. The Department of State Police shall make available to local law-*

enforcement agencies all records concerning certificates issued pursuant to this subdivision and all records provided for in subdivision B 3.

2. The provisions of this subsection shall not apply to:

a. A law-enforcement agency;

b. An agency duly authorized to perform law-enforcement duties;

c. A state or local correctional facility;

d. A private security company licensed to do business within the Commonwealth;

e. The purchase of antique firearms;

f. A person whose handgun is stolen or irretrievably lost who deems it essential that such handgun be replaced immediately. Such person may purchase another handgun, even if the person has previously purchased a handgun within a 30-day period, provided that (i) the person provides the firearms dealer with a copy of the official police report or a summary thereof, on forms provided by the Department of State Police, from the law-enforcement agency that took the report of the lost or stolen handgun; (ii) the official police report or summary thereof contains the name and address of the handgun owner, a description of the handgun, the location of the loss or theft, the date of the loss or theft, and the date the loss or theft was reported to the law-enforcement agency; and (iii) the date of the loss or theft as reflected on the official police report or summary thereof occurred within 30 days of the person's attempt to replace the handgun. The firearms dealer shall attach a copy of the official police report or summary thereof to the original copy of the Virginia firearms transaction report completed for the transaction and retain it for the period prescribed by the Department of State Police;

g. A person who trades in a handgun at the same time he makes a handgun purchase and as a part of the same transaction, provided that no more than one transaction of this nature is completed per day;

h. A person who holds a valid Virginia permit to carry a concealed handgun;

i. A person who purchases a handgun in a private sale. For purposes of this subdivision, "private sale" means a purchase from a person who makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection of curios or relics or who sells all or part of such collection of curios and relics; or

j. A law-enforcement officer. For purposes of this subdivision, "law-enforcement officer" means any employee of a police department or sheriff's office that is part of or administered by the Commonwealth or any political subdivision thereof and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic, or highway laws of the Commonwealth.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § **30-19.1:4** of the Code of Virginia, the estimated amount of the necessary appropriation is $0 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

FIREARMS – SUMMARY ONLY

SB436 – §§ 18.2-308.09, 18.2-308.2:1, 18.2-308.2:2, 18.2-308.2:3 and adding 18.2-308.1:6 and adding sections 52-50, 52-51, and 52-52 – Establishment of the Virginia Voluntary Do Not Sell Firearms List; penalty. Creates the Virginia Voluntary Do Not Sell Firearms List (the List) that prohibits the possession, transportation, and sale of firearms to any person who voluntarily registers himself to be enrolled into the List. The List shall be maintained and updated by the Department of State Police. The bill makes it a Class 3 misdemeanor for any person enrolled into the List to purchase, possess, or transport a firearm. The bill disqualifies any person enrolled into the List from obtaining a concealed handgun permit and prohibits such person from being employed by a firearms dealer. The bill also makes it a Class 1 misdemeanor for any person who sells, barters, gives, or furnishes, or has in his possession or under his control with the intent of selling, bartering, giving, or furnishing, any firearm to any person he knows is enrolled into the List. The bill has a delayed effective date of July 1, 2021.

HB264 and SB263 –§§ 18.2-308.02 and 18.2-308.06 – Concealed handgun permits; demonstration of competence. Removes the option for concealed handgun permit applicants to demonstrate competence with a handgun by completing an electronic, video, or online course conducted by a state-certified or National Rifle Association-certified firearms instructor. The bill does not affect any in-person means of satisfying the requirement to demonstrate competence with a handgun under current law. The bill has a delayed effective date of January 1, 2021. This bill is identical to **SB 263.**

SB14 – § 18.2-308.5:1 – Trigger activators; prohibition; penalty. Prohibits the manufacture, importation, sale or offer to sell, possession, transfer, or transportation of a trigger activator, defined in the bill as a device designed to allow a semi-automatic firearm to shoot more than one shot with a single pull of the trigger by harnessing the recoil energy of any semi-automatic firearm to which it is affixed so that the trigger resets and continues firing without additional physical manipulation of the trigger by the shooter. A violation is punishable as a Class 6 felony.

SB173 – § 18.2-308.1 – Prohibition on possession of stun weapon on school property; exemptions. Allows the holder of a valid concealed handgun permit to possess a stun weapon on school property while in a motor vehicle in a parking lot, traffic circle, or other means of vehicular ingress or egress to the school. The bill also allows a stun weapon to be stored in a closed container in a motor vehicle while such vehicle is on school property.

HB1080 – § 18.2-308.1 – Firearms or other weapons on school property. Provides that no school board may authorize or designate any person to possess a firearm on school property other than those persons expressly authorized by statute. The bill also clarifies that no exemption exists for a special conservator of the peace to possess a firearm or other weapon on school property.

SB71 – § 18.2-308.1 – Firearms on school property. Adds public, private, or religious preschools and licensed child day centers that are not operated at the residence of the provider or of any of the children to the list of schools where possessing a firearm on school property or on a school bus is prohibited. The provisions of the bill regarding child day centers and preschools only apply during the regular operating hours of such child day center or preschool and shall not apply to any person (i) whose residence is on the property of a child day center or a private or religious preschool and (ii) who possesses a firearm or other prohibited weapon while in his residence . Under current law, the list of such schools only includes public, private, or religious elementary, middle, or high schools. The bill also provides that a licensed child day center or religious or private preschool may hire an armed security officer to provide security services.

SB684 – §§ 18.2-308.1:3 and 37.2-821 – Involuntary commitment and restoration of firearm rights. Responds to the holding in *Paugh v. Henrico Area Mental Health and Developmental Services*, Record No. 121562 (2013), in which the Supreme Court of Virginia held that on appeal by trial de novo in circuit court of an order of involuntary commitment by a district court, upon the circuit court's finding that the appellant no longer meets the criteria for involuntary commitment, the proper remedy is dismissal of the Commonwealth's

petition for involuntary commitment, thereby rendering the original commitment order a nullity. As such, because the original petition would in effect never have existed, forfeiture of the right to possess a firearm as required by § 18.2-308.1:3 upon involuntary commitment would no longer be in effect. Section 18.2-308.1:3 requires that a person who has been involuntarily committed and seeks to have his firearm rights restored petition a district court for restoration of his firearm rights. The ruling in *Paugh*, by requiring dismissal of the original petition for commitment, removes that requirement even though on the date of the original commitment hearing the person did meet the criteria for commitment and was, in fact, involuntarily committed. The bill provides that, notwithstanding the outcome of any appeal (trial de novo on the petition for commitment) taken pursuant to § 37.2-821 or § 16.1-345.6, the appellant shall be required to seek restoration of his firearm rights. The bill also provides that, upon a finding by the circuit court that the appellant no longer meets the criteria for involuntary commitment or mandatory outpatient treatment, the court shall reverse the order of the district court but shall not dismiss the Commonwealth's petition. As a consequence of these changes, a person who is involuntarily committed would be required to petition for restoration of his firearm rights notwithstanding the reversal of the commitment order by a circuit court.

