

11103731D

HOUSE BILL NO. 1962

Offered January 12, 2011

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A BILL to amend and reenact §§ 2.2-3801, 46.2-208, 46.2-819, 46.2-819.1, and 46.2-819.3 of the Code of Virginia and to amend the Code of Virginia by adding in Article 1 of Chapter 8 of Title 46.2 sections numbered 46.2-819.6 and 46.2-819.7, relating to toll violation notices.

Patron—Rust

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3801, 46.2-208, 46.2-819, 46.2-819.1, and 46.2-819.3 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 1 of Chapter 8 of Title 46.2 sections numbered 46.2-819.6 and 46.2-819.7 as follows:

§ 2.2-3801. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Agency" means any agency, authority, board, department, division, commission, institution, bureau, or like governmental entity of the Commonwealth or of any unit of local government including counties, cities, towns, regional governments, and the departments thereof, and includes constitutional officers, except as otherwise expressly provided by law. "Agency" shall also include any entity, whether public or private, with which any of the foregoing has entered into a contractual relationship for the operation of a system of personal information to accomplish an agency function. Any such entity included in this definition by reason of a contractual relationship shall only be deemed an agency as relates to services performed pursuant to that contractual relationship, provided that if any such entity is a consumer reporting agency, it shall be deemed to have satisfied all of the requirements of this chapter if it fully complies with the requirements of the Federal Fair Credit Reporting Act as applicable to services performed pursuant to such contractual relationship.

"Data subject" means an individual about whom personal information is indexed or may be located under his name, personal number, or other identifiable particulars, in an information system.

"Disseminate" means to release, transfer, or otherwise communicate information orally, in writing, or by electronic means.

"Information system" means the total components and operations of a record-keeping process, including information collected or managed by means of computer networks and the Internet, whether automated or manual, containing personal information and the name, personal number, or other identifying particulars of a data subject.

"Personal information" means all information that (i) describes, locates or indexes anything about an individual including, but not limited to, his social security number, driver's license number, agency-issued identification number, student identification number, *email address*, real or personal property holdings derived from tax returns, and his education, financial transactions, medical history, ancestry, religion, political ideology, criminal or employment record, or (ii) affords a basis for inferring personal characteristics, such as finger and voice prints, photographs, or things done by or to such individual; and the record of his presence, registration, or membership in an organization or activity, or admission to an institution. "Personal information" shall not include routine information maintained for the purpose of internal office administration whose use could not be such as to affect adversely any data subject nor does the term include real estate assessment information.

"Purge" means to obliterate information completely from the transient, permanent, or archival records of an agency.

§ 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.

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

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

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

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

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

94 8. On the written request of any motor vehicle rental or leasing company or its designated agent, the
95 Commissioner shall (i) compare personal information supplied by the company or agent with that
96 contained in the Department's records and, when the information supplied by the company or agent is
97 different from that contained in the Department's records, provide the company or agent with correct
98 information as contained in the Department's records and (ii) provide the company or agent with driver
99 information in the form of an abstract of any person subject to the provisions of this title. Such abstract
100 shall include any record of any conviction of a violation of any provision of any statute or ordinance
101 relating to the operation or ownership of a motor vehicle or of any injury or damage in which the
102 subject of the abstract was involved and a report of which is required by § 46.2-372. No such abstract
103 shall include any record of any conviction or accident more than 60 months after the date of such
104 conviction or accident unless the Commissioner or court used the conviction or accident as a reason for
105 the suspension or revocation of a driver's license or driving privilege, in which case the revocation or
106 suspension and any conviction or accident pertaining thereto shall cease to be included in such abstract
107 after 60 months from the date on which the driver's license or driving privilege was reinstated. No
108 abstract released under this subdivision shall be admissible in evidence in any court proceedings.

109 9. On the request of any federal, state, or local governmental entity, local government group
110 self-insurance pool, law-enforcement officer, attorney for the Commonwealth, court, or the authorized
111 agent of any of the foregoing, the Commissioner shall (i) compare personal information supplied by the
112 governmental entity, local government group self-insurance pool, law-enforcement officer, attorney for
113 the Commonwealth, court, or the authorized agent of any of the foregoing, with that contained in the
114 Department's records and, when the information supplied by the governmental entity, local government
115 group self-insurance pool, law-enforcement officer, attorney for the Commonwealth, court, or the
116 authorized agent of any of the foregoing, is different from that contained in the Department's records,
117 provide the governmental entity, local government group self-insurance pool, law-enforcement officer,
118 attorney for the Commonwealth, court, or the authorized agent of any of the foregoing, with correct
119 information as contained in the Department's records and (ii) provide driver and vehicle information in
120 the form of an abstract of the record showing all convictions, accidents, driver's license suspensions or

121 revocations, and other appropriate information as the governmental entity, local government group
122 self-insurance pool, law-enforcement officer, attorney for the Commonwealth, court, or the authorized
123 agent of any of the foregoing, may require in order to carry out its official functions. The abstract shall
124 be provided free of charge.

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

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

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

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

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

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

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

181 17. Upon the request of an attorney representing a person in a motor vehicle accident, the

182 Commissioner shall provide vehicle information, including the owner's name and address, to the
183 attorney.

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

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

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

200 21. Upon the request of the operator of a toll facility or traffic light photo-monitoring system acting
201 on behalf of a government entity, or of the Dulles Access Highway, or an authorized agent or employee
202 of a toll facility operator or traffic light photo-monitoring system operator acting on behalf of a
203 government entity or the Dulles Access Highway, for the purpose of obtaining vehicle owner data under
204 subsection L of § 46.2-819.1 ~~or~~, subsection H of § 15.2-968.1, or subsection N of § 46.2-819.5.
205 Information released pursuant to this subdivision shall be limited to the name ~~and~~, mailing address, *and*
206 *email address, if any*, of the registered owner of the vehicle having failed to pay a toll or having failed
207 to comply with a traffic light signal or having improperly used the Dulles Access Highway and the
208 vehicle information, including all descriptive vehicle data and title and registration data of the same
209 vehicle.

