

VIRGINIA ACTS OF ASSEMBLY -- 2009 SESSION

CHAPTER 664

An Act to amend and reenact §§ 18.2-189, 43-32, 43-34, 46.2-208, 46.2-617, 46.2-633, 46.2-640, 46.2-1200, 46.2-1202, 46.2-1206, 46.2-1600, 46.2-1601, 54.1-601, 55-417, 55-418, and 55-419 of the Code of Virginia, to amend the Code of Virginia by adding in Article 2 of Chapter 6 of Title 46.2 sections numbered 46.2-644.01, 46.2-644.02, and 46.2-644.03, and by adding a section numbered 46.2-1202.1, and to repeal §§ 46.2-1204 and 46.2-1208 of the Code of Virginia, relating to mechanics' liens and acquisition and disposal of abandoned vehicles.

[H 2164]

Approved March 30, 2009

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-189, 43-32, 43-34, 46.2-208, 46.2-617, 46.2-633, 46.2-640, 46.2-1200, 46.2-1202, 46.2-1206, 46.2-1600, 46.2-1601, 54.1-601, 55-417, 55-418, and 55-419 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 2 of Chapter 6 of Title 46.2 sections numbered 46.2-644.01, 46.2-644.02, and 46.2-644.03, and by adding a section numbered 46.2-1202.1 as follows:

§ 18.2-189. Defrauding keeper of motor vehicles or watercraft.

A person shall be guilty of a Class 2 misdemeanor if he:

1. Stores a motor vehicle, boat or other watercraft with any person, firm or corporation engaged in the business of conducting a garage, marina, watercraft dealership or other facility for the (i) storage of motor vehicles, boats or other watercraft, (ii) furnishing of supplies to motor vehicles, boats or other watercraft, or (iii) alteration or repair of motor vehicles, boats or other watercraft, and obtains storage, supplies, alterations or repairs for such motor vehicle, boat or other watercraft, without having an express agreement for credit, or procures storage, supplies, alterations or repairs on account of such motor vehicle, boat or other watercraft so stored, without paying therefor, and with the intent to cheat or defraud the owner or keeper of the garage, marina or boat repair facility; or

2. With such intent, obtains credit at the garage, marina, watercraft dealership or boat repair facility for such storage, supplies, alterations or repairs through any misrepresentation or false statement; or

3. With such intent, removes or causes to be removed any such motor vehicle, boat or other watercraft from any such garage, marina, watercraft dealership or boat repair facility while there is a lien existing thereon for the proper charges due from him for storage, supplies, alterations or repairs furnished thereon, in accordance with the provisions of § 43-32, ~~or § 43-33, 46.2-644.01, or § 46.2-644.02.~~

§ 43-32. Lien of keeper of livery stable, marina, etc.

A. Every keeper of a livery stable, hangar, tie-down, *or* marina; ~~or~~ ~~garage~~, and every person pasturing or keeping any horses or other animals; ~~vehicles~~, boats, aircraft, or harness, shall have a lien upon such horses and other animals; ~~vehicles~~, boats, aircraft, and harness, for the amount which may be due him for the towing, storage, recovery, keeping, supporting, and care thereof, until such amount is paid.

B. In the case of any boat; *or* aircraft; ~~or~~ ~~vehicle~~ subject to a chattel mortgage, security agreement, deed of trust, or other instrument securing money, the keeper of the marina, hangar, *or* tie-down; ~~or~~ ~~garage~~ shall have a lien thereon for his reasonable charges for storage under this section not to exceed \$500 and for alteration and repair under § 43-33 not to exceed \$800. However, in the case of a storage lien, to obtain the priority for an amount in excess of \$300, the person asserting the lien shall make a reasonable attempt to notify any secured party of record at the ~~Department of Motor Vehicles or the~~ Department of Game and Inland Fisheries by telephonic means and shall give written notice by certified mail, return receipt requested, to any secured party of record at the ~~Department of Motor Vehicles or the~~ Department of Game and Inland Fisheries within seven business days of taking possession of the boat; *or* aircraft ~~or~~ ~~vehicle~~. If the secured party does not, within seven business days of receipt of the notice, take or refuse redelivery to it or its designee, the lienor shall be entitled to priority for the full amount of storage charges, not to exceed \$500. Notwithstanding a redelivery, the ~~vehicle~~ ~~or~~ watercraft shall be subject to subsection D.

C. In addition, any person furnishing services involving the towing and recovery of a boat; *or* aircraft ~~or~~ ~~vehicle~~, shall have a lien for all normal costs incident thereto, if the person asserting the lien gives written notice within seven days of receipt of the boat; *or* aircraft ~~or~~ ~~vehicle~~ by certified mail, return receipt requested, to all secured parties of record at the ~~Department of Motor Vehicles or the~~ Department of Game and Inland Fisheries.

D. In addition, any keeper shall be entitled to a lien against any proceeds remaining after the satisfaction of all prior security interests or liens, and may retain possession of such property until such

charges are paid.

E. Any lien created under this section shall not extend to any personal property which is not attached to or considered to be necessary for the proper operation of any motor vehicle, and it shall be the duty of any keeper of such personal property to return it to the owner if the owner claims the items prior to auction.

F. For the purposes of this section, in the case of a truck or combination of vehicles, the owner or in the case of a rented or leased vehicle, the lessee of the truck or tractor truck shall be liable for the costs of the towing, recovery, and storage of the cargo and of any trailer or semitrailer in the combination. Nothing in this subsection, however, shall bar the owner of the truck or tractor truck from subsequently seeking to recover from the owner of any trailer, semitrailer, or cargo all or any portion of these towing, recovery, and storage costs.

§ 43-34. Enforcement of liens acquired under §§ 43-31 through 43-33 and of liens of bailees.

Any person having a lien under §§ 43-31 through 43-33 and any bailee, except where otherwise provided, having a lien as such at common law on personal property in his possession which he has no power to sell for the satisfaction of the lien, if the debt for which the lien exists is not paid within 10 days after it is due and the value of the property affected by the lien does not exceed \$7,500, may sell such property or so much thereof as may be necessary, by public auction, for cash. The proceeds shall be applied to the satisfaction of the debt and expenses of sale, and the surplus, if any, shall be paid within 30 days of the sale to any lienholder, and then to the owner of the property. A seller who fails to remit the surplus as provided shall be liable to the person entitled to the surplus in an amount equal to \$50 for each day beyond 30 days that the failure continues.

