

# VIRGINIA ACTS OF ASSEMBLY -- 2002 RECONVENED SESSION

## CHAPTER 834

*An Act to amend and reenact §§ 46.2-105.2, 46.2-308, 46.2-323.1, 46.2-324, 46.2-341.11, 46.2-341.15, 46.2-342, and 46.2-345 of the Code of Virginia, relating to driver's licenses, commercial driver's licenses, temporary driver's permits, learner's permits, motorcycle learner's permits, and special identification cards; penalties.*

[S 162]

Approved April 17, 2002

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

#### **1. That §§ 46.2-105.2, 46.2-308, 46.2-323.1, 46.2-324, 46.2-341.11, 46.2-341.15, 46.2-342, and 46.2-345 of the Code of Virginia are amended and reenacted as follows:**

§ 46.2-105.2. Obtaining documents from the Department when not entitled thereto; penalty.

A. It shall be unlawful for any person to obtain a Virginia driver's license, special identification card, vehicle registration, certificate of title, or other document issued by the Department if such person has not satisfied all legal and procedural requirements for the issuance thereof, or is otherwise not legally entitled thereto.

B. It shall be unlawful to aid any person to obtain any driver's license, special identification card, vehicle registration, certificate of title, or other document in violation of the provisions of subsection A.

C. It shall be unlawful to knowingly possess or use for any purpose any driver's license, special identification card, vehicle registration, certificate of title, or other document obtained in violation of the provisions of subsection A.

D. A violation of any provision of this section shall constitute a Class 2 misdemeanor; ~~however, if a person is charged and convicted of a violation of subsection B which involved aid to five or more persons, this section that involved the unlawful obtaining or possession of any document issued by the Department for the purpose of engaging in any age-limited activity, including but not limited to obtaining, possessing, or consuming alcoholic beverages. However, if a person is charged and convicted of any other violation of this section, such offense shall constitute a Class 4 6 felony.~~

E. Whenever it appears to the satisfaction of the Commissioner that any driver's license, special identification card, vehicle registration, certificate of title, or other document issued by the Department has been obtained in violation of this section, it may be cancelled by the Commissioner, who shall mail notice of the cancellation to the address of record maintained by the Department.

§ 46.2-308. Temporary exemption for new resident licensed under laws of another state; privately owned vehicle driver's licenses.

A resident over the age of sixteen years who has been duly licensed as a driver under a law of another state or country requiring the licensing of drivers shall, for the first ~~thirty~~ sixty days of his residency in the Commonwealth, be permitted, without a Virginia license, to drive a motor vehicle on the highways of the Commonwealth.

Persons to whom military privately-owned vehicle driver's licenses have been issued by the Department of Defense shall, for the first ~~thirty~~ sixty days of their residency in the Commonwealth, be permitted, without a Virginia license, to drive motor vehicles on the highways of the Commonwealth.

§ 46.2-323.1. Certification of Virginia residency; nonresidents not to be issued driver's licenses, commercial driver's licenses, or learner's permits; penalty.

No driver's license, commercial driver's license, ~~or temporary driver's permit~~, learner's permit, ~~motorcycle learner's permit, or special identification card~~ shall be issued to any person who is not a Virginia resident. Every person applying for a driver's license, commercial driver's license, ~~or temporary driver's permit~~, learner's permit, ~~motorcycle learner's permit, or special identification card~~ shall execute and furnish to the Commissioner his certificate that he is a resident of Virginia. The Commissioner or his duly authorized agent may require any such applicant to supply, along with his application, such evidence of his Virginia residency as the Commissioner may deem appropriate and adequate, *provided that neither an immigration visa nor a signed written statement, whether or not such statement is notarized, wherein the maker of the statement vouches for the Virginia residency of the applicant, shall be acceptable proof of Virginia residency. If the applicant is less than nineteen years old and cannot otherwise provide proof of Virginia residency, the Commissioner may accept proof of the applicant's parent's or guardian's Virginia residency. 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 parent's certification of residency.* It shall be unlawful for any applicant knowingly to make a false certification of Virginia residency or supply false or fictitious evidence of Virginia residency. Any violation of this section shall be punished as provided in § 46.2-348.

