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HOUSE BILL NO. 186

Offered January 9, 2008

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A BILL to amend and reenact §§ 46.2-328.1 and 46.2-345 of the Code of Virginia, relating to issuance and renewal of certain documents by the Department of Motor Vehicles; proof of U.S. citizenship required.

Patron—Marshall, R.G.

Referred to Committee on Rules

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; 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 or renew the license, permit, or special identification card of 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 or special identification card 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 or special identification card 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.

The provisions of this section shall not apply to an applicant for a special identification card whose year of birth is 1937 or earlier and who has previously held a Virginia-issued driver's license or special identification card, provided that such driver's license or special identification card has not been expired for more than five years.

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

1. Application is made on a form prescribed by the Department and includes the applicant's full legal name; year, month, and date of birth; sex; and residence address;

2. The applicant presents a birth certificate or other evidence acceptable to the Department of his name and, date of birth, and U.S. citizenship;

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.

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59 Persons 70 years of age or older may exchange a valid Virginia driver's license for a special
60 identification card at no fee. Special identification cards subsequently issued to such persons shall be
61 subject to the regular fees for special identification cards.

62 B. The fee for the issuance of an original or renewal special identification card is \$5. The fee for the
63 issuance of a duplicate or reissue of a special identification card is \$5. Persons 21 years old or older
64 may be issued a scenic special identification card for an additional fee of \$5.

65 C. Every special identification card shall expire on the last day of the month of birth of the applicant
66 in years in which the applicant attains an age exactly divisible by five. At no time shall any special
67 identification card be issued for less than three nor more than seven years, ~~under the provisions of~~
68 ~~subsection B of § 46.2-328.1 and except that those cards issued to children under the age of 15 shall~~
69 ~~expire on the child's sixteenth birthday, thereafter the special identification card may be renewed on or~~
70 ~~before the last day of the month of birth of the applicant and shall be valid for five years, expiring in~~
71 ~~the next year in which the applicant's age is exactly divisible by five, except under the provisions of~~
72 ~~subsection B of § 46.2-328.1.~~

73 D. A special identification card issued under this section may be similar in size, shape, and design to
74 a driver's license, and include a color photograph of its holder, but the card shall be readily
75 distinguishable from a driver's license and shall clearly state that it does not authorize the person to
76 whom it is issued to drive a motor vehicle.

77 E. Special identification cards, for persons at least 15 years old but less than 21 years old, shall be
78 immediately and readily distinguishable from those issued to persons 21 years old or older.
79 Distinguishing characteristics shall include unique design elements of the document and descriptors
80 within the photograph area to identify persons who are at least 15 years old but less than 21 years old.
81 These descriptors shall include the month, day, and year when the person will become 21 years old.

82 F. Special identification cards for persons under age 15 shall bear a full face photograph. The special
83 identification card issued to persons under age 15 shall be readily distinguishable from a driver's license
84 and from other special identification cards issued by the Department. Such cards shall clearly indicate
85 that it does not authorize the person to whom it is issued to drive a motor vehicle.

86 G. A valid Virginia driver's license may be surrendered for a special identification card without the
87 applicant's having to present proof of legal presence as required by § 46.2-328.1 if the Virginia driver's
88 license is unexpired and it has not been revoked, suspended, or cancelled. The special identification card
89 shall be considered a reissue and the expiration date shall be the last day of the month of the
90 surrendered driver's license's month of expiration.

91 H. Any personal information, as identified in § 2.2-3801, which is retained by the Department from
92 an application for the issuance of a special identification card is confidential and shall not be divulged to
93 any person, association, corporation, or organization, public or private, except to the legal guardian or
94 the attorney of the applicant or to a person, association, corporation, or organization nominated in
95 writing by the applicant, his legal guardian, or his attorney. This subsection shall not prevent the
96 Department from furnishing the application or any information thereon to any law-enforcement agency.

97 I. H. Any person who uses a false or fictitious name or gives a false or fictitious address in any
98 application for an identification card or knowingly makes a false statement or conceals a material fact or
99 otherwise commits a fraud in any such application shall be guilty of a Class 2 misdemeanor. However,
100 where the name or address is given, or false statement is made, or fact is concealed, or fraud committed,
101 with the intent to purchase a firearm or where the identification card is obtained for the purpose of
102 committing any offense punishable as a felony, a violation of this section shall constitute a Class 4
103 felony.

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

106 K. J. The Department shall utilize the various communications media throughout the Commonwealth
107 to inform Virginia residents of the provisions of this section and to promote and encourage the public to
108 take advantage of its provisions.

109 L. K. The Department shall electronically transmit application information to the Department of State
110 Police, in a format approved by the State Police, for comparison with information contained in the
111 Virginia Criminal Information Network and National Crime Information Center Convicted Sexual
112 Offender Registry Files, at the time of issuance of a special identification card. Whenever it appears
113 from the records of the State Police that a person has failed to comply with the duty to register or
114 reregister pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, the State Police shall promptly
115 investigate and, if there is probable cause to believe a violation has occurred, obtain a warrant or assist
116 in obtaining an indictment charging a violation of § 18.2-472.1 in the jurisdiction in which the person
117 made application for the special identification card.