Before making the sale, the seller shall advertise the time, place, and terms thereof in a public place. In the case of property other than a motor vehicle required to be registered in Virginia having a value in excess of \$600, 10 days' prior notice shall be given to any secured party who has filed a financing statement against the property, and written notice shall be given to the owner as hereinafter provided. If the property is a motor vehicle required by the motor vehicle laws of Virginia to be registered, the person having the lien shall ascertain from the Commissioner of the Department of Motor Vehicles whether the certificate of title of the motor vehicle shows a lien thereon. If the certificate of title shows a lien, the bailee proposing the sale of the motor vehicle shall notify the lienholder of record, by certified mail, at the address on the certificate of title of the time and place of the proposed sale 10 days prior thereto. If the name of the owner cannot be ascertained, the name of "John Doe" shall be substituted in any proceedings hereunder and no written notice as to him shall be required to be mailed. Whenever a vehicle is shown by the Department of Motor Vehicles records to be owned by a person who has indicated that he is on active military duty or service, the Department shall include such information in response to requests for vehicle information pursuant to the requirements of this chapter.

If the value of the property is more than \$7,500 but does not exceed \$15,000, the party having the lien, after giving notice as herein provided, may apply by petition to any general district court of the county or city wherein the property is, or, if the value of the property exceeds \$15,000, to the circuit court of the county or city, for the sale of the property. If, on the hearing of the case on the petition, the defense, if any made thereto, and such evidence as may be adduced by the parties respectively, the court is satisfied that the debt and lien are established and the property should be sold to pay the debt, the court shall order the sale to be made by the sheriff of the county or city. The sheriff shall make the same and apply and dispose of the proceeds in the same manner as if the sale were made under a writ of fieri facias.

If the owner of the property is a resident of this Commonwealth, any notice required by this section may be served as provided in § 8.01-296 or, if the sale is to be made without resort to the courts, by personal delivery or by certified or registered mail delivered to the present owner of the property to be sold at his last known address at least 10 days prior to the date of sale. If he is a nonresident or if his address is unknown, notice may be served by posting a copy thereof in three public places in the county or city wherein the property is located. For purposes of this section, a public place means a premises owned by the Commonwealth, a political subdivision thereof or an agency of either which is open to the general public.

If the property is a motor vehicle (i) for which neither the owner nor any other lienholder or secured party can be determined by the Department of Motor Vehicles through a diligent search of its records, (ii) manufactured for a model year at least six years prior to the current model year, and (iii) having a value of no more than \$3,000 as determined by the provisions of § 8.01-419.1, a person having a lien on such vehicle may, after showing proof that the vehicle has been in his continuous custody for at least 30 days, apply for and receive from the Department of Motor Vehicles title or a nonrepairable certificate to such vehicle, free of all liens and claims of ownership of others, and proceed to sell or otherwise dispose of the vehicle.

Whenever a motor vehicle is sold hereunder, the Department of Motor Vehicles shall issue a certificate of title and registration or a nonrepairable certificate to the purchaser thereof upon his application containing the serial or motor number of the vehicle purchased together with an affidavit of the lienholder that he has complied with the provisions hereof, or by the sheriff conducting a sale that

he has complied with said order.

Any garage keeper to whom a motor vehicle has been delivered pursuant to § 46.2-1209, 46.2-1213 or 46.2-1215 may after 30 days from the date of delivery proceed under this section, provided that action has not been taken pursuant to such sections for the sale of such motor vehicle.

Notwithstanding any provisions to the contrary, any person having a lien under § 43-32 or 43-33 shall comply with the provisions of the federal Servicemembers Civil Relief Act (50 U.S.C. app. 501 et seq.) when disposing of a vehicle owned by a member of the military duty or service.

§ 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 contained in the Department's records and, when the information supplied by the company or agent is different from that contained in the Department's records, provide the company or agent with correct information as contained in the Department's records and (ii) provide the company or agent with driver information in the form of an abstract of any person subject to the provisions of this title. Such 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 the subject of the abstract was involved and a report of which is required by § 46.2-372. No such abstract shall include any record of any conviction or accident more than 60 months after the date of such 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 cease to be included in such abstract after 60 months from the date on which the driver's license or driving privilege was reinstated. No abstract released under this subdivision shall be admissible in evidence in any court proceedings.

9. On the request of any federal, state, or local governmental entity, local government group self-insurance pool, law-enforcement officer, attorney for the Commonwealth, court, or the authorized agent of any of the foregoing, the Commissioner shall (i) compare personal information supplied by the governmental entity, local government group self-insurance pool, law-enforcement officer, attorney for the Commonwealth, court, or the authorized agent of any of the foregoing, with that contained in the Department's records and, when the information supplied by the governmental entity, local government group self-insurance pool, law-enforcement officer, attorney for the Commonwealth, court, or the authorized agent of any of the foregoing, is different from that contained in the Department's records, provide the governmental entity, local government group self-insurance pool, law-enforcement officer, attorney for the Commonwealth, court, or the authorized agent of any of the foregoing, with correct information as contained in the Department's records and (ii) provide driver and vehicle information in the form of an abstract of the record showing all convictions, accidents, driver's license suspensions or revocations, and other appropriate information as the governmental entity, local government group self-insurance pool, law-enforcement officer, attorney for the Commonwealth, court, or the authorized agent of any of the foregoing, may require in order to carry out its official functions. The abstract shall be provided free of charge.

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

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

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

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

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

15. Upon the request of any employer, prospective employer, or authorized representative of either,

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

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

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

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

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

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

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

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

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

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

25. On the written request of any person who has applied to be a volunteer vehicle operator with a Virginia chapter of the Civil Air Patrol, the Commissioner shall (i) compare personal information supplied by a Virginia chapter of the Civil Air Patrol with that contained in the Department's records and, when the information supplied by a Virginia chapter of the Civil Air Patrol is different from that

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

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

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

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

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

F. In addition to the foregoing provisions of this section, vehicle information may also be inspected under the provisions of §§ ~~43-33~~, ~~43-34~~, §§ 46.2-633, 46.2-644.02, 46.2-644.03, and §§ 46.2-1200.1 through 46.2-1237.

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

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

I. The Department shall maintain the records of persons convicted of violations of § 18.2-36.2, 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 every general district court or circuit court or the clerk thereof, pursuant to § 46.2-383. Such records shall be electronically available to any law-enforcement officer as provided for under clause (ii) of subdivision B 9.