HB421 – §§ 15.2-915 and 15.2-915.5 –Control of firearms by localities. Authorizes any locality by ordinance to prohibit the possession or carrying of firearms, ammunition, or components or any combination thereof in (i) any building, or part thereof, owned or used by such locality for governmental purposes; (ii) any public park owned or operated by the locality; (iii) any recreation or community center facility; or (iv) any public street, road, alley, sidewalk or public right-of-way or any other place of whatever nature that is open to the public and is being used by or is adjacent to a permitted event or an event that would otherwise require a permit. Provisions limiting the authority of localities and state governmental entities to bring lawsuits against certain firearms manufacturers and others are also repealed. The bill also provides that any firearm received by the locality pursuant to a gun buy-back program shall be destroyed by the locality unless the person surrendering such firearm requests in writing that such surrendered firearm be sold. The provisions of the bill do not apply to the activities of a Senior Reserve Officers' Training Corps program operated at a public or private institution of higher education or (ii) any intercollegiate athletics program operated by a public or private institution of higher education and governed by the National Collegiate Athletic Association or any club sports team recognized by a public or private institution of higher education where the sport engaged in by such program or team involves the use of a firearm. The bill contains technical amendments. This bill is identical to **SB 35.**

SB600 – §§ 15.2-914 and adding 63.2-1701.01 – Family day homes; storage of firearms. Requires that during hours of operation, all firearms in a licensed family day home, registered family day home, or family day home approved by a family day system be stored unloaded in a locked container, compartment, or cabinet, and that all ammunition be stored in a separate locked container, compartment, or cabinet. The bill requires that the key or combination to such locked containers, compartments, or cabinets be inaccessible to all children in the home. This bill is identical to **SB 593.**

MISCELLANEOUS – FULL TEXT

Community Policing Act; data collection and reporting requirement. Prohibits law-enforcement officers and State Police officers from engaging in bias-based profiling, defined in the bill, in the performance of their official duties. The bill directs the Department of State Police (the Department) to create the Community Policing Reporting Database into which sheriffs, police forces, and State Police officers report certain data pertaining to motor vehicle or investigatory stops. The Department is directed to provide access to the database to the Department of Criminal Justice Services (DCJS) for the purpose of analyzing motor vehicle and investigatory stops and records of complaints alleging the use of excessive force. The data analysis shall be used to determine the existence and prevalence of the practice of bias-based profiling and the prevalence of complaints alleging the use of excessive force. The bill requires that each time a local law-enforcement officer or State Police officer stops a driver of a motor vehicle the officer collect the following data based on the officer's observation or information provided to the officer by the driver: (i) the race, ethnicity, age, and gender of the person stopped; (ii) the reason for the stop; (iii) the location of the stop; (iv) whether a warning, written citation, or summons was issued or whether any persons were arrested; (v) if a warning, written citation, or summons was issued or an arrest was made, the warning provided, violation charged, or crime charged; and (vi) whether the vehicle or any person was searched. The bill requires each state and local law-enforcement agency to also collect and report to the State Police the number of complaints the agency receives alleging the use of excessive force. The bill also requires the Director of DCJS to annually report the findings and recommendations resulting from the collection, analysis, and interpretation of the data from the Database to the Governor, the General Assembly, and the Attorney General beginning July 1, 2021. The report shall include information regarding any state or local law-enforcement agency that has failed or refused to report the required data. A copy of the report shall be provided to each attorney for the Commonwealth of the county or city in which a reporting law-enforcement agency is located.

CHAPTER 1165

*An Act to amend the Code of Virginia by adding in Chapter 1 of Title 9.1 an article numbered 14, consisting of a section numbered **9.1-191**, by adding sections numbered **15.2-1609.10** and **15.2-1722.1**, and by adding in Title 52 a chapter numbered 6.1, consisting of sections numbered **52-30.1** through **52-30.4**, relating to the Community Policing Act; data collection and reporting requirements.*

[H 1250]
Approved April 11, 2020

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 1 of Title 9.1 an article numbered 14, consisting of a section numbered **9.1-191**, by adding sections numbered **15.2-1609.10** and **15.2-1722.1**, and by adding in Title 52 a chapter numbered 6.1, consisting of sections numbered **52-30.1** through **52-30.4**, as follows:

Article 14.
Virginia Community Policing Report.

*§ **9.1-191**. Community Policing Reporting Database; annual report.*

*A. The Department shall periodically access the Community Policing Reporting Database, which is maintained by the Department of State Police in accordance with § **52-30.3**, for the purposes of analyzing the data to determine the existence and prevalence of the practice of bias-based profiling and the prevalence of complaints alleging the use of excessive force. The Department shall maintain all records relating to the analysis, validation, and interpretation of such data. The Department may seek assistance in analyzing the data from any accredited public or private institution of higher education in the Commonwealth or from an independent body having the experience, staff expertise, and technical support capability to provide such assistance.*

*B. The Director shall annually report the findings and recommendations resulting from the analysis and interpretation of the data from the Community Policing Reporting Database to the Governor, the General Assembly, and the Attorney General beginning on or before July 1, 2021, and each July 1 thereafter. The report shall also include information regarding state or local law-enforcement agencies that have failed or refused to report the required data to the Department of State Police as required by §§ **15.2-1609.10**, **15.2-1722.1**, and **52-30.2**. A copy of the Director's report shall also be provided to each attorney for the Commonwealth of the county or city in which a reporting law-enforcement agency is located.*

*§ **15.2-1609.10**. Prohibited practices; collection of data.*

*A. No sheriff or deputy sheriff shall engage in bias-based profiling as defined in § **52-30.1** in the performance of his official duties.*

*B. The sheriff of every locality shall collect data pertaining to motor vehicle or investigative stops pursuant to § **52-30.2** and report such data to the Department of State Police for inclusion in the Community Policing Reporting Database established pursuant to § **52-30.3**. The sheriff of the locality shall be responsible for forwarding the data to the Superintendent of State Police.*

*§ **15.2-1722.1**. Prohibited practices; collection of data.*

*A. No law-enforcement officer shall engage in bias-based profiling as defined in § **52-30.1** in the performance of his official duties.*

*B. The police force of every locality shall collect data pertaining to motor vehicle or investigatory stops pursuant to § **52-30.2** and report such data to the Department of State Police for inclusion in the Community Policing Reporting Database established pursuant to § **52-30.3**. The chief of police of the locality shall be responsible for forwarding the data to the Superintendent of State Police.*

CHAPTER 6.1.
VIRGINIA COMMUNITY POLICING ACT.

*§ **52-30.1**. Definition.*

For purposes of this chapter, unless the context requires a different meaning, "bias-based profiling" means actions of a law-enforcement officer that are based solely on the real or perceived race, ethnicity, age, gender, or any combination thereof, or other noncriminal characteristics of an individual, except when such characteristics are used in combination with other identifying factors in seeking to apprehend a suspect who matches a specific description.

*§ **52-30.2**. Prohibited practices; collection of data.*

A. No State Police officer shall engage in bias-based profiling in the performance of his official duties.

B. State Police officers shall collect data pertaining to motor vehicle or investigatory stops to be reported into the Community Policing Reporting Database. State Police officers shall submit the data to their commanding officers, who shall forward it to the Superintendent of State Police.

C. Each time a law-enforcement officer or State Police officer stops a driver of a motor vehicle, such officer shall collect the following data based on the officer's observation or information provided to the officer by the driver: (i) the race, ethnicity, age, and gender of the person stopped; (ii) the reason for the stop; (iii) the location of the stop; (iv) whether a warning, written citation, or summons was issued or whether any person was arrested; (v) if a warning, written citation, or summons was issued or an arrest was made, the warning provided, violation charged, or crime charged; and (vi) whether the vehicle or any person was searched.

D. Each state and local law-enforcement agency shall collect the number of complaints the agency receives alleging the use of excessive force.

*§ **52-30.3**. Community Policing Reporting Database established.*

*A. The Department of State Police shall develop and implement a uniform statewide database to collect motor vehicle and investigatory stop records, records of complaints alleging the use of excessive force, and data and information submitted by law-enforcement agencies pursuant to §§ **15.2-1609.10**, **15.2-1722.1**, and **52-30.2**. The Department of State Police shall provide the Department of Criminal Justice Services with secure remote access to the database for the purposes of analyzing such data as required by subsection A of § **9.1-191**.*

*§ **52-30.4**. Reporting of state and local law-enforcement agencies required.*

*All state and local law-enforcement agencies shall collect the data specified in subsections C and D of § **52-30.2**, and any other data as may be specified by the Department of State Police, on forms developed by the Department of State Police.*

Virginia State Police; reporting hate crimes. Includes within the definition of "hate crime" a criminal act committed against a person or the person's property because of disability, as defined in the bill, sexual orientation, gender, or gender identification and requires the reporting of the commission of such crime to the State Police. This bill incorporates **HB 1058.**

CHAPTER 124

An Act to amend and reenact § 52-8.5 of the Code of Virginia, relating to Virginia State Police; reporting hate crimes.

