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SENATE BILL NO. 1360

Offered January 14, 2009

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A *BILL to amend and reenact §§ 8.01-66.1, 38.2-1904, 46.2-214.3, 46.2-419, 46.2-472, 46.2-705, 46.2-706, 46.2-707, 46.2-708, 46.2-902.1, 46.2-1529, 46.2-1530, 46.2-1992.22, 46.2-1992.23, 46.2-1993.22, and 46.2-1993.23 of the Code of Virginia and to repeal Chapter 30 (§§ 38.2-3000 and 38.2-3001) of Title 38.2 and § 46.2-710 of the Code of Virginia, relating to requirements for motor vehicle liability insurance; penalty.*

Patron—Reynolds

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-66.1, 38.2-1904, 46.2-214.3, 46.2-419, 46.2-472, 46.2-705, 46.2-706, 46.2-707, 46.2-708, 46.2-902.1, 46.2-1529, 46.2-1530, 46.2-1992.22, 46.2-1992.23, 46.2-1993.22, and 46.2-1993.23 of the Code of Virginia are amended and reenacted as follows:

§ 8.01-66.1. Remedy for arbitrary refusal of motor vehicle insurance claim.

A. Whenever any insurance company licensed in this Commonwealth to write insurance as defined in § 38.2-124 denies, refuses or fails to pay to its insured a claim of \$3,500 or less in excess of the deductible, if any, under the provisions of a policy of motor vehicle insurance issued by such company to the insured and it is subsequently found by the judge of a court of proper jurisdiction that such denial, refusal or failure to pay was not made in good faith, the company shall be liable to the insured in an amount double the amount otherwise due and payable under the provisions of the insured's policy of motor vehicle insurance, together with reasonable attorney's fees and expenses.

The provisions of this subsection shall be construed to include an insurance company's refusal or failure to pay medical expenses to persons covered under the terms of any medical payments coverage extended under a policy of motor vehicle insurance, when the amount of the claim therefor is \$3,500 or less and the refusal was not made in good faith.

B. Notwithstanding the provisions of subsection A, whenever any insurance company licensed in this Commonwealth to write insurance as defined in § 38.2-124 denies, refuses or fails to pay to a third party claimant, on behalf of an insured to whom such company has issued a policy of motor vehicle liability insurance, a claim of \$3,500 or less made by such third party claimant and if the judge of a court of proper jurisdiction finds that the insured is liable for the claim, the third party claimant shall have a cause of action against the insurance company. If the judge finds that such denial, refusal or failure to pay was not made in good faith, the company, in addition to the liability assumed by the company under the provisions of the insured's policy of motor vehicle liability insurance, shall be liable to the third party claimant in an amount double the amount of the judgment awarded the third party claimant, together with reasonable attorney's fees and expenses.

C. Notwithstanding the provisions of subsections A and B whenever any person who has paid a fee to the Department of Motor Vehicles to register an uninsured motor vehicle pursuant to § 46.2-706 or any person who has furnished proof of financial responsibility in lieu of obtaining a policy or policies of motor vehicle liability insurance pursuant to the provisions of Title 46.2 or any person who is required and has failed either to pay such fee or to furnish such proof pursuant to the provisions of Title 46.2 denies, refuses or fails to pay to a claimant a claim of \$3,500 or less made by such claimant as a result of a motor vehicle accident; and if the trial judge of a court of proper jurisdiction finds that such denial, refusal or failure to pay was not made in good faith, such person shall be liable to the claimant in an amount double the amount otherwise due and payable together with reasonable attorney's fees and expenses.

For the purposes of this subsection C "person" shall mean and include any natural person, firm, partnership, association or corporation.

D. 1. Whenever a court of proper jurisdiction finds that an insurance company licensed in this Commonwealth to write insurance as defined in § 38.2-124 denies, refuses or fails to pay to its insured a claim of more than \$3,500 in excess of the deductible, if any, under the provisions of a policy of motor vehicle insurance issued by such company to the insured and it is subsequently found by the judge of a court of proper jurisdiction that such denial, refusal or failure to pay was not made in good faith, the company shall be liable to the insured in the amount otherwise due and payable under the provisions of the insured's policy of motor vehicle insurance, plus interest on the amount due at double the rate provided in § 6.1-330.53 from the date that the claim was submitted to the insurer or its authorized

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SB1360

59 agent, together with reasonable attorney's fees and expenses.

60 2. The provisions of this subsection shall be construed to include an insurance company's refusal or
61 failure to pay medical expenses to persons covered under the terms of any medical payments coverage
62 extended under a policy of motor vehicle insurance when the refusal was not made in good faith.

63 § 38.2-1904. Rate standards.