§ 46.2-324. Applicants and license holders to notify Department of change of address.

Whenever any person, after applying for or obtaining a driver's license or special identification card shall move from the address shown in the application or on the license or special identification card, he shall, within thirty days, notify the Department of his change of address. *If the Department receives notification from the person or any court or law-enforcement agency that a person's residential address has changed to a non-Virginia address, unless the person (i) is on active duty with the armed forces of the United States, (ii) provides proof that he is a U.S. citizen and resides outside the United States because of his employment or the employment of a spouse or parent, or (iii) provides proof satisfactory to the Commissioner that he is a bona fide resident of Virginia, the Department shall (i) mail, by first-class mail, no later than three days after the notice of address change is received by the Department, notice to the person that his license and/or special identification card will be cancelled by the Department and (ii) cancel the driver's license and/or special identification card thirty days after notice of cancellation has been mailed.*

There may be imposed upon anyone failing to ~~comply with~~ notify the Department of his change of address as required by this section a fee of five dollars, which fee shall be used to defray the expenses incurred by the Department.

§ 46.2-341.11. Commercial drivers required to notify the Department of change of address.

A. If any person who is licensed by the Department to drive a commercial motor vehicle changes the mailing or residential address he most recently submitted to the Department, such person shall notify the Department in writing within thirty days after his change of address. *If the Department receives notification from the person or any court or law-enforcement agency that a person's residential address has changed to a non-Virginia address, the Department shall (i) mail, by first-class mail, no later than three days after the notice of address change is received by the Department, notice to the person that his commercial driver's license will be cancelled by the Department and (ii) cancel the commercial driver's license thirty days after notice of cancellation has been mailed.*

B. Any ~~violation~~ person who fails to notify the Department of his change of address in accord with the provisions of this subsection shall ~~constitute~~ be guilty of a traffic infraction.

§ 46.2-341.15. Commercial driver's license document.

A. The commercial driver's license issued by the Department shall be identified as a Virginia commercial driver's license and shall include at least the following:

1. Full name, a Virginia address, and signature of the licensee;
2. A color photograph of the licensee;
3. A physical description of the licensee, including sex and height;
4. The licensee's date of birth and Social Security number;
5. A designation of the class and type of commercial motor vehicle or vehicles which the licensee is authorized to drive, together with any restrictions; and
6. The date of license issuance and expiration.

B. The commercial driver's instruction permit shall be identified as such but shall in all other respects conform to subsection A of this section.

§ 46.2-342. What license to contain; organ donor information; Uniform Donor Document.

A. Every license issued under this chapter shall bear:

1. For new, renewal, or replacement licenses issued on or after September 1, 1995, either (i) a license number which shall be the same as the licensee's social security number or (ii) a control number which shall be assigned by the Department to the licensee if he either (i) has no social security number or (ii) requests in writing on a form prescribed by the Commissioner that his social security number not be shown on the license;

2. A color photograph of the licensee;
3. The licensee's name, year, month, and date of birth;
4. The licensee's address, *subject to the provisions of subsection A 1 of this section*;
5. A brief description of the licensee for the purpose of identification;
6. A space for the signature of the licensee; and
7. Any other information deemed necessary by the Commissioner for the administration of this title.

No abbreviated names or nicknames shall be shown on any license.

A1. At the option of the licensee, the address shown on the license may be either the post office box, business, or residence address of the licensee, *provided such address is located in Virginia*. However, regardless of which address is shown on the license, the licensee shall supply the Department with his residence address, *which shall be an address in Virginia*. This residence address shall be maintained in the Department's records. Whenever the licensee's address shown either on his license or in the Department's records changes, he shall notify the Department of such change as required by § 46.2-324.

B. The license shall be made of a material and in a form to be determined by the Commissioner.

C. Licenses issued to persons less than twenty-one years old shall be immediately and readily distinguishable from those issued to persons twenty-one 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 fifteen years old but less than twenty-one years old. These descriptors

shall include the month, day, and year when the person will become twenty-one years old.

