

# VIRGINIA ACTS OF ASSEMBLY -- 2005 SESSION

## CHAPTER 260

*An Act to amend and reenact §§ 46.2-328.1 and 46.2-345 of the Code of Virginia, relating to issuance of special identification cards by the Department of Motor Vehicles.*

[S 972]

Approved March 20, 2005

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

**1. That §§ 46.2-328.1 and 46.2-345 of the Code of Virginia are amended and reenacted as follows:**

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

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

B. Notwithstanding the provisions of subsection A and the provisions of §§ 46.2-330 and 46.2-345, an applicant who presents in person valid documentary evidence of (i) a valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry into the United States, (ii) a pending or approved application for asylum in the United States, (iii) entry into the United States in refugee status, (iv) a pending or approved application for temporary protected status in the United States, (v) approved deferred action status, or (vi) a pending application for adjustment of status to legal permanent residence status or conditional resident status, may be issued a temporary license, permit, or special identification card. Such temporary license, permit, or special identification card shall be valid only during the period of time of the applicant's authorized stay in the United States or if there is no definite end to the period of authorized stay a period of one year. 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.

§ 46.2-345. 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~~ 15, 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;
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 an original or renewal~~ special identification card is ~~five dollars~~ \$5. *The fee for the issuance of a duplicate or reissue of a special identification card is five dollars* \$5. Persons ~~twenty-one~~ 21 years old or older may be issued a scenic special identification card for an additional fee of ~~five dollars~~ \$5.

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~~ Every special identification card shall expire on the last day of the month of birth of the applicant in years in which the applicant attains an age exactly divisible by five. At no time shall any special identification card be issued for less than three nor more than seven 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, thereafter the special identification card may be renewed on or before the last day of the month of birth of the applicant and shall be valid for five years, expiring in the next year in which the applicant's age is exactly divisible by five, except under the provisions of subsection B of § 46.2-328.1.*

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~~ 15 years old but less than ~~twenty-one~~ 21 years old, shall be immediately and readily distinguishable from those issued to persons ~~twenty-one~~ 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 ~~fifteen~~ 15 years old but less than ~~twenty-one~~ 21 years old. These descriptors shall include the month, day, and year when the person will become ~~twenty-one~~ 21 years old.

F. Special identification cards for persons under age ~~fifteen~~ 15 shall bear a full face photograph. The special identification card issued to persons under age ~~fifteen~~ 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. A valid Virginia driver's license may be surrendered 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.

~~H.~~ 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.

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

~~J.~~ K. 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.