64 A. Rates for the classes of insurance to which this chapter applies shall not be excessive, inadequate
65 or unfairly discriminatory. All rates and all changes and amendments to rates to which this chapter
66 applies for use in this Commonwealth shall consider loss experience and other factors within Virginia if
67 relevant and actuarially sound; provided, other data, including countrywide, regional or other state data,
68 may be considered where such data is relevant and where a sound actuarial basis exists for considering
69 data other than Virginia-specific data.

70 1. No rate shall be held to be excessive unless it is unreasonably high for the insurance provided and
71 a reasonable degree of competition does not exist in the area with respect to the classification to which
72 the rate applies.

73 2. No rate shall be held inadequate unless it is unreasonably low for the insurance provided and (i)
74 continued use of it would endanger solvency of the insurer or (ii) use of the rate by the insurer has or,
75 if continued, will have the effect of destroying competition or creating a monopoly.

76 3. No rate shall be unfairly discriminatory if a different rate is charged for the same coverage and
77 the rate differential (i) is based on sound actuarial principles or (ii) is related to actual or reasonably
78 anticipated experience.

79 B. 1. In determining whether rates comply with the standards of subsection A of this section,
80 separate consideration shall be given to (i) past and prospective loss experience within and outside this
81 Commonwealth, (ii) conflagration or catastrophe hazards, (iii) a reasonable margin for underwriting
82 profit and contingencies, (iv) dividends, savings or unabsorbed premium deposits allowed or returned by
83 insurers to their policyholders, members or subscribers, (v) past and prospective expenses both
84 countrywide and those specifically applicable to this Commonwealth, (vi) the loss reserving practices,
85 standards and procedures utilized by the insurer, (vii) investment income earned or realized by insurers
86 from their unearned premium and loss reserve and the Commission may give separate consideration to
87 investment income earned on surplus funds, and (viii) all other relevant factors within and outside this
88 Commonwealth. When actual experience or data does not exist, the Commission may consider estimates.

89 2. In the case of fire insurance rates, consideration shall be given to the experience of the fire
90 insurance business during a period of not less than the most recent five-year period for which such
91 experience is available.

92 3. In the case of workers' compensation insurance rates for volunteer firefighters or volunteer
93 lifesaving or volunteer rescue squad members, the rates shall be calculated based upon the combined
94 experience of both volunteer firefighters or volunteer lifesaving or volunteer rescue squad members and
95 paid firefighters or paid lifesaving or paid rescue squad members, so that the resulting rate is the same
96 for both volunteer and paid members, but in no event shall resulting premiums be less than forty dollars
97 per year for any volunteer firefighter or rescue squad member.

98 4. In the case of uninsured motorist coverage required by subsection A of § 38.2-2206, consideration
99 shall be given to all sums distributed by the Commission from the Uninsured Motorists Fund in
100 accordance with the provisions of Chapter 30 (§ 38.2-3000 et seq.) of this title.

101 C. For the classes of insurance to which this chapter applies, including insurance against contingent,
102 consequential and indirect losses as defined in § 38.2-133 (i) the systems of expense provisions included
103 in the rates for use by any insurer or group of insurers may differ from those of other insurers or groups
104 of insurers to reflect the requirements of the operating methods of any such insurer or group for any
105 class of insurance, or with respect to any subdivision or combination of insurance for which separate
106 expense provisions are applicable, and (ii) risks may be grouped by classifications for the establishment
107 of rates and minimum premiums. Classification rates may be modified to produce rates for individual
108 risks in accordance with rating plans that establish standards for measuring variations in hazards,
109 expense provisions, or both. The standards may measure any difference between risks that can be
110 demonstrated to have a probable effect upon losses or expenses. Notwithstanding any other provision of
111 this subsection, except as permitted by § 38.2-1908, each member of a rate service organization shall use
112 the uniform classification system, uniform experience rating plan, and uniform statistical plan of its
113 designated rate service organization in the provision of insurance defined in § 38.2-119.

114 D. No insurer shall use any information pertaining to any motor vehicle conviction or accident to
115 produce increased or surcharged rates above their filed manual rates for individual risks for a period
116 longer than thirty-six months. This period shall begin no later than twelve months after the date of the
117 conviction or accident.

118 E. Each authorized insurer subject to the provisions of this chapter may file with the Commission an
119 expense reduction plan that permits variations in expense provisions. Such filing may contain provisions
120 permitting agents to reduce their commission resulting in an appropriate reduction in premium. Nothing

in this section shall be construed to require an agent to reduce a commission, nor may an insurer unreasonably refuse to reduce a premium due to a commission reduction as permitted by its filed expense reduction plan.

§ 46.2-214.3. Service charge to be imposed and collected by the Department; discount for multiyear registration.

