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HOUSE BILL NO. 2027

House Amendments in [] - January 19, 2007

A BILL to amend and reenact § 46.2-208 of the Code of Virginia, relating to release by the Department of Motor Vehicles of driver record abstracts for volunteer drivers for Faith in Action.

Patron Prior to Engrossment—Delegate Sherwood

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:**1. That § 46.2-208 of the Code of Virginia is amended and reenacted as follows:**

§ 46.2-208. Records of Department; when open for inspection; release of privileged information.

A. All records in the office of the Department containing the specific classes of information outlined below shall be considered privileged records:

1. Personal information, including all data defined as "personal information" in § 2.2-3801;

2. Driver information, including all data that relates to driver's license status and driver activity; and

3. Vehicle information, including all descriptive vehicle data and title, registration, and vehicle activity data.

B. The Commissioner shall release such information only under the following conditions:

1. Notwithstanding other provisions of this section, medical data included in personal data shall be released only to a physician, physician assistant, or nurse practitioner as provided in § 46.2-322.

2. Insurance data may be released as specified in §§ 46.2-372, 46.2-380, and 46.2-706.

3. Notwithstanding other provisions of this section, information disclosed or furnished shall be assessed a fee as specified in § 46.2-214.

4. When the person requesting the information is (i) the subject of the information, (ii) the parent or guardian of the subject of the information, (iii) the authorized representative of the subject of the information, or (iv) the owner of the vehicle that is the subject of the information, the Commissioner shall provide him with the requested information and a complete explanation of it. Requests for such information need not be made in writing or in person and may be made orally or by telephone, provided that the Department is satisfied that there is adequate verification of the requester's identity. When so requested in writing by (a) the subject of the information, (b) the parent or guardian of the subject of the information, (c) the authorized representative of the subject of the information, or (d) the owner of the vehicle that is the subject of the information, the Commissioner shall verify and, if necessary, correct the personal information provided and furnish driver and vehicle information in the form of an abstract of the record.

5. On the written request of any insurance carrier, surety, or representative of an insurance carrier or surety, the Commissioner shall furnish such insurance carrier, surety, or representative an abstract of the record of any person subject to the provisions of this title. The abstract shall include any record of any conviction of a violation of any provision of any statute or ordinance relating to the operation or ownership of a motor vehicle or of any injury or damage in which he was involved and a report of which is required by § 46.2-372. No such report of any conviction or accident shall be made after 60 months from the date of the conviction or accident unless the Commissioner or court used the conviction or accident as a reason for the suspension or revocation of a driver's license or driving privilege, in which case the revocation or suspension and any conviction or accident pertaining thereto shall not be reported after 60 months from the date that the driver's license or driving privilege has been reinstated. This abstract shall not be admissible in evidence in any court proceedings.

6. On the written request of any business organization or its agent, in the conduct of its business, the Commissioner shall compare personal information supplied by the business organization or agent with that contained in the Department's records and, when the information supplied by the business organization or agent is different from that contained in the Department's records, provide the business organization or agent with correct information as contained in the Department's records. Personal information provided under this subdivision shall be used solely for the purpose of pursuing remedies that require locating an individual.

7. The Commissioner shall provide vehicle information to any business organization or agent on such business' or agent's written request. Disclosures made under this subdivision shall not include any personal information and shall not be subject to the limitations contained in subdivision 6 of this subsection.

8. On the written request of any motor vehicle rental or leasing company or its designated agent, the Commissioner shall (i) compare personal information supplied by the company or agent with that

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HB2027E

59 contained in the Department's records and, when the information supplied by the company or agent is
60 different from that contained in the Department's records, provide the company or agent with correct
61 information as contained in the Department's records and (ii) provide the company or agent with driver
62 information in the form of an abstract of any person subject to the provisions of this title. Such abstract
63 shall include any record of any conviction of a violation of any provision of any statute or ordinance
64 relating to the operation or ownership of a motor vehicle or of any injury or damage in which the
65 subject of the abstract was involved and a report of which is required by § 46.2-372. No such abstract
66 shall include any record of any conviction or accident more than 60 months after the date of such
67 conviction or accident unless the Commissioner or court used the conviction or accident as a reason for
68 the suspension or revocation of a driver's license or driving privilege, in which case the revocation or
69 suspension and any conviction or accident pertaining thereto shall cease to be included in such abstract
70 after 60 months from the date on which the driver's license or driving privilege was reinstated. No
71 abstract released under this subdivision shall be admissible in evidence in any court proceedings.