§ 46.2-617. Sale of vehicle without certificate of title.

Except as provided in ~~§ 43-34~~ § 46.2-644.03, any person who sells, trades, exchanges, or barter a motor vehicle, trailer, or semitrailer in the Commonwealth without first having secured a certificate of title for it or without legally having in his possession a certificate of title for the vehicle issued to its owner, except as otherwise provided in this title, shall be guilty of a Class 3 misdemeanor.

§ 46.2-633. Transfer of title by operation of law.

A. Except as otherwise provided in § 46.2-615 in the event of the transfer by operation of law of the title or interest of an owner in and to a motor vehicle, trailer, or semitrailer registered under the provisions of this chapter to anyone as legatee or distributee or as surviving joint owner or by an order in bankruptcy or insolvency, execution sale, sales as provided for in ~~§ 43-34~~ § 46.2-644.03, repossession on default in the performing of the terms of a lease or executory sales contract or of any written agreement ratified or incorporated in a decree or order of a court of record, or otherwise than by the voluntary act of the person whose title or interest is so transferred, the transferee or his legal representative shall apply to the Department for a certificate of title, giving the name and address of the person entitled to it, and accompany his application with the registration card and certificate of title previously issued for the motor vehicle, trailer, or semitrailer, if available, together with whatever instruments or documents of authority, or certified copies of them, are required by law to evidence or effect a transfer of title or interest in or to chattels in the case. The Department shall cancel the registration of the motor vehicle, trailer, or semitrailer and issue a new certificate of title to the person entitled to it.

B. Notwithstanding the provisions of subsection A, if a title is presented from a state other than the Commonwealth, the Department shall, upon presentation of the title and a form prescribed by the Commissioner attesting to the lawful repossession of the vehicle and the intent to offer the vehicle for sale in the Commonwealth, issue a new certificate of title to the person entitled to it and request the state in which the vehicle is titled to cancel the title. Nothing in this subsection, however, shall be

construed to require the presentation of a title from a state other than the Commonwealth if the vehicle is not required to be titled by the laws of that other state.

§ 46.2-640. Priority of security interests shown on certificates of title.

The security interests, except security interests in motor vehicles, trailers and semitrailers which are inventory held for sale and are perfected under §§ 8.9A-401 through 8.9A-527, shown upon such certificates of title issued by the Department pursuant to applications for same shall have priority over any other liens or security interests against such motor vehicle, trailer, or semitrailer, however created and recorded. The foregoing provisions of this section shall not apply to liens for taxes as provided in § 58.1-3942, liens of keepers of garages to the extent given by ~~§ 43-32~~ § 46.2-644.01 and liens of mechanics for repairs to the extent given by ~~§ 43-33~~ § 46.2-644.02 if the requirements therefor exist, provided the garage keeper or mechanic furnishes the holder of any recorded lien who may request it with an itemized sworn statement of the storage charges, work done, and materials supplied for which the lien is claimed.

§ 46.2-644.01. *Lien of keeper of garage.*

A. *Every keeper of a garage, and every person keeping any vehicles shall have a lien upon such vehicles for the amount which may be due him for the towing, storage, recovery, and care thereof, until such amount is paid.*

B. *In the case of any vehicle subject to a chattel mortgage, security agreement, deed of trust, or other instrument securing money, the keeper of the garage shall have a lien thereon for his reasonable charges for storage under this section not to exceed \$500 and for alteration and repair under § 46.2-644.02 not to exceed \$800. However, in the case of a storage lien, to obtain the priority for an amount in excess of \$300, the person asserting the lien shall make a reasonable attempt to notify any secured party of record at the Department of Motor Vehicles by telephonic means and shall give written notice by certified mail, return receipt requested, to any secured party of record at the Department of Motor Vehicles within seven business days of taking possession of the vehicle. If the secured party does not, within seven business days of receipt of the notice, take or refuse redelivery to it or its designee, the lienor shall be entitled to priority for the full amount of storage charges, not to exceed \$500. Notwithstanding a redelivery, the vehicle shall be subject to subsection D.*

C. *In addition, any person furnishing services involving the towing and recovery of a vehicle, shall have a lien for all normal costs incident thereto, if the person asserting the lien gives written notice within seven days of receipt of the vehicle by certified mail, return receipt requested, to all secured parties of record at the Department of Motor Vehicles.*

D. *In addition, any keeper shall be entitled to a lien against any proceeds remaining after the satisfaction of all prior security interests or liens, and may retain possession of such property until such charges are paid.*

E. *Any lien created under this section shall not extend to any personal property which is not attached to or considered to be necessary for the proper operation of any motor vehicle, and it shall be the duty of any keeper of such personal property to return it to the owner if the owner claims the items prior to auction.*

F. *For the purposes of this section, in the case of a truck or combination of vehicles, the owner or in the case of a rented or leased vehicle, the lessee of the truck or tractor truck shall be liable for the costs of the towing, recovery, and storage of the cargo and of any trailer or semitrailer in the combination. Nothing in this subsection, however, shall bar the owner of the truck or tractor truck from subsequently seeking to recover from the owner of any trailer, semitrailer, or cargo all or any portion of these towing, recovery, and storage costs.*

§ 46.2-644.02. *Lien of mechanic for repairs.*

Every mechanic, who shall alter or repair any article of personal property at the request of the owner of such property, shall have a lien thereon for his just and reasonable charges therefor and may retain possession of such property until such charges are paid.

And every mechanic, who shall make necessary alterations or repairs on any article of personal property which from its character requires the making of ordinary repairs thereto as a reasonable incident to its reasonable and customary use, at the request of any person legally in possession thereof under a reservation of title contract, chattel mortgage, deed of trust, or other instrument securing money, the person so in possession having authority to use such property, shall have a lien thereon for his just and reasonable charges therefor to the extent of \$800. In addition, such mechanic shall be entitled to a lien against the proceeds, if any, remaining after the satisfaction of all prior security interests or liens, and may retain possession of such property until such charges are paid. In any action to enforce the lien hereby given all persons having an interest in the property sought to be subjected shall be made parties defendant.

If the owner of the property held by the mechanic shall desire to obtain possession thereof, he shall make the mechanic defendant in proceeding in the county or municipal court to recover the property.