A. In addition to any other fee imposed and collected by the Department, the Department shall impose and collect a service charge upon each person who carries out the registration renewal of a vehicle in any of the Department's Customer Service Centers if such registration can be conducted (i) by mail or telephone or by using an electronic medium using a format prescribed by the Commissioner, or (ii) through an agent of the Department that has entered into an agreement with the Department to perform certain services as described in subsection B of § 46.2-205. The service charge shall not apply (a) if concurrently with the registration of the vehicle, the person undertakes another transaction at a Customer Service Center, which other transaction cannot be conducted through a means described in clause (i) or (ii), (b) to the registration of any vehicle for which no registration fee is otherwise required by law, or (c) to any registration conducted by a motor vehicle dealer subject to the provisions of § 46.2-1530.2.

B. The service charge shall equal \$5 per vehicle registration renewal that is carried out in any Customer Service Center of the Department. The Department shall include information regarding such service charge in all vehicle registration renewal notices sent to vehicle owners.

C. All service charges imposed and collected by the Commissioner under this section shall be paid into the state treasury and shall be set aside as a special fund to be used to meet the expenses of the Department.

D. Pursuant to subsection C of § 46.2-646, for each motor vehicle, trailer, or semitrailer registered, the Commissioner may offer, at his discretion, a discount for multiyear registrations of such vehicles. The discount shall be equal to \$1 for each year of the multiyear registration or fraction thereof. The discount shall not be applicable to any motor vehicle, trailer, or semitrailer registered ~~(i)~~ under the International Registration Plan ~~or (ii) as an uninsured motor vehicle~~. When this option is offered and chosen by the registrant, all annual and 12-month fees due at the time of registration shall be multiplied by the number of years or fraction thereof that the vehicle will be registered.

E. In addition to the discount authorized in paragraph D., for the renewal of registration of each motor vehicle, trailer, or semitrailer pursuant to § 46.2-646, the Commissioner shall offer a discount for renewal when such registration renewal is conducted using the Internet. The discount shall be equal to \$1. The discount shall not apply to any motor vehicle, trailer, or semitrailer registered ~~(i)~~ under the International Registration Plan ~~or (ii) as an uninsured motor vehicle~~.

§ 46.2-419. When judgment satisfied.

A. Every judgment for damages in any motor vehicle accident referred to in this chapter shall, for the purpose of this chapter, be satisfied:

1. When paid in full or when ~~\$25,000~~ \$100,000 has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of one person as the result of any one accident;

2. When, subject to the limit of ~~\$25,000~~ \$100,000 because of bodily injury to or death of one person, the judgment has been paid in full or when the sum of ~~\$50,000~~ \$300,000 has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of two or more persons as the result of any one accident;

3. When the judgment has been paid in full or when ~~\$20,000~~ \$100,000 has been credited upon any judgment or judgments rendered in excess of that amount because of injury to or destruction of property of others as a result of any one accident; or

4. When the judgment has been discharged in bankruptcy.

B. Payments made in settlement of any claims because of bodily injury, death or property damage arising from a motor vehicle accident shall be credited in reduction of the amount provided in this section.

§ 46.2-472. Coverage of owner's policy.

Every motor vehicle owner's policy shall:

1. Designate by explicit description or by appropriate reference, all motor vehicles with respect to which coverage is intended to be granted.

2. Insure as insured the person named and any other person using or responsible for the use of the motor vehicle or motor vehicles with the permission of the named insured.

3. Insure the insured or other person against loss from any liability imposed by law for damages, including damages for care and loss of services, because of bodily injury to or death of any person, and injury to or destruction of property caused by accident and arising out of the ownership, use, or operation of such motor vehicle or motor vehicles within the Commonwealth, any other state in the

182 United States, or Canada, subject to a limit exclusive of interest and costs, with respect to each motor
183 vehicle, of ~~\$25,000~~ \$100,000 because of bodily injury to or death of one person in any one accident
184 and, subject to the limit for one person, to a limit of ~~\$50,000~~ \$300,000 because of bodily injury to or
185 death of two or more persons in any one accident, and to a limit of ~~\$20,000~~ \$100,000 because of injury
186 to or destruction of property of others in any one accident.

187 Article 8.

188 Registration of Uninsured Motor Vehicles *Prohibited*.

189 § 46.2-705. Definitions.

190 For the purposes of this article, the following terms shall have the meanings respectively ascribed to
191 them in this section:

192 "Motor vehicle" means a vehicle capable of self-propulsion which is either (i) required to be titled
193 and licensed and for which a license fee is required to be paid by its owner, or (ii) owned by or
194 assigned to a motor vehicle manufacturer, distributor, or dealer licensed in the Commonwealth.

195 "Insured motor vehicle" means a motor vehicle as to which there is bodily injury liability insurance
196 and property damage liability insurance, both in the amounts specified in § 46.2-472, issued by an
197 insurance carrier authorized to do business in the Commonwealth, or as to which a bond has been given
198 or cash or securities delivered in lieu of the insurance *as provided in subdivision 2 or 3 of § 46.2-436*;
199 or as to which the owner has qualified as a self-insurer in accordance with the provisions of § 46.2-368.