72 9. On the request of any federal, state, or local governmental entity or authorized agent of any of the
73 foregoing, the Commissioner shall (i) compare personal information supplied by the governmental entity
74 or the authorized agent of any of the foregoing, with that contained in the Department's records and,
75 when the information supplied by the governmental entity or the authorized agent of any of the
76 foregoing, is different from that contained in the Department's records, provide the governmental entity
77 or the authorized agent of any of the foregoing, with correct information as contained in the
78 Department's records and (ii) provide driver and vehicle information in the form of an abstract of the
79 record showing all convictions, accidents, driver's license suspensions or revocations, and other
80 appropriate information as the governmental entity or the authorized agent of any of the foregoing, may
81 require in order to carry out its official functions. Such abstract shall be provided at a fee that is
82 one-half the normal charge for an abstract.

83 9a. On the request of any federal, state, or local law-enforcement officer, attorney for the
84 Commonwealth, an official of any federal or state court, or authorized agent of any of the foregoing, the
85 Commissioner shall (i) compare personal information supplied by the federal, state, or local
86 law-enforcement officer, attorney for the Commonwealth, the official of the federal or state court, or
87 authorized agent of any of the foregoing with that contained in the Department's records and, when the
88 information supplied by the federal, state, or local law-enforcement officer, attorney for the
89 Commonwealth, the official of a federal or state court, or authorized agent of any of the foregoing is
90 different from that contained in the Department's records, provide the federal state, or local
91 law-enforcement officer, attorney for the Commonwealth, the official of the federal or state court, or
92 authorized agent of any of the foregoing with correct information as contained in the Department's
93 records and (ii) provide the driver and vehicle information in the form of an abstract of the record
94 showing all convictions, accidents, driver's license suspensions or revocations, and other appropriate
95 information as the federal, state, or local law-enforcement officer, attorney for the Commonwealth, the
96 official of the federal or state court, or the authorized agent of any of the foregoing may require in order
97 to carry out its official functions. The abstract shall be provided free of charge.

98 10. On request of the driver licensing authority in any other state or foreign country, the
99 Commissioner shall provide whatever classes of information the requesting authority shall require in
100 order to carry out its official functions. The information shall be provided free of charge.

101 11. On the written request of any employer, prospective employer, or authorized agent of either, and
102 with the written consent of the individual concerned, the Commissioner shall (i) compare personal
103 information supplied by the employer, prospective employer, or agent with that contained in the
104 Department's records and, when the information supplied by the employer, prospective employer, or
105 agent is different from that contained in the Department's records, provide the employer, prospective
106 employer, or agent with correct information as contained in the Department's records and (ii) provide the
107 employer, prospective employer, or agent with driver information in the form of an abstract of an
108 individual's record showing all convictions, accidents, driver's license suspensions or revocations, and
109 any type of driver's license that the individual currently possesses, provided that the individual's position
110 or the position that the individual is being considered for involves the operation of a motor vehicle.

111 12. On the written request of any member of or applicant for membership in a volunteer fire
112 company or volunteer rescue squad, the Commissioner shall (i) compare personal information supplied
113 by the volunteer fire company or volunteer rescue squad with that contained in the Department's records
114 and, when the information supplied by the volunteer fire company or volunteer rescue squad is different
115 from that contained in the Department's records, provide the volunteer fire company or volunteer rescue
116 squad with correct information as contained in the Department's records and (ii) provide driver
117 information in the form of an abstract of the member's or applicant's record showing all convictions,
118 accidents, license suspensions or revocations, and any type of driver's license that the individual
119 currently possesses. Such abstract shall be provided free of charge if the request is accompanied by
120 appropriate written evidence that the person is a member of or applicant for membership in a volunteer

121 fire company or volunteer rescue squad and the abstract is needed by a volunteer fire company or
122 volunteer rescue squad to establish the qualifications of the member or applicant to operate equipment
123 owned by the volunteer fire company or volunteer rescue squad.