[H 276]
Approved March 4, 2020

Be it enacted by the General Assembly of Virginia:

1. That § **52-8.5** of the Code of Virginia is amended and reenacted as follows:

§ **52-8.5**. Reporting hate crimes.

A. The Superintendent shall establish and maintain within the Department of State Police a central repository for the collection and analysis of information regarding hate crimes and groups and individuals carrying out such acts.

B. State, county, and municipal law-enforcement agencies shall report to the Department all hate crimes occurring in their jurisdictions in a form, time, and manner prescribed by the Superintendent. Such reports shall not be open to public inspection except insofar as the Superintendent shall permit.

C. ~~For purposes of this section, "hate crime"~~ *As used in this section:*

"Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities.

"Hate crime" means (i) a criminal act committed against a person or his property with the specific intent of instilling fear or intimidation in the individual against whom the act is perpetrated because of race, religion*, gender, disability, gender identity, sexual orientation,* or ethnic *or national* origin or that is committed for the purpose of restraining that person from exercising his rights under the Constitution or laws of ~~this~~ *the* Commonwealth or of the United States~~,~~*;* (ii) any illegal act directed against any persons or their property because of those persons' race, religion*, gender, disability, gender identity, sexual orientation,* or *ethnic or* national origin~~,~~*;* and (iii) all other incidents, as determined by law-enforcement authorities, intended to intimidate or harass any individual or group because of race, religion*, gender, disability, gender identity, sexual orientation,* or *ethnic or* national origin.

Protective orders; possession of firearms; surrender or transfer of firearms; penalty. Prohibits any person subject to a permanent protective order (i.e., a protective order with a maximum duration of two years) from knowingly possessing a firearm while the order is in effect, provided that for a period of 24 hours after being served with a protective order such person may continue to possess such firearm for the purposes of selling or transferring it to any person who is not otherwise prohibited by law from possessing such firearm. A violation of this provision is a Class 6 felony. The bill also provides that a court shall order a person subject to a permanent protective order to (i) within 24 hours, surrender any firearm possessed by such person to a designated local law-enforcement agency or sell or transfer any firearm possessed by such person to a dealer or to any person who is not otherwise prohibited by law from possessing such firearm and (ii) certify in writing that such person does not possess any firearms or that all firearms possessed by such person have been surrendered, sold, or transferred and file such certification with the clerk of the court that entered the protective order within 48 hours after being served with a protective order. The bill provides that the willful failure of any person to certify in writing that all firearms possessed by such person have been surrendered, sold, or transferred or that such person does not possess any firearms shall constitute contempt of court. The bill provides procedures for designating a local law-enforcement agency to receive and store firearms, as well as a process to return such surrendered firearms. The bill also makes it a Class 4 felony for any person to sell, barter, give, or furnish any firearm to any person he knows is prohibited from possessing or transporting a firearm who is subject to a permanent protective order. This bill incorporates **HB 856** and is identical to **SB 479.**

CHAPTER 1221

*An Act to amend and reenact §§ **18.2-308.1:4** and **18.2-308.2:1** of the Code of Virginia, relating to protective orders; possession of firearms; surrender or transfer of firearms; penalty.*

[H 1004]
Approved April 22, 2020

Be it enacted by the General Assembly of Virginia:

1. That §§ **18.2-308.1:4** and **18.2-308.2:1** of the Code of Virginia are amended and reenacted as follows:

§ **18.2-308.1:4**. Purchase or transportation of firearm by persons subject to protective orders; penalties.

A. It is unlawful for any person who is subject to (i) a protective order entered pursuant to § **16.1-253.1**, **16.1-253.4**, **16.1-278.2**, **16.1-279.1**, **19.2-152.8**, **19.2-152.9**, or **19.2-152.10**; (ii) an order issued pursuant to subsection B of § **20-103**; (iii) an order entered pursuant to subsection D of § **18.2-60.3**; (iv) a preliminary protective order entered pursuant to subsection F of § **16.1-253** where a petition alleging abuse or neglect has been filed; or (v) an order issued by a tribunal of another state, the United States or any of its territories, possessions, or commonwealths, or the District of Columbia pursuant to a statute that is substantially similar to those cited in clauses (i), (ii), (iii), or (iv) to purchase or transport any firearm while the order is in effect. Any person with a concealed handgun permit shall be prohibited from carrying any concealed firearm, and shall surrender his permit to the court entering the order, for the duration of any protective order referred to herein. A violation of this subsection is a Class 1 misdemeanor.

B. In addition to the prohibition set forth in subsection A, it is unlawful for any person who is subject to a protective order entered pursuant to § **16.1-279.1** *or* ***19.2-152.10*** or an order issued by a tribunal of another state, the United States or any of its territories, possessions, or commonwealths, or the District of Columbia pursuant to a statute that is substantially similar to § **16.1-279.1** *or* ***19.2-152.10*** to knowingly possess any firearm while the order is in effect, provided that for a period of 24 hours after being served with a protective order in accordance with subsection C of § **16.1-279.1** *or subsection C of §* ***19.2-152.10*** such person may continue to possess and, notwithstanding the provisions of subsection A, transport any firearm possessed by such person at the time of service for the purposes of *surrendering any such firearm to a law-enforcement agency in*

accordance with subsection C or selling or transferring any such firearm to *a dealer as defined in § **18.2-308.2:2** or to* any person who is not otherwise prohibited by law from possessing such firearm *in accordance with subsection C*. A violation of this subsection is a Class 6 felony.

*C. Upon issuance of a protective order pursuant to § **16.1-279.1** or **19.2-152.10**, the court shall order the person who is subject to the protective order to (i) within 24 hours after being served with a protective order in accordance with subsection C of § **16.1-279.1** or subsection C of § **19.2-152.10** (a) surrender any firearm possessed by such person to a designated local law-enforcement agency, (b) sell or transfer any firearm possessed by such person to a dealer as defined in § **18.2-308.2:2**, or (c) sell or transfer any firearm possessed by such person to any person who is not otherwise prohibited by law from possessing such firearm and (ii) within 48 hours after being served with a protective order in accordance with subsection C of § **16.1-279.1** or subsection C of § **19.2-152.10**, certify in writing, on a form provided by the Office of the Executive Secretary of the Supreme Court, that such person does not possess any firearms or that all firearms possessed by such person have been surrendered, sold, or transferred and file such certification with the clerk of the court that entered the protective order. The willful failure of any person to certify in writing in accordance with this section that all firearms possessed by such person have been surrendered, sold, or transferred or that such person does not possess any firearms shall constitute contempt of court.*

*D. The person who is subject to a protective order pursuant to § **16.1-279.1** or **19.2-152.10** shall be provided with the address and hours of operation of a designated local law-enforcement agency and the certification forms when such person is served with a protective order in accordance with subsection C of § **16.1-279.1** or subsection C of § **19.2-152.10**.*

*E. A law-enforcement agency that takes into custody a firearm surrendered to such agency pursuant to subsection C by a person who is subject to a protective order pursuant to § **16.1-279.1** or **19.2-152.10** shall prepare a written receipt containing the name of the person who surrendered the firearm and the manufacturer, model, and serial number of the firearm and provide a copy to such person. Any firearm surrendered to and held by a law-enforcement agency pursuant to subsection C shall be returned by such agency to the person who surrendered the firearm upon the expiration or dissolution of the protective order entered pursuant to § **16.1-279.1** or **19.2-152.10**. Such agency shall return the firearm within five days of receiving a written request for the return of the firearm by the person who surrendered the firearm and a copy of the receipt provided to such person by the agency. Prior to returning the firearm to such person, the law-enforcement agency holding the firearm shall confirm that such person is no longer subject to a protective order issued pursuant to § **16.1-279.1** or **19.2-152.10** and is not otherwise prohibited by law from possessing a firearm. A firearm surrendered to a law-enforcement agency pursuant to subsection C may be disposed of in accordance with the provisions of § **15.2-1721** if (i) the person from whom the firearm was seized provides written authorization for such disposal to the agency or (ii) the firearm remains in the possession of the agency more than 120 days after such person is no longer subject to a protective order issued pursuant to § **16.1-279.1** or **19.2-152.10** and such person has not submitted a request in writing for the return of the firearm.*

F. Any law-enforcement agency or law-enforcement officer that takes into custody, stores, possesses, or transports a firearm pursuant to this section shall be immune from civil or criminal liability for any damage to or deterioration, loss, or theft of such firearm.