200 "Uninsured motor vehicle" means a motor vehicle as to which there is no such bodily injury liability
201 insurance and property damage liability insurance, or no such bond has been given or cash or securities
202 delivered in lieu thereof *as provided in subdivision 2 or 3 of § 46.2-436*, or the owner of which has not
203 so qualified as a self-insurer *in accordance with the provisions of § 46.2-368*.

204 § 46.2-706. Registration of uninsured motor vehicle prohibited; proof of insurance required of
205 applicants for registration of insured motor vehicles; verification of insurance; suspension of driver's
206 license, registration certificates, and license plates for certain violations.

207 ~~In addition to any other fees prescribed by law, every~~ A. No person registering shall register or
208 reregister an uninsured motor vehicle, as defined in ~~§ 46.2-705~~, at the time of registering or
209 reregistering the uninsured vehicle, shall pay a fee of \$500; however, if the uninsured motor vehicle is
210 being registered or reregistered for a period of less than a full year, the uninsured motor vehicle fee
211 shall be prorated for the unexpired portion of the registration period. If the vehicle is a motor vehicle
212 being registered or reregistered as provided in subsection B of ~~§ 46.2-697~~, the fee shall be one-fourth of
213 the annual uninsured motor vehicle fee for each quarter for which the vehicle is registered.

214 If the owner of a motor vehicle registered under this article as an uninsured motor vehicle, during
215 the period for which such vehicle is registered, obtains insurance coverage adequate to permit such
216 vehicle's registration as an insured motor vehicle and presents evidence satisfactory to the Commissioner
217 of the existence of such insurance coverage, the Commissioner shall amend the Department's records to
218 show such vehicle to be registered as an insured motor vehicle and shall refund to the owner a prorated
219 portion of the additional fee required by this section for registration of an uninsured motor vehicle. Such
220 proration shall be on a monthly basis, except that no such refund shall be made (i) as to any registration
221 during the last three months of its validity or (ii) on any portion of any such fee required to be paid
222 resulting from a determination by the Department or any court that a vehicle was uninsured and no fee
223 had been paid.

224 B. Every person applying for registration of a motor vehicle and declaring it to be an insured motor
225 vehicle shall, under the penalties set forth in § 46.2-707, execute and furnish to the Commissioner his
226 certificate that the motor vehicle is an insured motor vehicle as defined in § 46.2-705, or that the
227 Commissioner has issued to its owner, in accordance with § 46.2-368, a certificate of self-insurance
228 applicable to the vehicle sought to be registered. The Commissioner, or his duly authorized agent, may
229 verify that the motor vehicle is properly insured by comparing owner and vehicle identification
230 information on file at the Department of Motor Vehicles with liability information on the owner and
231 vehicle transmitted to the Department by any insurance company licensed to do business in the
232 Commonwealth as provided in § 46.2-706.1. If no record of liability insurance is found, the Department
233 may require the motor vehicle owner to verify insurance in a method prescribed by the Commissioner.

234 C. The refusal or neglect of any owner within ~~thirty~~ 30 days to submit the liability insurance
235 information when required by the Commissioner or his duly authorized agent, or the electronic
236 notification by the insurance company or surety company that the policy or bond named in the
237 certificate of insurance is not in effect, shall require the Commissioner to suspend any driver's license
238 and all registration certificates and license plates issued to the owner of the motor vehicle until the
239 person (i) has paid to the Commissioner a fee of \$500 to be disposed of as provided for in § 46.2-710
240 with respect to the motor vehicle determined to be uninsured and (ii) furnishes proof of financial
241 responsibility for the future in the manner prescribed in Article 15 (§ 46.2-435 et seq.) of Chapter 3 of
242 this title. No order of suspension required by this section shall become effective until the Commissioner
243 has offered the person an opportunity for an administrative hearing to show cause why the order should

not be enforced. Notice of the opportunity for an administrative hearing may be included in the order of suspension. When three years have elapsed from the effective date of the suspension required in this section, the Commissioner may relieve the person of the requirement of furnishing proof of future financial responsibility.

D. The Commissioner shall suspend the driver's license and all registration certificates and license plates of any person on receiving a record of his conviction of a violation of any provisions of § 46.2-707, but the Commissioner shall dispense with the suspension when the person is convicted for a violation of § 46.2-707 and the Department's records show conclusively that the motor vehicle was insured ~~or that the fee applicable to the registration of an uninsured motor vehicle has been paid by the owner~~ prior to the date and time of the alleged offense.

§ 46.2-707. Operating uninsured motor vehicle; verification of insurance; false evidence of insurance; penalty.

A. Any person who owns an uninsured motor vehicle (i) licensed in the Commonwealth, (ii) subject to registration in the Commonwealth, or (iii) displaying temporary license plates provided for in § 46.2-1558 who operates or permits the operation of that motor vehicle ~~without first having paid to the Commissioner the uninsured motor vehicle fee required by § 46.2-706, to be disposed of as provided by § 46.2-710,~~ shall be is guilty of a Class 3 1 misdemeanor.

