

# VIRGINIA ACTS OF ASSEMBLY -- 2003 SESSION

## CHAPTER 817

*An Act to amend and reenact § 46.2-105.2 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 46.2-328.1 and 46.2-341.16:1, relating to licenses and identification cards and fraudulent representation; penalty.*

[H 1954]

Approved March 22, 2003

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

**1. That § 46.2-105.2 of the Code of Virginia is amended and reenacted, and that the Code of Virginia is amended by adding sections numbered 46.2-328.1 and 46.2-341.16:1 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, *including obtaining any document issued by the Department through the use of counterfeit, forged, or altered documents.*

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 if a person is charged and convicted of a violation of 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 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.

§ 46.2-328.1. *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.*

A. *Notwithstanding any other provision of this title, 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 refuge status, (iv) a pending or approved application for temporary protected status in the United States, (v) approved deferred action status, or (vi) a pending application for adjustment of status to legal permanent residence status or conditional resident status, may be issued a temporary license, permit, or special identification card. Such temporary license, permit, or special identification card shall be valid only during the period of time of the applicant's authorized stay in the United States or if there is no definite end to the period of authorized stay a period of one year. Any temporary license, permit, or special identification card issued pursuant to this subsection shall clearly indicate that it is temporary and shall state the date that it expires. Such a temporary license, permit or identification card may be renewed only upon presentation of valid documentary evidence that the status by which the applicant qualified for the temporary license, permit or special identification has been extended by the United States Immigration and Naturalization Service or the Bureau of Citizenship and Immigration Services of the Department of Homeland Security.*

C. *Any license 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, the license has not expired, or been cancelled, suspended or revoked. 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.*

*§ 46.2-341.16:1. Hazardous materials endorsement.*

*Notwithstanding any other provision of this title, endorsements by the Department including the issue, reissue, or renewal authorizing a driver to operate a vehicle transporting hazardous materials shall comply with the requirements of 49 U.S.C. § 5103 (a).*

**2. That the provisions of this act shall become effective on January 1, 2004, except that the provisions of § 46.2-341.16:1 shall become effective on July 1, 2004. On or before December 1, 2003, the Department of Motor Vehicles, after consultation with the Office of the Attorney General, shall report to the General Assembly the content of regulations that the Department of Motor Vehicles intends to promulgate to carry out the provisions of this act.**