G. The law-enforcement agencies of the counties, cities, and towns within each judicial circuit shall designate, in coordination with each other, and provide to the chief judges of all circuit and district courts within the judicial circuit, one or more local law-enforcement agencies to receive and store firearms pursuant to this section. The

*law-enforcement agencies shall provide the chief judges with a list that includes the addresses and hours of operation for any law-enforcement agencies so designated that such addresses and hours of operation may be provided to a person served with a protective order in accordance with subsection C of § **16.1-279.1** or subsection C of § **19.2-152.10**.*

§ **18.2-308.2:1**. Prohibiting the selling, etc., of firearms to certain persons.

Any person who sells, barters, gives or furnishes, or has in his possession or under his control with the intent of selling, bartering, giving or furnishing, any firearm to any person he knows is prohibited from possessing or transporting a firearm pursuant to § **18.2-308.1:1**, **18.2-308.1:2**, *or* **18.2-308.1:3**, *subsection B of § **18.2-308.1:4**, § **18.2-308.2***, subsection B of § **18.2-308.2:01**, or § **18.2-308.7** shall be guilty of a Class 4 felony. However, this prohibition shall not be applicable when the person convicted of the felony, adjudicated delinquent or acquitted by reason of insanity has (i) been issued a permit pursuant to subsection C of § **18.2-308.2** or been granted relief pursuant to subsection B of § **18.2-308.1:1**, or § **18.2-308.1:2** or **18.2-308.1:3**; (ii) been pardoned or had his political disabilities removed in accordance with subsection B of § **18.2-308.2**; or (iii) obtained a permit to ship, transport, possess or receive firearms pursuant to the laws of the United States.

2. That any petition for a protective order promulgated by the Executive Secretary of the Supreme Court of Virginia shall include a provision where the petitioner may indicate whether the petitioner knows or has reason to know that the respondent owns or otherwise possesses any firearms.

3. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § **30-19.1:4** of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 854 of the Acts of Assembly of 2019 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § **30-19.1:4** of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

Disorderly conduct; students. Provides that an elementary or secondary school student is not guilty of disorderly conduct in a public place if the disorderly conduct occurred on the property of an elementary or secondary school, on a school bus, or at any activity conducted or sponsored by any elementary or secondary school. This bill incorporates **HB 8.**

CHAPTER 199

*An Act to amend and reenact § **18.2-415** of the Code of Virginia, relating to disorderly conduct; students.*

[H 256]
Approved March 8, 2020

Be it enacted by the General Assembly of Virginia:

1. That § **18.2-415** of the Code of Virginia is amended and reenacted as follows:

§ **18.2-415**. Disorderly conduct in public places.

A. A person is guilty of disorderly conduct if, with the intent to cause public inconvenience, annoyance*,* or alarm, or recklessly creating a risk thereof, he:

~~A.~~ *1.* In any street, highway, *or* public building, or while in or on a public conveyance, or *while in a* public place engages in conduct having a direct tendency to cause acts of violence by the person or persons at whom, individually, such conduct is directed;~~ or~~

~~B.~~ *2.* Willfully or being intoxicated, whether willfully or not, and whether such intoxication results from self-administered alcohol or other drug of whatever nature, disrupts any funeral, memorial service, or meeting of the governing body of any political subdivision of this Commonwealth or a division or agency thereof, or of any school, literary society*,* or place of religious worship, if the disruption (i) prevents or interferes with the orderly conduct of the funeral, memorial service, or meeting or (ii) has a direct tendency to cause acts of violence by the person or persons at whom, individually, the disruption is directed; or

~~C.~~ *3.* Willfully or while intoxicated, whether willfully or not, and whether such intoxication results from self-administered alcohol or other drug of whatever nature, disrupts the operation of any school or any activity conducted or sponsored by any school, if the disruption (i) prevents or interferes with the orderly conduct of the operation or activity or (ii) has a direct tendency to cause acts of violence by the person or persons at whom, individually, the disruption is directed.

~~However, the~~ *B. The* conduct prohibited under~~ subdivision~~ *subsection* A~~, B or C of this section~~ shall not be deemed to include the utterance or display of any words or to include conduct otherwise made punishable under this title.

C. The person in charge of any such building, place, conveyance, meeting, operation*,* or activity may eject therefrom any person who violates any provision of this section, with the aid, if necessary, of any persons who may be called upon for such purpose.

*D. The provisions of this section shall not apply to any elementary or secondary school student if the disorderly conduct occurred on the property of any elementary or secondary school, on a school bus as defined in § **46.2-100**, or at any activity conducted or sponsored by any elementary or secondary school.*

E. The governing bodies of counties, cities*,* and towns are authorized to adopt ordinances prohibiting and punishing the acts and conduct prohibited by this section, provided that the punishment fixed therefor shall not exceed that prescribed for a Class 1 misdemeanor. A person violating any provision of this section ~~shall be~~ *is* guilty of a Class 1 misdemeanor.

Paramilitary activities; penalty. Provides that a person is guilty of unlawful paramilitary activity if such person brandishes a firearm or any air-operated or gas-operated weapon or any object similar in appearance while assembled with one or more persons for the purpose of and with the intent to intimidate any person or group of persons. Such unlawful paramilitary activity is punishable as a Class 5 felony.

CHAPTER 601

*An Act to amend and reenact § **18.2-433.2** of the Code of Virginia, relating to paramilitary activities; penalty.*

[S 64]
Approved April 2, 2020

Be it enacted by the General Assembly of Virginia:

1. That § **18.2-433.2** of the Code of Virginia is amended and reenacted as follows:

§ **18.2-433.2**. Paramilitary activity prohibited; penalty.

A person ~~shall be~~ *is* guilty of unlawful paramilitary activity, punishable as a Class 5 felony*,* if he:

1. Teaches or demonstrates to any other person the use, application, or making of any firearm, explosive or incendiary device, or technique capable of causing injury or death to persons, knowing or having reason to know or intending that such training will be employed for use in, or in furtherance of, a civil disorder;~~ or~~

2. Assembles with one or more persons for the purpose of training with, practicing with, or being instructed in the use of any firearm, explosive or incendiary device, or technique capable of causing injury or death to persons, intending to employ such training for use in, or in furtherance of, a civil disorder*; or*

*3. Violates subsection A of § **18.2-282** while assembled with one or more persons for the purpose of and with the intent to intimidate any person or group of persons.*

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § **30-19.1:4** of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 854 of the Acts of Assembly of 2019 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § **30-19.1:4** of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

Department of State Police; establishment of cold case searchable database. Requires the Superintendent of State Police to establish and maintain a searchable electronic database of cold cases, available to the public through the Department of State Police official website. The bill defines "cold case" as an investigation into a homicide, missing person, or unidentified person case that has remained unsolved for at least five years after the crime occurred, the person went missing, or the unidentified body was found, whichever occurred last. The bill requires the database to include (i) the category of cold case and, in the case of a homicide or missing person, the name of the victim or missing person, unless prohibited or restricted by law; (ii) the location where the crime was committed, where the person was last seen, or where the body was found, if known; (iii) the date and time the crime occurred, the person was last seen, or the body was found, if known; (iv) the name and contact information of the investigating law-enforcement agency; (v) a brief summary of the crime or case; and (vi) any other information that the investigating law-enforcement agency determines is appropriate. The bill also allows the Department and submitting law-enforcement agencies to withhold such information, in whole or in part, from the database (a) as they deem necessary for investigative purposes, protection of privacy, or any other lawful reason or (b) upon request of the victim's or missing person's next of kin.