B. Any person who is the operator of such an uninsured motor vehicle and not the titled owner, who knows that the ~~required fee has not been paid to the Commissioner~~ *motor vehicle is uninsured*, shall be is guilty of a Class 3 1 misdemeanor.

C. The Commissioner or his duly authorized agent, having reason to believe that a motor vehicle is being operated or has been operated on any specified date, may require the owner of such motor vehicle to verify insurance in a method prescribed by the Commissioner as provided for by § 46.2-706. The refusal or neglect of the owner ~~who has not, prior to the date of operation, paid the uninsured motor vehicle fee required by § 46.2-706 as to such motor vehicle,~~ to provide such verification shall be prima facie evidence that the motor vehicle was an uninsured motor vehicle at the time of such operation.

D. Any person who falsely verifies insurance to the Commissioner or gives false evidence that a motor vehicle sought to be registered is an insured motor vehicle, ~~shall be~~ is guilty of a Class 3 1 misdemeanor.

~~However, the~~ E. The foregoing portions of this section shall not be applicable if it is established that the owner had good cause to believe and did believe that such motor vehicle was an insured motor vehicle, in which event the provisions of § 46.2-609 shall be applicable.

F. Any person who owns an uninsured motor vehicle (i) licensed in the Commonwealth, (ii) subject to registration in the Commonwealth, or (iii) displaying temporary license plates provided for in § 46.2-1558, ~~and who has not paid the uninsured motor vehicle fee required by § 46.2-706,~~ shall immediately surrender the vehicle's license plates to the Department. Any person who fails to immediately surrender his vehicle's license plates ~~shall be~~ is guilty of a Class 3 1 misdemeanor.

G. Abstracts of records of conviction, as defined in this title, of any violation of any of the provisions of this section shall be forwarded to the Commissioner as prescribed by § 46.2-383.

H. The Commissioner shall suspend the driver's license and all registration certificates and license plates of any titled owner of an uninsured motor vehicle upon receiving a record of his conviction of a violation of any provisions of this section, and he shall not thereafter reissue the driver's license and the registration certificates and license plates issued in the name of such person until such person ~~pays the fee applicable to the registration of an uninsured motor vehicle as prescribed in § 46.2-706 and~~ furnishes proof of future financial responsibility as prescribed by Article 15 (§ 46.2-435 et seq.) of Chapter 3 of this title. However, when three years have elapsed from the date of the suspension herein required, the Commissioner may relieve such person of the requirement of furnishing proof of future financial responsibility. When such suspension results from a conviction for presenting or causing to be presented to the Commissioner false verification as to whether a motor vehicle is an insured motor vehicle or false evidence that any motor vehicle sought to be registered is insured, then the Commissioner shall not thereafter reissue the driver's license and the registration certificates and license plates issued in the name of such person so convicted for a period of 180 days from the date of such order of suspension, and only then when all other provisions of law have been complied with by such person.

I. The Commissioner shall suspend the driver's license of any person who is the operator but not the titled owner of a motor vehicle upon receiving a record of his conviction of a violation of any provisions of this section and he shall not thereafter reissue the driver's license until ~~thirty~~ 30 days from the date of such order of suspension.

§ 46.2-708. Suspension of driver's license and registration when uninsured motor vehicle is involved in reportable accident; hearing prior to suspension.

A. When it appears to the Commissioner from the records of his office that an uninsured motor vehicle as defined in § 46.2-705, subject to registration in the Commonwealth, is involved in a

305 reportable accident in the Commonwealth resulting in death, injury or property damage with respect to
306 which motor vehicle the owner thereof has not paid the uninsured motor vehicle fee as prescribed in
307 § 46.2-706, the Commissioner shall, in addition to enforcing the applicable provisions of Article 13
308 (§ 46.2-417 et seq.) of Chapter 3 of this title, suspend such owner's driver's license and all of his license
309 plates and registration certificates until such person has complied with Article 13 of Chapter 3 of this
310 title and has paid to the Commissioner a fee of \$500; to be disposed of as provided by § 46.2-710; with
311 respect to the motor vehicle involved in the accident and furnishes proof of future financial
312 responsibility in the manner prescribed in Article 15 (§ 46.2-435 et seq.) of Chapter 3 of this title.
313 However, no order of suspension required by this section shall become effective until the Commissioner
314 has offered the person an opportunity for an administrative hearing to show cause why the order should
315 not be enforced. Notice of the opportunity for an administrative hearing may be included in the order of
316 suspension.