124 13. On the written request of any person who has applied to be a volunteer with a Virginia affiliate
125 of Big Brothers/Big Sisters of America, the Commissioner shall (i) compare personal information
126 supplied by a Virginia affiliate of Big Brothers/Big Sisters of America with that contained in the
127 Department's records and, when the information supplied by a Virginia affiliate of Big Brothers/Big
128 Sisters of America is different from that contained in the Department's records, provide the Virginia
129 affiliate of Big Brothers/Big Sisters of America with correct information as contained in the
130 Department's records and (ii) provide driver information in the form of an abstract of the applicant's
131 record showing all convictions, accidents, license suspensions or revocations, and any type of driver's
132 license that the individual currently possesses. Such abstract shall be provided at a fee that is one-half
133 the normal charge if the request is accompanied by appropriate written evidence that the person has
134 applied to be a volunteer with a Virginia affiliate of Big Brothers/Big Sisters of America.

135 14. On the written request of any person who has applied to be a volunteer with a court-appointed
136 special advocate program pursuant to § 9.1-153, the Commissioner shall provide an abstract of the
137 applicant's record showing all convictions, accidents, license suspensions or revocations, and any type of
138 driver's license that the individual currently possesses. Such abstract shall be provided free of charge if
139 the request is accompanied by appropriate written evidence that the person has applied to be a volunteer
140 with a court-appointed special advocate program pursuant to § 9.1-153.

141 15. Upon the request of any employer, prospective employer, or authorized representative of either,
142 the Commissioner shall (i) compare personal information supplied by the employer, prospective
143 employer, or agent with that contained in the Department's records and, when the information supplied
144 by the employer, prospective employer, or agent is different from that contained in the Department's
145 records, provide the employer, prospective employer, or agent with correct information as contained in
146 the Department's records and (ii) provide driver information in the form of an abstract of the driving
147 record of any individual who has been issued a commercial driver's license, provided that the
148 individual's position or the position that the individual is being considered for involves the operation of
149 a commercial motor vehicle. Such abstract shall show all convictions, accidents, license suspensions,
150 revocations, or disqualifications, and any type of driver's license that the individual currently possesses.

151 16. Upon the receipt of a completed application and payment of applicable processing fees, the
152 Commissioner may enter into an agreement with any governmental authority or business to exchange
153 information specified in this section by electronic or other means.

154 17. Upon the request of an attorney representing a person in a motor vehicle accident, the
155 Commissioner shall provide vehicle information, including the owner's name and address, to the
156 attorney.

157 18. Upon the request, in the course of business, of any authorized representative of an insurance
158 company or of any not-for-profit entity organized to prevent and detect insurance fraud, or perform
159 rating and underwriting activities, the Commissioner shall provide to such person (i) all vehicle
160 information, including the owner's name and address, descriptive data and title, registration, and vehicle
161 activity data as requested or (ii) all driver information including name, license number and classification,
162 date of birth, and address information for each driver under the age of 22 licensed in the
163 Commonwealth of Virginia meeting the request criteria designated by such person, with such request
164 criteria consisting of driver's license number or address information. No such information shall be used
165 for solicitation of sales, marketing, or other commercial purposes.

166 19. Upon the request of an officer authorized to issue criminal warrants, for the purpose of issuing a
167 warrant for arrest for unlawful disposal of trash or refuse in violation of § 33.1-346, the Commissioner
168 shall provide vehicle information, including the owner's name and address.

169 20. Upon written request of the compliance agent of a private security services business, as defined
170 in § 9.1-138, which is licensed by the Department of Criminal Justice Services, the Commissioner shall
171 provide the name and address of the owner of the vehicle under procedures determined by the
172 Commissioner.

173 21. Upon the request of the operator of a toll facility, or an authorized agent or employee of a toll
174 facility operator, for the purpose of obtaining vehicle owner data under subsection L of § 46.2-819.1.
175 Information released pursuant to this subdivision shall be limited to the name and address of the
176 registered owner of the vehicle having failed to pay a toll and the vehicle information, including all
177 descriptive vehicle data and title and registration data of the same vehicle.

178 22. On the written request of any person who has applied to be a volunteer with a Virginia affiliate
179 of Compeer, the Commissioner shall (i) compare personal information supplied by a Virginia affiliate of
180 Compeer with that contained in the Department's records and, when the information supplied by a
181 Virginia affiliate of Compeer is different from that contained in the Department's records, provide the

182 Virginia affiliate of Compeer with correct information as contained in the Department's records and (ii)
183 provide driver information in the form of an abstract of the applicant's record showing all convictions,
184 accidents, license suspensions or revocations, and any type of driver's license that the individual
185 currently possesses. Such abstract shall be provided at a fee that is one-half the normal charge if the
186 request is accompanied by appropriate written evidence that the person has applied to be a volunteer
187 with a Virginia affiliate of Compeer.