CHAPTER 1127

*An Act to amend the Code of Virginia by adding in Title 52 a chapter numbered 7.5, consisting of a section numbered **52-34.13**, relating to the Department of State Police; establishment of cold case searchable database.*

[H 1024]
Approved April 10, 2020

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 52 a chapter numbered 7.5, consisting of a section numbered **52-34.13**, as follows:

CHAPTER 7.5.
COLD CASE SEARCHABLE DATABASE.

*§ **52-34.13**. Cold case searchable database established.*

A. As used in this section, "cold case" means an investigation into a homicide, missing person, or unidentified person case that has remained unsolved for at least five years after the crime occurred, the person went missing, or the unidentified body was found, whichever occurred last.

B. The Superintendent of State Police shall establish and maintain a searchable electronic database of cold cases to assist law-enforcement agencies in the development of information leading to the identification and arrest of persons who may have committed the crimes or to persons who may have relevant information to solve the case. Such database shall be available to the public through the Department of State Police official website.

*C. The searchable electronic database shall include (i) the category of cold case and, in the case of a homicide or missing person, the name of the victim or missing person, unless disclosure is prohibited or restricted by § **19.2-11.2**; (ii) the location where the crime was committed, where the person was last seen, or where the body was found, if known; (iii) the date and time the crime occurred, the person was last seen, or the body was found, if known; (iv) the name and contact information of the investigating law-enforcement agency; (v) a brief summary of the crime or case; and (vi) any other information that the investigating law-enforcement agency determines is appropriate. The Department of State Police and submitting law-enforcement agencies shall have the discretion to withhold such information, in whole or in part, from the database (a) as they deem necessary*

for investigative purposes, protection of privacy, or any other lawful reason or (b) upon request of the victim's or missing person's next of kin.

MISCELLANEOUS – SUMMARY ONLY

HB477 – §§ 16.1-241, 16.1-269.1, 16.1-269.2, and 16.1-277.1 – Juveniles; trial as adult. Increases from 14 years of age to 16 years of age the minimum age at which a juvenile must be tried as an adult in circuit court for murder or aggravated malicious wounding; however, if the juvenile is 14 years of age or older but younger than 16 years of age, the court, on motion of the attorney for the Commonwealth, shall hold a transfer hearing. The minimum age is also raised from 14 to 16 for certain charges requiring notice of intent to try such juvenile as an adult by the attorney for the Commonwealth. In order to be tried as an adult in circuit court for the charges that under current law require notice of intent to proceed with trial as an adult by the attorney for the Commonwealth, the bill requires that (i) a report concerning the juvenile be prepared by the court services unit or other qualified agency and (ii) the attorney for the Commonwealth provide written notice that he intends to proceed with a preliminary hearing for trial of such juvenile as an adult, including affirmation that he has read the report. This bill incorporates **HB 1440.**

HB1522 – §§ 19.2-386.1, 19.2-386.10, 19.2-386.29, 19.2-386.31, 19.2-386.32, 19.2-386.34, and 19.2-386.35 – Forfeiture of property used in connection with the commission of crimes; finding of guilt required. Requires that any action for the forfeiture of property used in connection with the commission of a crime be stayed until the person whose property is the subject of the forfeiture action has been found guilty of the crime authorizing the forfeiture, regardless of whether he has been sentenced. The bill provides that property may be forfeited even though no finding of guilt is made if (i) the forfeiture is ordered by the court pursuant to a plea agreement or (ii) the owner has not submitted a written demand for the return of the property within 21 days from the date the stay terminates. This bill incorporates **HB 225.**

SB144 – §§ 18.2-60.4 and 19.2-152.10 – Protective orders; issuance upon convictions for certain felonies; penalty. Authorizes a court to issue a protective order upon convicting a defendant for an act of violence and upon the request of the victim or the attorney for the Commonwealth on behalf of the victim. The bill provides that the duration of such protective order can be for any reasonable period of time, including up to the lifetime of the defendant, that the court deems necessary to protect the health and safety of the victim. The bill provides that a violation of a protective order issued upon a conviction for an act of violence is punishable as a Class 1 misdemeanor.

SB640 – § 8.01-130.01 – Unlawful detainer; expungement. Creates a process by which unlawful detainer actions filed in a general district court that have been dismissed or nonsuited may be expunged upon request of the defendant to such action. The bill has a delayed effective date of January 1, 2022.

SB667 – § 18.2-251.03 – Arrest and prosecution when experiencing or reporting overdoses. Provides that no individual shall be subject to arrest or prosecution for the unlawful purchase, possession, or consumption of alcohol; possession of a controlled substance; possession of marijuana; intoxication in public; or possession of controlled paraphernalia if (i) such individual (a) seeks or obtains emergency medical attention for himself, if he is experiencing an overdose, or for another individual, if such other individual is experiencing an overdose, or (b) is experiencing an overdose and another individual seeks or obtains emergency medical attention for him; (ii) such individual remains at the scene of the overdose or at any location to which he or the individual requiring emergency medical attention has been transported; (iii) such individual identifies himself to the law-enforcement officer who responds; and (iv) the evidence for a prosecution of one of the enumerated offenses would have been obtained only as a result of an individual seeking or obtaining emergency medical attention. The bill also provides that no law-enforcement officer acting in a good faith shall be found liable for false arrest if it is later determined that the person arrested was immune from prosecution. Current law provides an affirmative defense to such offenses only when an individual seeks or obtains emergency medical attention for himself, if he is experiencing an overdose, or for another individual, if such other individual is experiencing an overdose.

HB1049 – §§ 2.2-2203.3, 2.2-3004, 2.2-3900 through 2.2-3903, 2.2-4200, 2.2-4310, 2.2-4343.1, 4.1-101.05, 6.2-501, 15.2-853, 15.2-854, 15.2-965, 15.2-1131, 15.2-1507, 15.2-1604, 15.2-6314.1, 22.1-212.6:1, 22.1-306, 22.1-349.3, 23.1-1009, 23.1-1017, 23.1-2213, 23.1-2312, 23.1-2405, 23.1-2415, 23.1-3011, 23.1-3138, 36-55.26, 36-96.1 through 36-96.3, 36-96.4, 36-96.6, 37.2-707, 38.2-508.2,

38.2-2114, 38.2-2115, 38.2-2212, 38.2-2213, 38.2-3407.10, 40.1-121, 46.2-1503.2, 51.1-124.27, 51.5-166, 51.5-170, 55.1-1310, 58.1-3651, 58.1-4024, 62.1-129.1, and 63.2-608 and adding sections numbered 2.2-2901.1, 15.2-1500.1, and 22.1-295.2 – Prohibited discrimination; sexual orientation and gender identity. Prohibits discrimination in employment, public accommodation, public contracting, apprenticeship programs, housing, banking, and insurance on the basis of sexual orientation or gender identity. The bill also adds discrimination based on sexual orientation or gender identity to the list of unlawful discriminatory housing practices. The bill contains technical amendments.

SB153 – § 2.2-3704 – Virginia Freedom of Information Act; cost estimates; response time. Provides that if a requester asks for a cost estimate in advance of a Virginia Freedom of Information Act request, the time to respond is tolled for the amount of time that elapses between notice of the cost estimate and the response from the requester, and that if the public body receives no response from the requester within 30 days of sending the cost estimate, the request shall be deemed to be withdrawn. The bill clarifies that if a cost estimate exceeds $200 and the public body requires an advance deposit, the public body may require the requester to pay the advance deposit before the public body is required to process the request. This bill is a recommendation of the Virginia Freedom of Information Advisory Council.