317 However, when B. When three years have elapsed from the effective date of the suspension herein
318 required, the Commissioner may relieve such person of the requirement of furnishing proof of future
319 financial responsibility. The presentation by a person subject to the provisions of this section of a
320 certificate of insurance, executed by an agent or representative of an insurance company qualified to do
321 business in this Commonwealth, showing that on the date and at the time of the accident the vehicle
322 was an insured motor vehicle as herein defined; or, presentation by such person of evidence that the
323 additional fee applicable to the registration of an uninsured motor vehicle had been paid to the
324 Department prior to the date and time of the accident, shall be sufficient bar to the suspension provided
325 for in this section.

326 § 46.2-902.1. Officer may require certain motorists to furnish proof of insurance; penalty.

327 Any law-enforcement officer present at the scene of a motor vehicle accident as to which a
328 law-enforcement officer is required by § 46.2-373 to file an accident report with the Department may
329 require the operator of any motor vehicle involved in such accident to furnish proof that the vehicle he
330 was operating at the time of such accident was either (i) an insured motor vehicle as defined in
331 § 46.2-705 or (ii) a vehicle for which the fee required by § 46.2-706 for registration of an uninsured
332 vehicle had been paid as to that vehicle. Failure to furnish proof of insurance or payment of the
333 uninsured vehicle registration fee when required by a law-enforcement officer as provided in this section
334 within thirty 30 days shall constitute a Class 2 misdemeanor.

335 § 46.2-1529. Dealer records.

336 All dealer records regarding employees; lists of vehicles in inventory for sale, resale, or on
337 consignment; vehicle purchases, sales, trades, and transfers of ownership; collections of taxes; titling;
338 uninsured motor vehicle; and registration fees; odometer disclosure statements; records of permanent
339 dealer registration plates assigned to the dealer and temporary transport plates and temporary certificates
340 of ownership; and other records required by the Department or the Board shall be maintained on the
341 premises of the licensed location. The Board may, on written request by a dealer, permit his records to
342 be maintained at a location other than the premises of the licensed location for good cause shown. All
343 dealer records shall be preserved in original form or in film, magnetic, or optical media (including but
344 not limited to microfilm, microfiche, or other electronic media) for a period of five years in a manner
345 that permits systematic retrieval. Certain records may be maintained on a computerized record-keeping
346 system with the prior approval of the Board.

347 § 46.2-1530. Buyer's order.

348 A. Every motor vehicle dealer shall complete, in duplicate, a buyer's order for each sale or exchange
349 of a motor vehicle. A copy of the buyer's order form shall be made available to a prospective buyer
350 during the negotiating phase of a sale and prior to any sales agreement. The completed original shall be
351 retained for a period of four years in accordance with § 46.2-1529, and a duplicate copy shall be
352 delivered to the purchaser at the time of sale or exchange. A buyer's order shall include:

- 353 1. The name and address of the person to whom the vehicle was sold or traded.
- 354 2. The date of the sale or trade.
- 355 3. The name and address of the motor vehicle dealer selling or trading the vehicle.
- 356 4. The make, model year, vehicle identification number and body style of the vehicle.
- 357 5. The sale price of the vehicle.
- 358 6. The amount of any cash deposit made by the buyer.
- 359 7. A description of any vehicle used as a trade-in and the amount credited the buyer for the trade-in.
360 The description of the trade-in shall be the same as outlined in subdivision 4 of this subsection.
- 361 8. The amount of any sales and use tax, title fee, uninsured motor vehicle fee, registration fee,
362 purchaser's on-line systems filing fee, or other fee required by law for which the buyer is responsible
363 and the dealer has collected. Each tax and fee shall be individually listed and identified.
- 364 9. The net balance due at settlement.
- 365 10. Any item designated as "processing fee," and the amount charged by the dealer, if any, for
366 processing the transaction. As used in this section processing includes obtaining title and license plates

for the purchaser, but shall not include any "purchaser's on-line systems filing fee" as defined in § 46.2-1530.1 or any "dealer's manual transaction fee" as defined in § 46.2-1530.2.

11. Any item designated as "dealer's business license tax," and the amount charged by the dealer, if any.

12. For sales involving dealer-arranged financing, the following notice, printed in bold type no less than 10-point: "THIS SALE IS CONDITIONED UPON APPROVAL OF YOUR PROPOSED RETAIL INSTALLMENT SALE CONTRACT AS SUBMITTED TO OR THROUGH THE DEALER. IF THAT PROPOSED RETAIL INSTALLMENT SALE CONTRACT IS NOT APPROVED UNDER THE TERMS AGREED TO WITH THE DEALER, YOU MAY CANCEL THIS SALE AND ANY DOWN PAYMENT AND/OR TRADE-IN YOU SUBMITTED WILL BE RETURNED TO YOU, PROVIDED THAT ANY VEHICLE DELIVERED TO YOU BY THE DEALER PURSUANT TO THIS AGREEMENT IS RETURNED TO THE DEALER IN THE SAME CONDITION AS DELIVERED TO YOU, NORMAL WEAR AND TEAR EXCEPTED, WITHIN 24 HOURS OF WRITTEN OR ORAL NOTICE TO YOU OF THE CREDIT DENIAL."