188 23. Upon the request of the Department of Environmental Quality for the purpose of obtaining
189 vehicle owner data in connection with enforcement actions involving on-road testing of motor vehicles,
190 pursuant to § 46.2-1178.1.

191 24. On the written request of any person who has applied to be a volunteer vehicle operator with a
192 Virginia chapter of the American Red Cross, the Commissioner shall (i) compare personal information
193 supplied by a Virginia chapter of the American Red Cross with that contained in the Department's
194 records and, when the information supplied by a Virginia chapter of the American Red Cross is different
195 from that contained in the Department's records, provide the Virginia chapter of the American Red Cross
196 with correct information as contained in the Department's records and (ii) provide driver information in
197 the form of an abstract of the applicant's record showing all convictions, accidents, license suspensions
198 or revocations, and any type of driver's license that the individual currently possesses. Such abstract
199 shall be provided at a fee that is one-half the normal charge if the request is accompanied by
200 appropriate written evidence that the person has applied to be a volunteer vehicle operator with a
201 Virginia chapter of the American Red Cross.

202 25. On the written request of any person who has applied to be a volunteer vehicle operator with a
203 Virginia chapter of the Civil Air Patrol, the Commissioner shall (i) compare personal information
204 supplied by a Virginia chapter of the Civil Air Patrol with that contained in the Department's records
205 and, when the information supplied by a Virginia chapter of the Civil Air Patrol is different from that
206 contained in the Department's records, provide the Virginia chapter of the Civil Air Patrol with correct
207 information as contained in the Department's records and (ii) provide driver information in the form of
208 an abstract of the applicant's record showing all convictions, accidents, license suspensions or
209 revocations, and any type of driver's license that the individual currently possesses. Such abstract shall
210 be provided at a fee that is one-half the normal charge if the request is accompanied by appropriate
211 written evidence that the person has applied to be a volunteer vehicle operator with a Virginia chapter of
212 the Civil Air Patrol.

213 26. *On the written request of any person who has applied to be a volunteer vehicle operator with*
214 *Faith in Action, the Commissioner shall (i) compare personal information supplied by Faith in Action*
215 *with that contained in the Department's records and, when the information supplied by Faith in Action*
216 *is different from that contained in the Department's records, provide Faith in Action with correct*
217 *information as contained in the Department's records and (ii) provide driver information in the form of*
218 *an abstract of the applicant's record showing all convictions, accidents, license suspensions or*
219 *revocations, and any type of driver's license that the individual currently possesses. Such abstract shall*
220 *be provided [free of charge at a fee that is one-half the normal charge] if the request is accompanied*
221 *by appropriate written evidence that the person has applied to be a volunteer vehicle operator with*
222 *Faith in Action.*

223 C. Whenever the Commissioner issues an order to suspend or revoke the driver's license or driving
224 privilege of any individual, he may notify the National Driver Register Service operated by the United
225 States Department of Transportation and any similar national driver information system and provide
226 whatever classes of information the authority may require.

227 D. Accident reports may be inspected under the provisions of §§ 46.2-379 and 46.2-380.

228 E. Whenever the Commissioner takes any licensing action pursuant to the provisions of the Virginia
229 Commercial Driver's License Act (§ 46.2-341.1 et seq.), he may provide information to the Commercial
230 Driver License Information System, or any similar national commercial driver information system,
231 regarding such action.

232 F. In addition to the foregoing provisions of this section, vehicle information may also be inspected
233 under the provisions of §§ 43-33, 43-34, 46.2-633, and §§ 46.2-1200.1 through 46.2-1237.

234 G. The Department may promulgate regulations to govern the means by which personal, vehicle, and
235 driver information is requested and disseminated.

236 H. Driving records of any person accused of an offense involving the operation of a motor vehicle
237 shall be provided by the Commissioner upon request to any person acting as counsel for the accused. If
238 such counsel is from the public defender's office or has been appointed by the court, such records shall
239 be provided free of charge.

240 I. The Department shall maintain the records of persons convicted of violations of § 18.2-36.2,
241 subsection B of § 29.1-738, and §§ 29.1-738.02, 29.1-738.2, and 29.1-738.4 which shall be forwarded by
242 every general district court or circuit court or the clerk thereof, pursuant to § 46.2-383. Such records
243 shall be electronically available to any law-enforcement officer as provided for under clause (ii) of

244 subdivision B 9.