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**HOUSE BILL NO. 61**

House Amendments in [ ] - February 1, 2010

*A BILL to amend and reenact § 46.2-208 of the Code of Virginia, relating to release of driver's license and special identification card photographs by Department of Motor Vehicles.*

Patron Prior to Engrossment—Delegate Toscano

Referred to Committee on Transportation

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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HB61E

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

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

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

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

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

114 13. On the written request of any person who has applied to be a volunteer with a Virginia affiliate  
115 of Big Brothers/Big Sisters of America, the Commissioner shall (i) compare personal information  
116 supplied by a Virginia affiliate of Big Brothers/Big Sisters of America with that contained in the  
117 Department's records and, when the information supplied by a Virginia affiliate of Big Brothers/Big  
118 Sisters of America is different from that contained in the Department's records, provide the Virginia  
119 affiliate of Big Brothers/Big Sisters of America with correct information as contained in the  
120 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

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

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

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

212 27. *On the written request of the surviving spouse or child of a deceased person or the executor or*  
213 *administrator of a deceased person's estate, the Department shall, if the deceased person had been*  
214 *issued a driver's license or special identification card by the Department, supply the requestor with a*  
215 *[ physical copy or electronic file containing hard copy image of ] any photograph of the deceased*  
216 *person kept in the Department's records.*

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

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

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

226 F. (Effective until October 1, 2009) In addition to the foregoing provisions of this section, vehicle  
227 information may also be inspected under the provisions of §§ 43-33, 43-34, 46.2-633, and  
228 §§ 46.2-1200.1 through 46.2-1237.

229 F. (Effective October 1, 2009) In addition to the foregoing provisions of this section, vehicle  
230 information may also be inspected under the provisions of §§ 46.2-633, 46.2-644.02, 46.2-644.03, and  
231 §§ 46.2-1200.1 through 46.2-1237.

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

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

238 I. The Department shall maintain the records of persons convicted of violations of § 18.2-36.2,  
239 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  
240 every general district court or circuit court or the clerk thereof, pursuant to § 46.2-383. Such records  
241 shall be electronically available to any law-enforcement officer as provided for under clause (ii) of  
242 subdivision B 9.