HB873 – §§ 19.2-389 and adding sections 19.2-264.6 through 19.2-264.14 – Discovery in criminal cases. Establishes requirements and procedures for discovery by an accused and by the Commonwealth in a criminal case. The bill requires a party requesting discovery to request that the other party voluntarily comply with such request prior to filing any motion before a judge. Upon receiving a negative or unsatisfactory response, or upon the passage of seven days following the receipt of the request without response, the party requesting discovery may file a motion for discovery with the court. The bill details information that is subject to discovery and provides that discovery shall be provided at a reasonable time before trial but that in no case shall it be provided later than (i) 14 days before trial on a misdemeanor in circuit court, (ii) 30 days before trial on a felony or multiple felony counts punishable by confinement in a state correctional facility for an aggregate of 30 years or less, or (iii) 90 days before trial on a felony or multiple felony counts punishable by confinement in a state correctional facility for an aggregate of more than 30 years. The bill also provides a mechanism for redaction of certain personal identifying information and creates a procedure for either party to move the court to enter a protection order with regard to discovery. Finally, the bill grants the court the ability to impose various remedies it deems just if a party fails to comply with any of the requirements. This bill incorporates **HB 1153.**

HB438 and SB561 – §§ 9.1-102 and adding section 65.2-107 – Workers' compensation; post-traumatic stress disorder; law-enforcement officers and firefighters. Provides that post-traumatic stress disorder incurred by a law-enforcement officer or firefighter is compensable under the Virginia Workers' Compensation Act if a mental health professional examines a law-enforcement officer or firefighter and diagnoses the individual as suffering from post-traumatic stress disorder as a result of the individual's undergoing a qualifying event, defined as an incident or exposure occurring in the line of duty on or after July 1, 2020, (i) resulting in serious bodily injury or death to any person or persons; (ii) involving a minor who has been injured, killed, abused, or exploited; (iii) involving an immediate threat to life of the claimant or another individual; (iv) involving mass casualties; or (v) responding to crime scenes for investigation. Other conditions for compensability include (a) if the post-traumatic stress disorder resulted from the law-enforcement officer or firefighter acting in the line of duty and, in the case of a firefighter, such firefighter complied with certain federal Occupational Safety and Health Act standards; (b) if the law-enforcement officer's or firefighter's undergoing of a qualifying event was a substantial factor in causing his post-traumatic stress disorder; (c) if such qualifying event, and not another event or source of stress, was the primary cause of the post-traumatic stress disorder; and (d) if the post-traumatic stress disorder did not result from any disciplinary action, work evaluation, job transfer, layoff, demotion, promotion, termination, retirement, or similar action of the officer or firefighter. The measure also establishes requirements for resilience and self-care technique training. This bill is identical to **SB 561.**

SB199 – §§ 18.2-340.19, 18.2-340.24, 18.2-340.25, 18.2-340.27, 18.2-340.28, 18.2-340.28:1, and 18.2-340.33 – Conduct of charitable gaming. Removes restrictions regarding (i) the number of calendar days that charitable gaming may be conducted, (ii) the number of bingo sessions that may be played in any calendar day and the

number of bingo games that may be played during each session, and (iii) the locations at which games may be played.

SB303 – § 3.2-6511.2 – Import and sale of dogs from certain breeders; penalty. Prohibits any dealer or commercial dog breeder from importing for sale, selling, or offering for sale any dog bred by a person who has received certain citations pursuant to enforcement of the federal Animal Welfare Act. A violation is a Class 1 misdemeanor.

HB1437 – § 16.1-292 – Juvenile confinement for violation of court order. Reduces from 10 days to seven days the maximum allowable period of confinement of a juvenile in a secure facility for a contempt violation or when a child in need of supervision is found to have willfully and materially violated an order of the court. The bill also provides that any order of disposition of such violation confining the juvenile in a secure facility for juveniles shall (i) identify the valid court order that has been violated; (ii) specify the factual basis for determining that there is reasonable cause to believe that the juvenile has violated such order; (iii) state the findings of fact that support a determination that there is no appropriate less restrictive alternative available to placing the juvenile in such a facility, with due consideration to the best interest of the juvenile; (iv) specify the length of time of such confinement, not to exceed seven days; and (v) include a plan for the juvenile's release from such facility.

HB942 – § 3.2-4114 – Industrial hemp; federal regulations; adoption in Virginia. Directs the Board of Agriculture and Consumer Services to conform the regulations of the Department of Agriculture and Consumer Services to any federal regulation adopted by the U.S. Department of Agriculture, immediately upon publication in the Federal Register, that materially expands opportunities for growing, producing, or dealing in industrial hemp in the Commonwealth. The bill exempts such regulatory amendments by the Board from the Administrative Process Act. The bill contains an emergency clause.

SB1030 – §§ 3.2-6594, 3.2-6595, and 3.2-6596 – Dangerous captive animal exhibits; penalty. Prohibits a keeper of dangerous captive animals, defined in the bill, from providing or offering to provide to any member of the public, for free or for a cost, direct contact with such dangerous captive animal. The bill provides that a violation is a Class 3 misdemeanor and that the keeper is subject to a fine of not more than $500. The bill has a delayed effective date of July 1, 2021.

HB113 – § 19.2-271.5 – Protected information; newspersons engaged in journalism. Provides that no newsperson engaged in journalism shall be compelled by the Commonwealth or a locality in any criminal proceeding to testify about, disclose, or produce protected information, as defined in the bill, except when the court finds that (i) the protected information is necessary to the proof of an issue material to an administrative or criminal proceeding; (ii) the protected information is not obtainable from any alternative source; (iii) the Commonwealth or locality exhausted all reasonable methods for obtaining the protected information from all relevant alternative sources, if applicable; and (iv) there is an overriding public interest in the disclosure of the protected information, including preventing harm to or death of a person. The bill further provides that any information obtained in violation of the provisions of the bill shall be inadmissible for any purpose in an administrative or criminal proceeding.

HB1430 and SB918 – §§ 3.2-4121 and adding sections 3.2-5145.1 through 3.2-5145.5 – Industrial hemp extract; approval as food or ingredient; regulations; fund; emergency. Provides that an industrial hemp extract, as defined in the bill, is a food and is subject to applicable laws and regulations. The bill establishes (i) requirements for the production of an industrial hemp extract or a food containing an extract and (ii) conditions under which a manufacturer of such extract or food shall be considered an approved source. The bill authorizes the Board of Agriculture and Consumer Services to adopt regulations establishing contaminant tolerances, labeling requirements, and batch testing requirements, and it provides that moneys collected under the chapter shall be deposited in the Virginia Industrial Hemp Fund, created by the bill. The bill directs the Secretary of

Agriculture and Forestry to report by November 1, 2020, a plan for the long-term sustainability of funding for the industrial hemp program. The bill contains an emergency clause and is identical to **SB 918.**

HB1442 – §§ 46.2-208 and adding section 46.2-882.1 – Photo speed monitoring devices; civil penalty. Authorizes state and local law-enforcement agencies to operate photo speed monitoring devices, defined in the bill, in or around school crossing zones and highway work zones for the purpose of recording images of vehicles that are traveling at speeds of at least 10 miles per hour above the posted school crossing zone or highway work zone speed limit within such school crossing zone or highway work zone when such zone is indicated by conspicuously placed signs displaying the maximum speed limit and that such photo speed monitoring devices are used in the area. The bill provides that the operator of a vehicle shall be liable for a monetary civil penalty, not to exceed $100, if such vehicle is found to be traveling at speeds of at least 10 miles per hour above the posted highway work zone or school crossing zone speed limit by the photo speed monitoring device. The bill provides that if the summons for a violation is issued by mail, the violation shall not be reported on the driver's operating record or to the driver's insurance agency, but if the violation is personally issued by an officer at the time of the violation, such violation shall be part of the driver's record and used for insurance purposes. The bill provides that the civil penalty will be paid to the locality in which the violation occurred if the summons is issued by a local law-enforcement officer and paid to the Literary Fund if the summons is issued by a law-enforcement officer employed by the Department of State Police. This bill incorporates **HB 621** and **HB 1721.**