The owner may give a bond payable to the court, in a penalty of the amount equal to the lien claimed by the mechanic and court costs, with security to be approved by the clerk, and conditioned for the performance of the final judgment of the court on the trial of the proceeding, and with a further

condition to the effect that, if upon the hearing, the judgment of the court be that the lien of the mechanic on such property, or any part thereof, be enforced, judgment may thereupon be entered against the obligors on such bond for the amount due the mechanic and court costs, if assessed against the owner, without further or other proceedings against them thereon. Upon giving of the bond, the property shall be delivered to the owner.

§ 46.2-644.03. Enforcement of liens acquired under §§ 46.2-644.01 and 46.2-644.02 and of liens of bailees.

Any person having a lien under §§ 46.2-644.01 and 46.2-644.02 and any bailee, except where otherwise provided, having a lien as such at common law on personal property in his possession which he has no power to sell for the satisfaction of the lien, if the debt for which the lien exists is not paid within 10 days after it is due and the value of the property affected by the lien does not exceed \$7,500, may sell such property or so much thereof as may be necessary, by public auction, for cash. The proceeds shall be applied to the satisfaction of the debt and expenses of sale, and the surplus, if any, shall be paid within 30 days of the sale to any lienholder, and then to the owner of the property. A seller who fails to remit the surplus as provided shall be liable to the person entitled to the surplus in an amount equal to \$50 for each day beyond 30 days that the failure continues.

Before making the sale, the seller shall advertise the time, place, and terms thereof in a public place. In the case of property other than a motor vehicle required to be registered in Virginia having a value in excess of \$600, 10 days' prior notice shall be given to any secured party who has filed a financing statement against the property, and written notice shall be given to the owner as hereinafter provided. If the property is a motor vehicle required by the motor vehicle laws of Virginia to be registered, the person having the lien shall ascertain from the Commissioner of the Department of Motor Vehicles whether the certificate of title of the motor vehicle shows a lien thereon. If the certificate of title shows a lien, the bailee proposing the sale of the motor vehicle shall notify the lienholder of record, by certified mail, at the address on the certificate of title of the time and place of the proposed sale 10 days prior thereto. If the name of the owner cannot be ascertained, the name of "John Doe" shall be substituted in any proceedings hereunder and no written notice as to him shall be required to be mailed. Whenever a vehicle is shown by the Department of Motor Vehicles records to be owned by a person who has indicated that he is on active military duty or service, the Department shall include such information in response to requests for vehicle information pursuant to the requirements of this chapter.

If the value of the property is more than \$7,500 but does not exceed \$15,000, the party having the lien, after giving notice as herein provided, may apply by petition to any general district court of the county or city wherein the property is, or, if the value of the property exceeds \$15,000, to the circuit court of the county or city, for the sale of the property. If, on the hearing of the case on the petition, the defense, if any made thereto, and such evidence as may be adduced by the parties respectively, the court is satisfied that the debt and lien are established and the property should be sold to pay the debt, the court shall order the sale to be made by the sheriff of the county or city. The sheriff shall make the same and apply and dispose of the proceeds in the same manner as if the sale were made under a writ of fieri facias.

If the owner of the property is a resident of the Commonwealth, any notice required by this section may be served as provided in § 8.01-296 or, if the sale is to be made without resort to the courts, by personal delivery or by certified or registered mail delivered to the present owner of the property to be sold at his last known address at least 10 days prior to the date of sale. If he is a nonresident or if his address is unknown, notice may be served by posting a copy thereof in three public places in the county or city wherein the property is located. For purposes of this section, a public place means a premises owned by the Commonwealth, a political subdivision thereof or an agency of either which is open to the general public.

If the property is a motor vehicle (i) for which neither the owner nor any other lienholder or secured party can be determined by the Department of Motor Vehicles through a diligent search of its records, (ii) manufactured for a model year at least six years prior to the current model year, and (iii) having a value of no more than \$3,000 as determined by the provisions of § 8.01-419.1, a person having a lien on such vehicle may, after showing proof that the vehicle has been in his continuous custody for at least 30 days, apply for and receive from the Department of Motor Vehicles title or a nonrepairable certificate to such vehicle, free of all liens and claims of ownership of others, and proceed to sell or otherwise dispose of the vehicle.

Whenever a motor vehicle is sold hereunder, the Department of Motor Vehicles shall issue a certificate of title and registration or a nonrepairable certificate to the purchaser thereof upon his application containing the serial or motor number of the vehicle purchased together with an affidavit of the lienholder that he has complied with the provisions hereof, or by the sheriff conducting a sale that he has complied with said order.

Any garage keeper to whom a motor vehicle has been delivered pursuant to § 46.2-1209, 46.2-1213, or 46.2-1215 may after 30 days from the date of delivery proceed under this section, provided that action has not been taken pursuant to such sections for the sale of such motor vehicle.

Notwithstanding any provisions to the contrary, any person having a lien under § 46.2-644.01 or

46.2-644.02 shall comply with the provisions of the federal Servicemembers Civil Relief Act (50 U.S.C. app. 501 et seq.) when disposing of a vehicle owned by a member of the military duty or service.

§ 46.2-1200. Definitions.

As used in this article:

"Abandoned motor vehicle" means a motor vehicle, trailer, or semitrailer ~~or part of a motor vehicle, trailer, or semitrailer~~ that:

1. Is ~~inoperable and is left unattended on public property, other than an interstate highway or primary highway, for more than forty-eight hours in violation of a state law or local ordinance, or~~

2. ~~Has remained illegally on public property for more than forty-eight hours, or~~

3. 2. Has remained for more than forty-eight hours on private property without the consent of the property's owner, regardless of whether it was brought onto the private property with the consent of the owner or person in control of the private property, or

4. 3. Is ~~inoperable, left unattended, or both, on an interstate highway, or~~

5. Is ~~inoperable, left unattended, or both, on the shoulder of a primary highway~~

"Inoperable abandoned motor vehicle" means an abandoned motor vehicle which is inoperable and whose fair market value, as determined by the locality's official responsible for assessing motor vehicles under § 58.1-3503, is less than the cost of its restoration to an operable condition, ~~or~~

4. ~~Has remained unclaimed in a garage for more than 10 days or for more than 10 days beyond the period the motor vehicle was to remain on the premises pursuant to a contract, or~~

5. ~~Has remained unclaimed in a self-service storage unit under the provisions of Chapter 23 (§ 55-416 et seq.) of Title 55.~~

"Garage" means any commercial parking place, motor vehicle storage facility, or establishment for the servicing, repair, maintenance, or sale of motor vehicles whether or not the vehicle had been brought to that location with the consent of the owner or person in control of the premises.