D. The Department shall establish a method by which an applicant for a driver's license or an identification card may designate his willingness to be an organ donor as provided in Article 2 (§ 32.1-289 et seq.) of Chapter 8 of Title 32.1 and shall cooperate with the Virginia Transplant Council to ensure that such method is designed to encourage organ donation with a minimum of effort on the part of the donor and the Department.

E. If an applicant designates his willingness to be a donor pursuant to subsection D, the Department may make a notation of this designation on his license or card and shall make a notation of this designation in his driver record.

F. The donor designation authorized in subsection E shall be sufficient legal authority for the removal, following death, of the subject's organs or tissues without additional authority from the donor, or his family or estate. No family member, guardian, agent named pursuant to an advance directive or person responsible for the decedent's estate shall refuse to honor the donor designation or, in any way, seek to avoid honoring the donor designation.

G. The donor designation provided pursuant to subsection D may be rescinded by notifying the Department.

H. With the written consent of his parent or legal guardian, a minor may make a donor designation.

I. When requested by the applicant, and upon presentation of a signed statement by a licensed physician confirming the applicant's condition, the Department shall indicate on the applicant's driver's license that the applicant is an insulin-dependent diabetic.

J. In the absence of gross negligence or willful misconduct, the Department and its employees shall be immune from any civil or criminal liability in connection with the making of or failure to make a notation of donor designation on any license or card or in any person's driver record.

K. Notwithstanding the foregoing provisions of this section, the Department shall continue to use the uniform donor document, as formerly set forth in subsection D above, for organ donation designation until such time as a new method is fully implemented, which shall be no later than July 1, 1994. Any such uniform donor document, shall, when properly executed, remain valid and shall continue to be subject to all conditions for execution, delivery, amendment, and revocation as set out in Article 2 (§ 32.1-289 et seq.) of Chapter 8 of Title 32.1.

L. The Department shall, in coordination with the Virginia Transplant Council, prepare an organ donor information brochure describing the organ donor program and providing instructions for completion of the uniform donor document information describing the bone marrow donation program and instructions for registration in the National Bone Marrow Registry. The Department shall include a copy of such brochure with every driver's license renewal notice or application mailed to licensed drivers in Virginia.

§ 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 fifteen, the Department shall issue a special identification card to the person provided:

1. Application is made on a form prescribed by the Department;
2. The applicant presents a birth certificate or other evidence acceptable to the Department of his name and date of birth; ~~and~~
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, or motorcycle learner's permit.*

B. The fee for the issuance of a special identification card is five dollars. Persons twenty-one years old or older may be issued a scenic special identification card for an additional fee of five dollars.

C. A special identification card shall expire five years from its date of issuance except that those cards issued to children under the age of fifteen shall expire on the child's fifteenth birthday or five years from the date of issuance, whichever occurs first.

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 color 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.

E. Special identification cards, for persons at least fifteen years old but less than twenty-one years old, shall be immediately and readily distinguishable from those issued to persons twenty-one 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 fifteen years old but less than twenty-one years old. These descriptors shall include the month, day, and year when the person will become twenty-one years old.

F. Special identification cards for persons under age fifteen shall bear a full face photograph. The special identification card issued to persons under age fifteen 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. 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.

H. 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.

I. The Department may promulgate regulations necessary for the effective implementation of the provisions of this section.

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.

**2. That the Commissioner of the Department of Motor Vehicles shall, no later than December 1, 2002, make a report to the Chairman of the Senate Transportation Committee and the Chairman of the House Transportation Committee regarding the need for further modification or enhancement to the identity and residency requirements in the application process for Virginia driver's licenses, commercial driver's licenses, learner's permits, temporary driver's permits and special identification cards. The Commissioner's report shall include but not be limited to the feasibility and effectiveness of any proposed modifications or enhancements to the application process, the advisability of imposing a legal presence requirement for the issuance and continued possession of such DMV-issued documents, and the details, status and implications of federal statutes, regulations, and pending legislation addressing uniform standards among the states for issuance of DMV documents.**

**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, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.**