HB1460 – §§ 54.1-3408.3 and 54.1-3442.7 – Dispensing cannabidiol oil and THC-A oil; non-Virginia residents. Provides that in addition to a patient or a patient's legal guardian who is a Virginia resident, a pharmaceutical processor may dispense in person to a patient or a patient's legal guardian who temporarily resides in Virginia as made evident to the Board of Medicine with a certification for cannabidiol oil and THC-A oil from a Virginia practitioner. The bill also makes clear that a practitioner who issues a written certification for cannabidiol oil must use his professional judgment to determine the manner and frequency of patient care and evaluation and authorizes such practitioner to utilize telemedicine, consistent with federal requirements for the prescribing of Schedule II through V controlled substances.

SB1015 – §§ 18.2-250.1 and 54.1-3442.8 – Possession of marijuana; cannabidiol oil or THC-A oil. Provides that a person who possesses marijuana in the form of cannabidiol oil or THC-A oil pursuant to a valid written certification issued by a practitioner in the course of his professional practice shall not prosecuted for simple possession of marijuana. The bill also provides that no agent or employee of a pharmaceutical processor shall be prosecuted for possession or manufacture of marijuana or for possession, manufacture, or distribution of cannabidiol oil or THC-A oil, or subject to any civil penalty, denied any right or privilege, or subject to any disciplinary action by a professional licensing board if such agent or employee (i) possessed or manufactured such marijuana for the purposes of producing cannabidiol oil or THC-A oil or (ii) possessed, manufactured, or distributed such cannabidiol oil or THC-A oil in accordance with law. Current law provides that such possession of marijuana in the form of cannabidiol oil or THC-A oil in such circumstances is an affirmative defense to such charges.

SB801 – § 19.2-10.4 – Subpoena duces tecum; attorney-issued subpoena duces tecum; criminal cases. Provides that in any criminal case a subpoena duces tecum may be issued by the attorney of record who is an active member of the Virginia State Bar at the time of issuance, as an officer of the court. The bill provides that any such subpoena duces tecum shall be on a form approved by the Executive Secretary of the Supreme Court of Virginia, signed by the attorney as if a pleading, shall include the attorney's address, and shall be mailed

or delivered to the adverse party. The bill also provides that the law governing subpoenas duces tecum issued pursuant to Rule 3A:12(b) shall apply and provides a process for objection to such attorney-issued subpoenas.

SB646 – §§ 18.2-247, 19.2-188.1, 54.1-3401, 54.1-3408.3, 54.1-3442.6, and 54.1-3442.7 – Tetrahydrocannabinol concentration; definition. Clarifies that certain uses of "tetrahydrocannabinol concentration" refer to delta-9-tetrahydrocannabinol. The bill contains an emergency clause.

SB668 – §§ 63.2-1720.1, and 63.2-1721.1 – Child care providers; out-of-state background checks. Requires certain child care providers and employees or volunteers thereof to submit to background checks that include a criminal history record information check and sex offender registry check in any state in which the applicant has resided in the preceding five years.

HB1552 and SB272– § 3.2-6500 – Tethering animals; adequate shelter and space. Provides that the outdoor tethering of an animal does not meet the requirement of adequate shelter during a hurricane warning or tropical storm warning or if the animal is not safe from predators or well suited or equipped to tolerate its environment. The bill provides that unless an animal control officer has inspected an animal's individual circumstances and determined it to be safe from predators and well suited and equipped to tolerate its environment, no such outdoor tethering during a heat advisory, a severe weather warning, or a period when the temperature is 85 degrees Fahrenheit or higher or 32 degrees Fahrenheit or lower shall constitute the provision of adequate shelter. The measure increases the minimum tether length required to constitute adequate space to 15 feet in length or four times the length of the animal, whichever is greater. Current law requires the tether to be at least 10 feet in length or three times the length of the animal, whichever is greater. The bill provides an exception for a case in which an animal control officer, having inspected an animal's individual circumstances, determines that a shorter tether of at least 10 feet or three times the length of the animal makes the animal safer, more suited, and better equipped to tolerate its environment than a longer tether would. This bill is identical to **SB 272.**

HB1495 and SB54 – § 51.1-155 – Virginia Retirement System; retired law-enforcement officers employed as school security officers. Allows a retired law-enforcement officer to continue to receive his service retirement allowance during a subsequent period of employment by a local school division as a school security officer, so long as he has a break in service of at least 12 calendar months between retirement and reemployment, did not retire under an early retirement program, and did not retire under the Workforce Transition Act of 1995. The bill incorporates **HB 986, HB 1368,** and **HB 1493** and is identical to **SB 54.**

HB1452 and SB738– §§ 37.2-808 and 37.2-1104 – Temporary detention for observation and treatment. Clarifies that a person can be subject to a temporary detention order for observation and treatment related to intoxication where the person is located, upon a finding that (i) probable cause exists to believe the person is incapable of making or communicating an informed decision regarding treatment due to intoxication and (ii) the medical standard of care calls for observation, testing, or treatment within the next 24 hours to prevent injury, disability, death, or other harm to the individual resulting from such intoxication. The bill limits the duration of such temporary detention to 24 hours. The bill provides that a person subject to emergency custody due to a mental illness shall remain in custody until (a) a temporary detention order is issued in accordance with § 37.2-809; (b) an order for temporary detention for observation, testing, or treatment is entered in accordance with § 37.2-1104, ending law-enforcement custody; (c) the person is released; or (d) the emergency custody order expires. The bill directs the Department of Behavioral Health and Developmental Services to convene a work group to develop standard policies and procedures regarding medical temporary detention orders. This bill is identical to **SB 738.**

HB65 – §§ 52-34.13, 52-34.14, and 52-34.15 – Establishment of the Virginia Missing Child with Autism Alert Program. Creates a program for local, regional, or statewide notification of a missing child with autism. The bill defines a missing child with autism as a child (i) whose whereabouts are unknown; (ii) who has been diagnosed with autism spectrum disorder; (iii) who is 17 years of age or younger or is currently enrolled in a secondary school in the Commonwealth, regardless of age; and (iv) whose disappearance poses a credible threat as determined by law enforcement to the safety and health of the child and under such other circumstances as deemed appropriate by the Virginia State Police.

HB1047 and SB926 – §§ 19.2-390 and 19.2-392 – Fingerprints and photographs by police authorities; reports to the Central Criminal Records Exchange. Provides that all duly constituted police authorities having the power of arrest may take the fingerprints and photographs of persons who plead guilty or are found guilty for driving while intoxicated when charged by summons. The bill also provides that such summons

information may be entered into the Virginia Criminal Information Network. This bill is a recommendation of the Virginia State Crime Commission. This bill is identical to **SB 926.**

HB1048 and SB925 – § 19.2-392 – Fingerprints and photographs by police authorities. Provides that all duly constituted police authorities having the power of arrest may take the fingerprints and photographs of any person found in contempt or in violation of the terms or conditions of a suspended sentence or probation for a felony offense. This bill is a recommendation of the Virginia State Crime Commission. This bill is identical to **SB 925.**

HB880 – §§ 16.1-253.1, 16.1-279.1, 19.2-152.9, and 19.2-152.10 – Protective orders; motions to dissolve filed by petitioner; ex parte hearing and issuance of order. Provides that, upon motion by a petitioner to dissolve a protective order, a dissolution order may be issued on an ex parte basis with or without a hearing and that a hearing on such a motion shall be heard by the court as soon as practicable. The bill further provides that a dissolution order granted on an ex parte basis shall be served upon the respondent.