"Garage keeper" means the operator of a garage.

"Major component" shall have the meaning ascribed by § 46.2-1600.

"Scrap metal processor" means any person who is engaged in the business of processing motor vehicles into scrap for remelting purposes who, from a fixed location, utilizes machinery and equipment for processing and manufacturing ferrous and nonferrous metallic scrap into prepared grades, and whose principal product is metallic scrap.

"Vehicle removal certificate" means a transferable document issued by the Department for any abandoned motor vehicle that authorizes the removal and destruction of the vehicle.

§ 46.2-1202. Search for owner and secured party; notice.

Any locality or its authorized agent that takes an abandoned motor vehicle into custody shall, within fifteen days, by registered or certified mail, return receipt requested, notify the owner of record of the motor vehicle and all persons having security interests in the vehicle of record, that it has been taken into custody. The notice shall (i) state the year, make, model, and serial number of the abandoned motor vehicle; (ii) set forth the location of the facility where it is being held; and (iii) inform the owner and any persons having security interests of their right to reclaim it within fifteen days after the date of the notice after payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody. The notice shall state that the failure of the owner or persons having security interests to reclaim the vehicle within the time provided shall constitute (i) a waiver by the owner and all persons having any security interests of all right, title, and interest in the vehicle and (ii) consent to the sale of the abandoned motor vehicle at a public auction.

If records of the Department contain no address for the owner or no address of any person shown by the Department's records to have a security interest, or if the identity and addresses of the owner and all persons having security interests cannot be determined with reasonable certainty, notice by publication once in a newspaper of general circulation in the area where the motor vehicle was abandoned shall be sufficient to meet all requirements of notice pursuant to this article as to any person who cannot be notified pursuant to the foregoing provisions of this section. Notice by publication may contain multiple listings of abandoned motor vehicles. Any notice of this kind shall be within the time requirements prescribed by this section for notice by mail and shall have the same contents required for a notice by mail.

The consequences of failure to reclaim an abandoned motor vehicle shall be as set forth in a notice given in accordance with and pursuant to this section. A. Any person in possession of an abandoned motor vehicle shall initiate with the Department, in a manner prescribed by the Commissioner, a search for the owner and/or lienholder of record of the vehicle, requesting the name and address of the owner of record of the motor vehicle and all persons having security interests in the motor vehicle on record in the office of the Department, describing, if ascertainable, the motor vehicle by year, make, model, and vehicle identification number. A fee of \$25 shall be paid to the Department at the time of application. Those fees shall be paid into the state treasury and set aside as a special, nonreverting fund to be used to meet the expenses of the Department. A local government agency with a written agreement with the Department shall be exempt from this fee.

The Department shall check: (i) its own records, (ii) the records of a nationally recognized crime

database, and (iii) records of a nationally recognized motor vehicle title database for owner and lienholder information. If a vehicle has been reported as stolen, the Department shall notify the appropriate law-enforcement agency of that fact. If a vehicle has been found to have been titled in another jurisdiction, the Department shall notify the applicant of that jurisdiction. In cases of motor vehicles titled in other jurisdictions, the Commissioner shall issue certificates of title on proof satisfactory to the Commissioner that the persons required to be notified by registered or certified mail have received actual notice fully containing the information required by this section.

B. If the Department confirms owner or lienholder information, the Department shall notify the owner, at the last known address of record, and lienholder, at the last known address of record, of the notice of interest in their vehicle, by certified mail, return receipt requested, and advise them to reclaim and remove the vehicle within 15 days, or, if the vehicle is a manufactured home or a mobile home, 120 days, from the date of notice. Such notice, when sent in accordance with these requirements, shall be sufficient regardless of whether or not it was ever received. Following the notice required in this subsection, if the motor vehicle remains unclaimed, the owner and all persons having security interests in the motor vehicle shall have waived all right, title, and interest in the motor vehicle.

Whenever a vehicle is shown by the Department's records to be owned by a person who has indicated that he is on active military duty or service, the Department shall notify the requestor of such information. Any person having an interest in such vehicle under the provisions of this article shall comply with the provisions of the federal Servicemembers Civil Relief Act (50 U.S.C. app. 501 et seq.).

C. If records of the Department contain no address for the owner or no address of any person shown by the Department's records to have a security interest, or if the identity and addresses of the owner and all persons having security interests cannot be determined with reasonable certainty, the person in possession of the abandoned motor vehicle shall obtain from the Department in a manner prescribed by the Commissioner, a Vehicle Removal Certificate. The vehicle may be sold or transferred to a licensee or a scrap metal processor, as defined in § 46.2-1600.

§ 46.2-1202.1. Vehicle Removal Certificates.

The person in possession of an abandoned motor vehicle shall obtain from the Department in a manner prescribed by the Commissioner, a Vehicle Removal Certificate at no fee. The vehicle may be sold or transferred to a licensee or a scrap metal processor, as defined in § 46.2-1600.

If the person in possession of an abandoned motor vehicle desires to obtain title to the vehicle, that person shall post notice for at least 21 days of his intent to auction the motor vehicle. Postings of intent shall be in an electronic manner prescribed by the Commissioner who shall also ensure that written notice of intent is provided in public locations throughout the Commonwealth. If the Department confirms a lien, the person proposing the sale of the motor vehicle shall notify the lienholder of record, by certified mail, at the address on the certificate of title of the time and place of the proposed sale 10 days prior thereto.

A purchaser of the motor vehicle may apply for a title upon payment of the applicable fees and taxes, and by supplying the Department with the completed Vehicle Removal Certificate and the transcript from the Department that indicates that the Department has no record of the abandoned motor vehicle.

§ 46.2-1206. Surrender of certificate of title, etc., where motor vehicle acquired for demolition; records to be kept by demolisher or scrap metal processor.

No demolisher or scrap metal processor who purchases or otherwise acquires a motor vehicle for wrecking, dismantling, or demolition shall be required to obtain a certificate of title for the motor vehicle in his own name. After the motor vehicle has been demolished, processed, or changed so that it physically is no longer a motor vehicle, the demolisher or scrap metal processor shall surrender to the Department for cancellation the certificate of title, Vehicle Removal Certificate, properly executed vehicle disposition history, or sales receipt from a foreign jurisdiction for the vehicle. The Department shall issue the appropriate forms and regulations governing for the surrender of sales receipts and, certificates of title, vehicle disposition histories, and vehicle removal certificates.