13. For sales of used motor vehicles, the disclosure required by § 46.2-1529.1.

If the transaction does not include a policy of motor vehicle liability insurance, the seller shall stamp or mark on the face of the bill of sale in boldface letters no smaller than 18 point type the following words: "No Liability Insurance Included."

A completed buyer's order when signed by both buyer and seller may constitute a bill of sale.

B. The Board shall approve a buyer's order form and each dealer shall file with each original license application its buyer's order form, on which the processing fee amount is stated.

C. If a processing fee is charged, that fact and the amount of the processing fee shall be disclosed by the dealer. Disclosure shall be by placing a clear and conspicuous sign in the public sales area of the dealership. The sign shall be no smaller than eight and one-half inches by eleven inches and the print shall be no smaller than one-half inch, and in a form as approved by the Board.

§ 46.2-1992.22. Dealer records.

All dealer records regarding employees; lists of vehicles in inventory for sale, resale, or on consignment; vehicle purchases, sales, trades, and transfers of ownership; collections of taxes; titling; ~~uninsured motor vehicle~~ and registration fees; odometer disclosure statements, records of permanent dealer registration plates assigned to the dealer and temporary transport plates and temporary certificates of ownership; and other records required by the Department shall be maintained on the premises of the licensed location. The Commissioner may, on written request by a dealer, permit his records to be maintained at a location other than the premises of the licensed location for good cause shown. All dealer records shall be preserved in original form or in film, magnetic, or optical media (including but not limited to microfilm, microfiche, or other electronic media) for a period of five years in a manner that permits systematic retrieval. Certain records may be maintained on a computerized record-keeping system with the prior approval of the Commissioner.

§ 46.2-1992.23. Buyer's order.

A. Every trailer dealer shall complete, in duplicate, a buyer's order for each sale or exchange of a vehicle. A copy of the buyer's order form shall be made available to a prospective buyer during the negotiating phase of a sale and prior to any sales agreement. The completed original shall be retained for a period of four years in accordance with § 46.2-1992.22, and a duplicate copy shall be delivered to the purchaser at the time of sale or exchange. A buyer's order shall include:

1. The name and address of the person to whom the vehicle was sold or traded.

2. The date of the sale or trade.

3. The name and address of the trailer dealer selling or trading the vehicle.

4. The make, model year, vehicle identification number and body style of the vehicle.

5. The sale price of the vehicle.

6. The amount of any cash deposit made by the buyer.

7. A description of any vehicle used as a trade-in and the amount credited the buyer for the trade-in. The description of the trade-in shall be the same as outlined in subdivision 4 of this subsection.

8. The amount of any sales and use tax, title fee, ~~uninsured motor vehicle fee~~, registration fee, or other fee required by law for which the buyer is responsible and the dealer has collected. Each tax and fee shall be individually listed and identified.

9. The net balance due at settlement.

10. Any item designated as "processing fee," and the amount charged by the dealer, if any, for processing the transaction. As used in this section processing includes obtaining title and license plates for the purchaser.

11. Any item designated as "dealer's business license tax," and the amount charged by the dealer, if any.

12. For sales involving dealer-arranged financing, the following notice, printed in bold type no less

than ten-point: "THIS SALE IS CONDITIONED UPON APPROVAL OF YOUR PROPOSED RETAIL INSTALLMENT SALE CONTRACT AS SUBMITTED TO OR THROUGH THE DEALER. IF THAT PROPOSED RETAIL INSTALLMENT SALE CONTRACT IS NOT APPROVED UNDER THE TERMS AGREED TO WITH THE DEALER, YOU MAY CANCEL THIS SALE AND ANY DOWN PAYMENT AND/OR TRADE-IN YOU SUBMITTED WILL BE RETURNED TO YOU, PROVIDED THAT ANY VEHICLE DELIVERED TO YOU BY THE DEALER PURSUANT TO THIS AGREEMENT IS RETURNED TO THE DEALER IN THE SAME CONDITION AS DELIVERED TO YOU, NORMAL WEAR AND TEAR EXCEPTED, WITHIN TWENTY-FOUR HOURS OF WRITTEN OR ORAL NOTICE TO YOU OF THE CREDIT DENIAL."

A completed buyer's order when signed by both buyer and seller may constitute a bill of sale.

B. The Commissioner shall approve a buyer's order form and each dealer shall file with each original license application its buyer's order form, on which the processing fee amount is stated.

C. If a processing fee is charged, that fact and the amount of the processing fee shall be disclosed by the dealer. Disclosure shall be by placing a clear and conspicuous sign in the public sales area of the dealership. The sign shall be no smaller than eight and one-half inches by eleven inches and the print shall be no smaller than one-half inch, and in a form as approved by the Commissioner.

§ 46.2-1993.22. Dealer records.