HB1419 and SB171 – § 9.1-102 – School resource officers and school security officers; training standards. Requires school resource officers and school security officers to receive training specific to the role and responsibility of a law-enforcement officer working with students in a school environment that includes training on (i) relevant state and federal laws; (ii) school and personal liability issues; (iii) security awareness in the school environment; (iv) mediation and conflict resolution, including de-escalation techniques such as physical alternatives to restraint; (v) disaster and emergency response; (vi) awareness of cultural diversity and implicit bias; (vii) working with students with disabilities, mental health needs, substance abuse disorders, or past traumatic experiences; and (viii) student behavioral dynamics, including current child and adolescent development and brain research. This bill is identical to **SB 171.**

HB51 and SB40 – § 9.1-400 – Line of Duty Act; eligible dependents. Provides that children born or adopted after the death or disability of an employee covered by the Line of Duty Act are eligible for health insurance coverage if their birth or adoption occurred after the time of the employee's death or disability, but prior to July 1, 2017. Under current law, such children are not eligible unless they were adopted pursuant to a preadoptive agreement entered into prior to the death or disability. This bill is identical to **SB 40.**

HB449 – §§ 29.1-338, 29.1-530.2, 29.1-546, and 29.1-550 – Unlawful hunting, fishing, or trapping; prohibition upon conviction. Provides that any person convicted of violating a hunting, fishing, or trapping law may also be prohibited by the court from hunting, fishing, or trapping for a period of one to five years.

SB976 – §§ 54.1-3408.3 and 54.1-3442.5 through 54.1-3442.8 – Board of Pharmacy; pharmaceutical processors; cannabis dispensing facilities. Defines "cannabis dispensing facilities" and allows the Board of

Pharmacy to issue up to five permits for cannabis dispensing facilities per health service area. The bill requires the Board to establish a ratio of one pharmacist for every six pharmacy interns, technicians, and technician trainees for pharmaceutical processors and cannabis dispensing facilities. The bill directs the Board of Pharmacy to require that, after processing and before dispensing cannabis oil, a pharmaceutical processor make a sample available from each homogenized batch of product for testing at an independent laboratory located in Virginia that meets Board requirements. The bill requires that the Board promulgate regulations that include an allowance for the sale of devices for administration of dispensed products and an allowance for the use and distribution of inert product samples containing no cannabinoids for patient demonstration exclusively at the pharmaceutical processor or cannabis dispensing facility, and not for further distribution or sale, without the need for a written certification. The bill also requires the Board to adopt regulations for pharmaceutical processors that include requirements for (i) processes for safely and securely cultivating cannabis plants intended for producing cannabis oil; (ii) a maximum number of marijuana plants a pharmaceutical processor may possess at any one time; (iii) the

secure disposal of plant remains; (iv) dosage limitations, which shall provide that each dispensed dose of cannabis oil not exceed 10 milligrams of tetrahydrocannabinol; and (v) a process for registering cannabis oil products. The bill requires the Board of Pharmacy to promulgate required regulations within 280 days of the bill's enactment.

HB1074 – §§ 29.1-521 and 29.1-554 – Harassing animals; certain species. Changes from "molest" to "harass" the term used in describing certain unlawful acts against animals of certain species.

HB742 – § 15.2-926.3 – Local regulation of unmanned aircraft. Authorizes a political subdivision, by ordinance or regulation, to regulate the take-off or landing of certain unmanned aircraft on property owned by the political subdivision in accordance with the rules and regulations adopted by the Department of Aviation. The bill requires the locality to report the ordinance or regulation to the Department and directs the Department to publish a summary on the locality's website. The bill also directs the Department, by January 1, 2021, to develop rules and regulations specific to take-offs and landings in consultation with representatives of the unmanned aircraft system industry, small and medium-sized businesses utilizing unmanned aircraft systems, localities, and other stakeholders. The bill has a delayed effective date of January 1, 2021. This bill incorporates **HB 311** and **HB 1227.**

HB997 and SB675 – Chapters 146 and 278 of the Acts of Assembly of 2018, are repealed – Child care providers; fingerprint-based criminal background checks; sunset and contingency expiration. Repeals the sunset and contingency expiration of the requirement that the following individuals undergo fingerprint-based national criminal history background checks: (i) applicants for employment by, employees of, applicants to serve as volunteers with, and volunteers with any licensed family day system, child day center exempt from licensure due to its operation by a religious institution, registered family day home, or family day home approved by a family day system; (ii) applicants for licensure as a family day system, registration as a family day home, or approval as a family day home by a family day system, as well as agents of such applicants and any adult living in such family day home; and (iii) individuals who apply for or enter into a contract with the Department of Social Services under which a child day center, family day home, or child day program will provide child care services funded by the Child Care and Development Block Grant Act, as well as the applicant's current or prospective employees and volunteers, agents, and any adult living in the child day center or family day home. This bill is identical to **SB 675.**

HB1181 – §§ 16.1-253.2 and 18.2-60.4 – Violation of provisions of protective order; venue. Provides that a violation of a protective order may be prosecuted in the jurisdiction where the protective order was issued or in any county or city where any act constituting the violation of the protective order occurred.

HB783 and SB9 – § 65.2-402 – Workers' compensation; presumption of compensability for certain diseases. Adds cancers of the colon, brain, or testes to the list of cancers that are presumed to be an occupational disease covered by the Virginia Workers' Compensation Act when firefighters or certain employees develop the cancer. The presumption shall not apply for any individual who was diagnosed with one of the conditions before July 1, 2020. The measure removes the compensability requirement that the employee who develops cancer had contact with a toxic substance encountered in the line of duty. The bill also reduces the number of years of service needed to qualify for the presumption from 12 to five for various types of cancer. For hypertension or heart disease, the bill adds a requirement that an individual complete five years of service in their position in order to qualify. This bill is identical to **SB 9.**

HB664 – §§ 32.1-45.1, 32.1-45.2, 32.1-48.015, and 32.1-116.3 – Exposure to a decedent's body fluids; testing. Provides that, in cases in which any law-enforcement officer, salaried or volunteer firefighter, or salaried or volunteer emergency medical services provider is directly exposed to body fluids of a deceased person in a manner that may, according to the then-current guidelines of the Centers for Disease Control and Prevention, transmit human immunodeficiency virus or hepatitis B or C viruses, the next of kin of the deceased person shall

be deemed to have consented to testing of the decedent's blood for infection with human immunodeficiency virus or hepatitis B or C viruses and release of such test results to the person who was exposed. Under current law, whenever a law-enforcement officer, salaried or volunteer firefighter, or salaried or volunteer emergency medical services provider is directly exposed to body fluids of a deceased person in a manner that may, according to the then-current guidelines of the Centers for Disease Control and Prevention, transmit human immunodeficiency virus or hepatitis B or C viruses, consent for testing and release of the results must be obtained from the next of kin of the deceased person before testing may be initiated.

HB1025 – **Uncodified Act – Vocational rehabilitation and employment services for former law-enforcement officers with a disability.** Requires the Department for Aging and Rehabilitative Services to make available to law-enforcement agencies in the Commonwealth information regarding vocational rehabilitation programs and employment services available to assist former law-enforcement officers who have a disability as a result of their service with preparing for, obtaining, and maintaining suitable employment, including information on the types of programs available and the process by which former law-enforcement officers who have a disability as a result of their service can access such programs and services, and provides that every law-enforcement agency in the Commonwealth shall provide to every law-enforcement officer who separates from the agency due to a disability resulting from his service information regarding vocational rehabilitation programs and employment services available to assist former law-enforcement officers who have a disability as a result of their service with preparing for, obtaining, and maintaining suitable employment, including information on the types of programs available and the process by which such law-enforcement officers may access such programs and services.