Demolishers and scrap metal processors shall keep accurate and complete records, in accordance with § 46.2-1608, of all motor vehicles purchased or received by them in the course of their business. These records shall contain the name and address of the person from whom each motor vehicle was purchased or received and the date on which purchases or receipts occurred. These records shall be open for inspection by the Department at any time during normal business hours. Demolishers and scrap metal processors shall also collect and verify:

1. The towing company's name and, if applicable, the license number issued to the towing company by the Virginia Board for Towing and Recovery Operators,
2. One of the ownership or possession documents set out in this section following verification of its accuracy, and
3. The driver's license of the person delivering the motor vehicle.

If the delivering vehicle does not possess a license number issued by the Virginia Board for Towing and Recovery Operators, the license plate number of the vehicle that delivered the motor vehicle or scrap shall also be collected and maintained.

In addition, a photocopy or electronic copy of the appropriate ownership document or a Vehicle Removal Certificate presented by the customer shall be maintained. Ownership documents shall consist of either a motor vehicle title or a sales receipt from a foreign jurisdiction or a vehicle disposition history. These records shall be maintained in a permanent ledger in a manner acceptable to the Department at the place of business or at another readily accessible and secure location within the Commonwealth for at least five years. The personal identifying information contained within these records shall be protected from unauthorized disclosure through the ultimate destruction of the information. Disclosure of personal identifying information by anyone other than the Department is subject to the Driver's Privacy Protection Act (18 U.S.C. § 2721 et seq.).

If requested by a law-enforcement officer, a licensee shall make available, during regular business hours, a report of all the purchases of motor vehicles. Each report shall include the information set out in this chapter and be available electronically or in an agreed-upon format. Any person who violates any provision of this chapter or who falsifies any of the information required to be maintained by this article shall be guilty of a Class 3 misdemeanor for the first offense. Any licensee or scrap metal processor who is found guilty of second or subsequent violations shall be guilty of a Class 1 misdemeanor. The Department shall also assess a civil penalty not to exceed \$500 for the first offense and \$1,000 for the second and subsequent offenses. Those penalties shall be paid into the state treasury and set aside as a special fund to be used to meet the expenses of the Department.

If the vehicle identification number has been altered, is missing, or appears to have been otherwise tampered with, the demolisher or scrap metal processor shall take no further action with regard to the vehicle except to safeguard it in its then-existing condition and shall promptly notify the Department. The Department shall, after an investigation has been made, notify the demolisher or scrap metal processor whether the motor vehicle can be freed from this limitation. In no event shall the motor vehicle be disassembled, demolished, processed, or otherwise modified or removed prior to authorization by the Department. If the vehicle is a motorcycle, the demolisher or scrap metal processor shall cause to be noted on the title or salvage certificate, certifying on the face of the document, in addition to the above requirements, the frame number of the motorcycle and motor number, if available.

§ 46.2-1600. Definitions.

The following words, terms, and phrases when used in this chapter shall have the meaning ascribed to them in this section, except where the context indicates otherwise:

"Actual cash value," as applied to a vehicle, means the retail cash value of the vehicle prior to damage as determined, using recognized evaluation sources, either (i) by an insurance company responsible for paying a claim or (ii) if no insurance company is responsible therefor, by the Department.

"Current salvage value," as applied to a vehicle, means (i) the salvage value of the vehicle, as determined by the insurer responsible for paying the claim or (ii) if no insurance company is responsible therefor, 25 percent of the actual cash value.

"Demolisher" means any person whose business is to crush, flatten, or otherwise reduce a vehicle to a state where it can no longer be considered a vehicle.

"Diminished value compensation" means the amount of compensation that an insurance company pays to a third party vehicle owner, in addition to the cost of repairs, for the reduced value of a vehicle due to damage.

"Independent appraisal firm" means any business providing cost estimates for the repair of damaged motor vehicles for insurance purposes and having all required business licenses and zoning approvals. This term shall not include insurance companies that provide the same service, nor shall any such entity be a rebuilder or affiliated with a rebuilder.

"Late model vehicle" means the current-year model of a vehicle and the ~~six~~ five preceding model years, or any vehicle whose actual cash value is determined to have been at least ~~\$7,500~~ \$10,000 prior to being damaged.

"Licensee" means any person who is licensed or is required to be licensed under this chapter.

"Major component" means any one of the following subassemblies of a motor vehicle: (i) front clip assembly, consisting of the fenders, grille, hood, bumper, and related parts; (ii) engine; (iii) transmission; (iv) rear clip assembly, consisting of the quarter panels, floor panels, trunk lid, bumper, and related parts; (v) frame; (vi) air bags; and (vii) any door that displays a vehicle identification number.

"Nonrepairable certificate" means a document of ownership issued by the Department for any nonrepairable vehicle upon surrender or cancellation of the vehicle's title and registration or salvage certificate.

"Nonrepairable vehicle" means (i) any late model vehicle that has been damaged and whose estimated cost of repair exceeds 90 percent of its actual cash value prior to damage, or (ii) any vehicle which has been determined to be nonrepairable by its insurer or owner, and for which a nonrepairable certificate has been issued or applied for, or (iii) any other vehicle which has been damaged, is inoperable, and has no value except for use as parts and scrap metal.

"Rebuilder" means any person who acquires and repairs, for use on the public highways, two or more salvage vehicles within a 12-month period.

"Rebuilt vehicle" means (i) any salvage vehicle that has been damaged as a result of collision, fire, flood, accident, trespass, or any other occurrence and has been repaired and the estimated cost of repair exceeded 75 percent of its actual cash value, for use on the public highways or (ii) any late model vehicle which has been repaired and the estimated cost of repair exceeded 75 percent of its actual cash value, excluding the cost to repair damage to the engine, transmission, or drive axle assembly.

"Repaired vehicle" means any salvage vehicle that has had repairs less than the amount necessary to make it a rebuilt vehicle.

"Salvage certificate" means a document of ownership issued by the Department for any salvage vehicle upon surrender or cancellation of the vehicle's title and registration.

"Salvage dealer" means any person who acquires any vehicle for the purpose of reselling any parts thereof.

