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**HOUSE BILL NO. 867****AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the Joint Conference Committee  
on March 9, 2000)

(Patron Prior to Substitute—Delegate Tata)

*A BILL to amend the Code of Virginia by adding in Chapter 2 of Title 22.1 a section numbered 22.1-19.1 and in Article 1 of Chapter 15 of Title 22.1 a section numbered 22.1-292.1, relating to public school test security violations.*

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Chapter 2 of Title 22.1 a section numbered 22.1-19.1 and in Article 1 of Chapter 15 of Title 22.1 a section numbered 22.1-292.1 as follows:**

§ 22.1-19.1. Action for violations of test security procedures.

A. The Office of the Attorney General, on behalf of the Board of Education, may bring a cause of action in the circuit court having jurisdiction where the person resides or where the act occurred for injunctive relief, civil penalty or both, against any person who knowingly and willfully commits any of the following acts related to secure mandatory tests required by the Board to be administered to students:

1. Permitting unauthorized access to secure test questions prior to testing;
2. Copying or reproducing all or any portion of any secure test booklet;
3. Divulging the contents of any portion of a secure test;
4. Altering examinees' responses in any way;
5. Creating or making available answer keys to secure tests;
6. Making a false certification on the test security form established by the Department of Education;

or

7. Participating in, directing, aiding or abetting, or assisting in any of the acts prohibited in this section.

For the purpose of this subsection, "secure" means an item, question, or test that has not been made publicly available by the Department of Education.

B. Nothing in this section may be construed to prohibit or restrict the reasonable and necessary actions of the Board of Education, Superintendent of Public Instruction or the Department of Education or their agents or employees engaged in test development or selection, test form construction, standard setting, test scoring, reporting test scores, or any other related activities which, in the judgment of the Superintendent of Public Instruction or Board of Education, are necessary and appropriate.

C. Any person who violates any provisions of this chapter may be assessed a civil penalty not to exceed \$1,000 for each violation; however, any person whose administrative or teaching license has been suspended or revoked pursuant to § 22.1-292.1 shall not be assessed a civil penalty for the same violation under this section.

All civil penalties paid to the Commonwealth pursuant to this section shall be deposited into the Literary Fund.

§ 22.1-292.1. Violation of test security procedures; revocation of license.

A. The Board of Education may suspend or revoke the administrative or teaching license it has issued to any person who commits any of the following acts knowingly and willfully with the intent to compromise secure mandatory tests administered to students as required by this title or by the Board of Education:

1. Giving unauthorized access to secure test questions;
2. Copying or reproducing all or any portion of any secure test booklet;
3. Divulging the contents of any portion of a secure test;
4. Coaching or assisting examinees during testing or altering examinees' responses in any way;
5. Making available any answer keys;
6. Failing to follow test security procedures established by the Department of Education;
7. Providing a false certification on any test security form required by the Department of Education;
8. Retaining a copy of secure test questions; and
9. Participating in, directing, aiding, assisting in, or encouraging any of the acts prohibited by this section.

For the purposes of this section, "secure test" means an item, question, or test that has not been made publicly available by the Department of Education.

Nothing in this section shall be construed to prohibit educational personnel from providing input to administrators or other authorized personnel, including school board members and members of the General Assembly, except when done in a manner that violates test integrity or security regarding the

60 accuracy, clarity, or propriety of test items or test administration procedures.

61 B. Nothing in this section shall be construed to prohibit or restrict the reasonable and necessary  
62 actions of the Board of Education, the Superintendent of Public Instruction, or the Department of  
63 Education in test development or selection, test form construction, standard setting, test scoring and  
64 reporting, or any other related activities which, in the judgment of the Superintendent of Public  
65 Instruction or the Board, are necessary and appropriate.

66 C. Any suspension or revocation imposed for the acts enumerated in this section shall be rendered  
67 pursuant to Board regulations promulgated pursuant to the Administrative Process Act (§ 9-6.14:1 et  
68 seq.) and § 22.1-298, governing the licensure of teachers.