All dealer records regarding employees; lists of vehicles in inventory for sale, resale, or on consignment; vehicle purchases, sales, trades, and transfers of ownership; collections of taxes; titling; ~~uninsured motor vehicle~~ and registration fees; odometer disclosure statements; records of permanent dealer registration plates assigned to the dealer and temporary transport plates and temporary certificates of ownership; and other records required by the Department shall be maintained on the premises of the licensed location. The Commissioner may, on written request by a dealer, permit his records to be maintained at a location other than the premises of the licensed location for good cause shown. All dealer records shall be preserved in original form or in film, magnetic, or optical media (including but not limited to microfilm, microfiche, or other electronic media) for a period of five years in a manner that permits systematic retrieval. Certain records may be maintained on a computerized record-keeping system with the prior approval of the Commissioner.

§ 46.2-1993.23. Buyer's order.

A. Every motorcycle dealer shall complete, in duplicate, a buyer's order for each sale or exchange of a vehicle. A copy of the buyer's order form shall be made available to a prospective buyer during the negotiating phase of a sale and prior to any sales agreement. The completed original shall be retained for a period of four years in accordance with § 46.2-1993.22, and a duplicate copy shall be delivered to the purchaser at the time of sale or exchange. A buyer's order shall include:

1. The name and address of the person to whom the vehicle was sold or traded.

2. The date of the sale or trade.

3. The name and address of the motorcycle dealer selling or trading the vehicle.

4. The make, model year, and vehicle identification number.

5. The sale price of the vehicle.

6. The amount of any cash deposit made by the buyer.

7. A description of any vehicle used as a trade-in and the amount credited the buyer for the trade-in.

The description of the trade-in shall be the same as outlined in subdivision 4 of this subsection.

8. The amount of any sales and use tax, title fee, ~~uninsured motor vehicle fee~~, registration fee, or other fee required by law for which the buyer is responsible and the dealer has collected. Each tax and fee shall be individually listed and identified.

9. The net balance due at settlement.

10. Any item designated as "processing fee," and the amount charged by the dealer, if any, for processing the transaction. As used in this section processing includes obtaining title and license plates for the purchaser.

11. Any item designated as "dealer's business license tax," and the amount charged by the dealer, if any.

12. For sales involving dealer-arranged financing, the following notice, printed in bold type no less than ten-point: "THIS SALE IS CONDITIONED UPON APPROVAL OF YOUR PROPOSED RETAIL INSTALLMENT SALE CONTRACT AS SUBMITTED TO OR THROUGH THE DEALER. IF THAT PROPOSED RETAIL INSTALLMENT SALE CONTRACT IS NOT APPROVED UNDER THE TERMS AGREED TO WITH THE DEALER, YOU MAY CANCEL THIS SALE AND ANY DOWN PAYMENT AND/OR TRADE-IN YOU SUBMITTED WILL BE RETURNED TO YOU, PROVIDED THAT ANY VEHICLE DELIVERED TO YOU BY THE DEALER PURSUANT TO THIS AGREEMENT IS RETURNED TO THE DEALER IN THE SAME CONDITION AS DELIVERED TO YOU, NORMAL WEAR AND TEAR EXCEPTED, WITHIN TWENTY-FOUR HOURS OF WRITTEN OR ORAL NOTICE TO YOU OF THE CREDIT DENIAL."

If the transaction does not include a policy of liability insurance, the seller shall stamp or mark on

the face of the bill of sale in boldface letters no smaller than eighteen point type the following words:
"No Liability Insurance Included."

A completed buyer's order when signed by both buyer and seller may constitute a bill of sale.

B. The Commissioner shall approve a buyer's order form and each dealer shall file with each original license application its buyer's order form, on which the processing fee amount is stated.

C. If a processing fee is charged, that fact and the amount of the processing fee shall be disclosed by the dealer. Disclosure shall be by placing a clear and conspicuous sign in the public sales area of the dealership. The sign shall be no smaller than eight and one-half inches by eleven inches and the print shall be no smaller than one-half inch, and in a form as approved by the Commissioner.

2. That Chapter 30 (§§ 38.2-3000 and 38.2-3001) of Title 38.2, and § 46.2-710 of the Code of Virginia are repealed.

3. The owner of any motor vehicle that is registered as an uninsured motor vehicle pursuant to Article 8 (§ 46.2-705 et seq.) of Chapter 6 of Title 46.2 of the Code of Virginia within the 12 months preceding July 1, 2010, shall be entitled to a refund, from the funds collected for distribution to the Uninsured Motorist Fund pursuant to § 46.2-710 of the Code of Virginia, of a portion of the uninsured motor vehicle fee paid by the owner with respect to the motor vehicle, which refunded amount shall be the amount paid prorated for the unexpired portion of the period after July 1, 2010, for which such uninsured motor vehicle fee was paid.

4. That the provisions of this act shall become effective on July 1, 2010.