"Salvage pool" means any person providing a storage service for salvage vehicles or nonrepairable vehicles who either displays the vehicles for resale or solicits bids for the sale of salvage vehicles or nonrepairable vehicles, but this definition shall not apply to an insurance company which stores and displays fewer than 100 salvage vehicles and nonrepairable vehicles in one location; however, any two or more insurance companies who display salvage and nonrepairable vehicles for resale, using the same facilities, shall be considered a salvage pool.

"Salvage vehicle" means (i) any late model vehicle which has been (a) acquired by an insurance company as a part of the claims process other than a stolen vehicle or (b) damaged as a result of collision, fire, flood, accident, trespass, or any other occurrence to such an extent that its estimated cost of repair, excluding charges for towing, storage, and temporary replacement/rental vehicle or payment for diminished value compensation, would exceed its actual cash value less its current salvage value; (ii) any recovered stolen vehicle acquired by an insurance company as a part of the claims process, whose estimated cost of repair exceeds 75 percent of its actual cash value; or (iii) any other vehicle which is determined to be a salvage vehicle by its owner or an insurance company by applying for a salvage certificate for the vehicle, provided that such vehicle is not a nonrepairable vehicle.

"Scrap metal processor" means any person who is engaged in the business of processing vehicles into scrap for remelting purposes who, from a fixed location, utilizes machinery and equipment for processing and manufacturing ferrous and nonferrous metallic scrap into prepared grades, and whose principal product is metallic scrap.

"Vehicle removal operator" means any person who acquires a vehicle for the purpose of reselling it to a demolisher, scrap metal processor, or salvage dealer.

§ 46.2-1601. Licensing of dealers of salvage vehicles; fees.

It shall be unlawful for any person to engage in business in the Commonwealth as a demolisher, rebuilder, salvage dealer, salvage pool, or vehicle removal operator without first acquiring a license issued by the Commissioner for each such business at each location. The fee for the first such license issued or renewed under this chapter shall be \$100 per license year or part thereof. The fee for each additional license issued or renewed under this chapter for the same location shall be \$25 per license year or part thereof. However, no fee shall be charged for supplemental locations of a business located within 500 yards of the licensed location. No license shall be issued or renewed for any person unless (i) the licensed business contains at least 600 square feet of enclosed space, ~~and~~ (ii) *the licensed business is shown to be in compliance with all applicable zoning ordinances, and (iii) effective October 1, 2009, any new applicant, and, effective with the next renewal of a license after October 1, 2009, any other applicant must (a) certify to the Commissioner that the licensed business is permitted under a Virginia Pollutant Discharge Elimination System individual or general permit issued by the State Water Control Board for discharges of storm water associated with industrial activity and provides the permit number(s) from such permit(s) or (b) certify to the Commissioner that the licensed business is otherwise exempt from such permitting requirements.* Nothing in this section shall authorize any person to act as a motor vehicle dealer or salesperson without being licensed under Chapter 15 of this title and meeting all requirements imposed by such chapter.

The Commissioner may offer an optional multiyear license for any license set forth in this section. When such option is offered and chosen by the licensee, all fees due at the time of licensing shall be multiplied by the number of years for which the license will be issued.

On due notice and hearing, the Commissioner may suspend or revoke any license issued under this chapter for any violation of any provision of this chapter or a violation of § 46.2-1074 or § 46.2-1075. Suspension or revocation shall only be imposed on the specific business found to be in violation.

§ 54.1-601. Exemptions.

The provisions of this chapter and the terms "Virginia licensed auctioneer," "auctioneer" or "auction firm," as defined in § 54.1-600, shall not apply to:

1. Any person who auctions his own property, whether owned or leased, provided his regular business is not as an auctioneer;
2. Any person who is acting as a receiver, trustee in bankruptcy, guardian, conservator, administrator, or executor, or any person acting under order of a court;
3. A trustee acting under a trust agreement, deed of trust, or will;

4. An attorney-at-law licensed to practice in the Commonwealth of Virginia acting pursuant to a power of attorney;

5. Sales at auction conducted by or under the direction of any public authority, or pursuant to any judicial order or decree;

6. Sale of livestock at a public livestock market authorized by the Commissioner of Agriculture and Consumer Services;

7. Leaf tobacco sales conducted in accordance with the provisions of § 3.1-336;

8. Sale at auction of automobiles conducted under the provisions of ~~§ 43-34~~ § 46.2-644.03 or by a motor vehicle dealer licensed under the provisions of Chapter 15 (§ 46.2-1500 et seq.) of Title 46.2;

9. Sale at auction of a particular brand of livestock conducted by an auctioneer of a livestock trade association;

10. Sales conducted by and on behalf of any charitable, religious, civic club, fraternal, or political organization if the person conducting the sale receives no compensation, either directly or indirectly, therefor and has no ownership interest in the merchandise being sold or financial interest in the entity providing such merchandise;

11. Sales, not exceeding one sale per year, conducted by or on behalf of a civic club or organization;

or

12. Sales of collateral, sales conducted to enforce carriers' or warehousemen's liens, bulk sales, sales of goods by a presenting bank following dishonor of a documentary draft, resales of rightfully rejected goods, resales of goods by an aggrieved seller, or other resales conducted pursuant to Titles 8.1A through 8.10 and Chapter 23 (§ 55-416 et seq.) of Title 55.

§ 55-417. Definitions.

As used in this chapter, unless the context clearly requires otherwise:

1. "Self-service storage facility" means any real property designed and used for renting or leasing individual storage spaces, other than storage spaces which are leased or rented as an incident to the lease or rental of residential property or dwelling units, to which the occupants thereof have access for storing or removing their personal property. No occupant shall use a self-service storage facility for residential purposes.

2. "Owner" means the owner, operator, lessor, or sublessor of a self-service storage facility, his agent, or any other person authorized to manage the facility or to receive rent from any occupant under a rental agreement.

The owner of a self-service storage facility is not a warehouseman as defined in § 8.7-102, unless the owner issues a warehouse receipt, bill of lading, or other document of title for the personal property stored, in which event, the owner and the occupant are subject to the provisions of Title 8.7 dealing with warehousemen.

3. "Occupant" means a person, his sublessee, successor, or assign, entitled to the use of a leased space at a self-service storage facility under a rental agreement.

4. "Rental agreement" means any agreement or lease that establishes or modifies the terms, conditions, or rules concerning the use and occupancy of a self-service storage facility.

5. "Leased space" means the individual storage space at the self-service facility which is leased or rented to an occupant pursuant to a rental agreement.

6. "Personal property" means movable property, not affixed to land and includes, but is not limited to, goods, wares, merchandise, ~~motor vehicles~~, and household items and furnishings.

7. "Default" means the failure to perform on time any obligation or duty set forth in the rental agreement or this chapter.

8. "Last known address" means that address provided by the occupant in the rental agreement or the address provided by the occupant in a subsequent written notice of a change of address.

§ 55-418. Lien.

A. The owner shall have a lien on all personal property stored within each leased space for rent, labor, or other charges, and for expenses reasonably incurred in its sale pursuant to this chapter. Such lien shall attach as of the date the personal property is stored within each leased space, and, to the extent the property remains stored within such leased space, as hereinafter provided, shall be superior to any other existing liens or security interests to the extent of \$250 or, if the leased space is a climate-controlled facility, \$500. In addition, such lien shall extend to the proceeds, if any, remaining after the satisfaction of any perfected liens and the owner may retain possession of such proceeds until the balance, if any, of such charges is paid.

B. In the case of any ~~motor vehicle~~ or watercraft which is subject to a lien, previously recorded on the certificate of title, the owner, so long as the ~~motor vehicle~~ or watercraft remains stored within such leased space, shall have a lien on such ~~vehicle~~ or watercraft as provided for herein to the extent of \$250 or \$500 if the leased space is a climate-controlled facility. In addition, such lien shall extend to the proceeds, if any, remaining after the satisfaction of any recorded liens and the owner may retain possession of such proceeds until the balance, if any, of such charges is paid.

C. The rental agreement shall contain a statement, in bold type, advising the occupant of the existence of such lien, and that the personal property stored within the leased space may be sold to

satisfy the lien if the occupant is in default.

D. In the case of any motor vehicle that is subject to a lien, previously recorded on the certificate of title, the owner, so long as the motor vehicle remains stored within such leased space, shall have a lien on such vehicle in accordance with § 46.2-644.01.

§ 55-419. Enforcement of lien.

A. 1. If any occupant is in default under a rental agreement, the owner shall notify the occupant of such default by regular mail at his last known address. If such default is not cured within ten days after its occurrence, then the owner may proceed to enforce such lien by selling the contents of the occupant's unit at public auction, for cash, and apply the proceeds to satisfaction of the lien, with the surplus, if any, to be disbursed as hereinafter provided. Before conducting such a public auction, the owner shall notify the occupant as prescribed in subsection C of this section and shall advertise the time, place, and terms thereof in such manner as to give publicity thereto.

2. In the case of personal property having a fair market value in excess of \$1,000, and against which a creditor has filed a financing statement in the name of the occupant at the State Corporation Commission or in the city or county where the self-service storage facility is located or in the city or county in Virginia shown as the last known address of the occupant, or if such personal property is a ~~motor vehicle or~~ watercraft required by the laws of Virginia to be registered and the Department of ~~Motor Vehicles or~~ Department of Game and Inland Fisheries shows a lien on the certificate of title, the owner shall notify the lienholder of record, by certified mail, at the address on the financing statement or certificate of title, at least 10 days prior thereto of the time and place of the proposed public auction.

If the owner of the personal property cannot be ascertained, the name of "John Doe" shall be substituted in the proceedings hereunder and no written notice shall be required. Whenever a ~~motor vehicle or~~ watercraft is sold hereunder, the Department of ~~Motor Vehicles or~~ Department of Game and Inland Fisheries shall issue a certificate of title and registration to the purchaser thereof upon his application containing the serial or motor number of the ~~vehicle or~~ watercraft purchased, together with an affidavit by the lienholder, or by the person conducting the public auction, evidencing compliance with the provisions hereof.

B. Whenever the occupant is in default, the owner shall have the right to deny the occupant access to the leased space.

C. After the occupant has been in default for a period of ten days, and before the owner can sell the occupant's personal property in accordance with this chapter, the owner shall send a further notice of default, by registered or certified mail, postage prepaid, to the occupant at his last known address. Such notice of default shall include:

1. An itemized statement of the owner's claim, indicating the charges due on the date of the notice and the date when the charges became due;
2. A demand for payment of the charges due within a specified time not less than twenty days after the date of the notice;
3. A statement that the contents of the occupant's leased space are subject to the owner's lien;
4. A conspicuous statement that unless the claim is paid within the time stated, the contents of the occupant's space will be sold at public auction at a specified time and place; and
5. The name, street address, and telephone number of the owner or his designated agent whom the occupant may contact to respond to the notice.

D. At any time prior to the public auction pursuant to this section, the occupant may pay the amount necessary to satisfy the lien and thereby redeem the personal property.

E. In the event of a public auction pursuant to this section, the owner may satisfy his lien from the proceeds of the public auction, and shall hold the balance, if any, for delivery on demand to the occupant or other lienholder referred to in this chapter. However, the owner shall not be obligated to hold any balance for a lienholder of record notified pursuant to subdivision A 2, or any other lien creditor, that fails to claim an interest in the balance within thirty days of the public auction. So long as the owner complies with the provisions of this chapter, the owner's liability to the occupant under this chapter shall be limited to the net proceeds received from the public auction of any personal property, and as to other lienholders, shall be limited to the net proceeds received from the public auction of any personal property covered by such superior lien.

F. Any public auction of the personal property shall be held at the self-service storage facility or at the nearest suitable place to where the personal property is held or stored. An advertisement shall be published in a newspaper of general circulation in the county, city or town in which the public auction is to be held at least once prior to the public auction. The advertisement must state (i) the fact that it is a public auction; (ii) the date, time and location of the public auction; and (iii) form of payment.

G. A purchaser in good faith of any personal property sold or otherwise disposed of pursuant to this chapter takes such property free and clear of any rights of persons against whom the lien was valid.

H. Any notice made pursuant to this section shall be presumed delivered when it is deposited with the United States Postal Service and properly addressed to the occupant's last known address with postage prepaid.

I. In the case of any motor vehicle, so long as the motor vehicle remains stored within such leased

space, the owner shall have a lien on such vehicle in accordance with § 46.2-644.01.

- 2. That §§ 46.2-1204 and 46.2-1208 of the Code of Virginia are repealed.**
- 3. That the provisions of this act shall become effective on October 1, 2009.**