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

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

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

234 25. On the written request of any person who has applied to be a volunteer vehicle operator with a
235 Virginia chapter of the Civil Air Patrol, the Commissioner shall (i) compare personal information
236 supplied by a Virginia chapter of the Civil Air Patrol with that contained in the Department's records
237 and, when the information supplied by a Virginia chapter of the Civil Air Patrol is different from that
238 contained in the Department's records, provide the Virginia chapter of the Civil Air Patrol with correct
239 information as contained in the Department's records and (ii) provide driver information in the form of
240 an abstract of the applicant's record showing all convictions, accidents, license suspensions or
241 revocations, and any type of driver's license that the individual currently possesses. Such abstract shall
242 be provided at a fee that is one-half the normal charge if the request is accompanied by appropriate
243 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.

27. On the written request of the surviving spouse or child of a deceased person or the executor or administrator of a deceased person's estate, the Department shall, if the deceased person had been issued a driver's license or special identification card by the Department, supply the requestor with a hard copy image of any photograph of the deceased person kept in the Department's records.

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 §§ 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.

§ 46.2-819. Use of toll facility without payment of toll; circumstances to be considered in assessing penalty; toll violation notice.

A. Except for those permitted free use of toll facilities under § 33.1-252, it shall be unlawful for the driver of a motor vehicle to use a toll facility without payment of the specified toll.

B. However, in considering the case of anyone accused of violating this section, the court shall take into consideration (i) except for lanes equipped for payment of tolls through an automatic vehicle identification system, whether the toll booth or collection facility at which the defendant failed to pay the toll was manned at the time, (ii) whether the defendant was required to pay the toll with the exact amount in change, (iii) whether the defendant had change to make the payment, and (iv) whether the defendant had been afforded appropriate advance notice, by signs or other means, that he would be required to pay a toll and pay it with the exact change. No person shall be subject to both prosecution under this section and to the provisions of § 46.2-819.1 or § 46.2-819.3, or 46.2-819.3:1 for actions arising out of the same transaction or occurrence.

C. The operator of a toll facility shall send a toll violation notice pursuant to § 46.2-819.6 for unpaid tolls to the registered owner of a vehicle no later than 60 days after the alleged violation. A toll violation notice shall contain the following:

1. The name and address of the registered owner alleged to be liable under this section;
2. The registration number of the motor vehicle involved in such violation;
3. The location where such violation took place;
4. The date and time of such violation;
5. The amount of the toll not paid;
6. The amount of the administrative fees;
7. The date by which the toll and penalty must be paid;
8. Information advising the person liable under this section of the manner and the time in which liability alleged in the toll violation notice may be contested;

9. *The statutory defenses described in subsection B or § 46.2-819.1; and*

10. *A warning describing the penalties for nonpayment of the toll violation.*

D. *A person receiving the toll violation notice for a violation under this section may (i) pay the toll and the administrative fees directly to the toll facility operator or (ii) elect to stand trial for the alleged violation.*

E. *If the registered owner of a vehicle who is liable under this section fails to pay the prescribed toll and administrative fee within 60 days after mailing of the toll violation notice, the toll facility operator may:*

1. *Collect the toll and the administrative fees by civil action commenced in court by issuing a summons pursuant to § 46.2-819.7; or*

2. *Notify the Commissioner of the Department of Motor Vehicles of the failure to pay the toll and administrative fee in accordance with subsection G of § 46.2-819.1 or subsection F of § 46.2-819.3.*

§ 46.2-819.1. *Installation and use of photo-monitoring system or automatic vehicle identification system in conjunction with certain toll facilities; penalty.*

A. *The operator of any toll facility or the locality within which such toll facility is located may install and operate or cause to be installed and operated a photo-monitoring system or automatic vehicle identification system, or both, at locations where tolls are collected for the use of such toll facility. The operator of a toll facility shall send an invoice or bill a toll violation notice for unpaid tolls in accordance with the requirements of subsection C of § 46.2-819 to the registered owner of a vehicle as part of an electronic or manual toll collection process, prior to seeking remedies under this section.*

B. *Information collected by a photo-monitoring system or automatic vehicle identification system installed and operated pursuant to subsection A shall be limited exclusively to that information that is necessary for the collection of unpaid tolls. Notwithstanding any other provision of law, all photographs, microphotographs, electronic images, or other data collected by a photo-monitoring system or automatic vehicle identification system shall be used exclusively for the collection of unpaid tolls and shall not (i) be open to the public; (ii) be sold and/or used for sales, solicitation, or marketing purposes; (iii) be disclosed to any other entity except as may be necessary for the collection of unpaid tolls or to a vehicle owner or operator as part of a challenge to the imposition of a toll; and (iv) be used in a court in a pending action or proceeding unless the action or proceeding relates to a violation of this section or upon order from a court of competent jurisdiction. Information collected under this section shall be purged and not retained later than 30 days after the collection and reconciliation of any unpaid tolls, administrative fees, and/or civil penalties. Any entity operating a photo-monitoring system or automatic vehicle identification system shall annually certify compliance with this section and make all records pertaining to such system available for inspection and audit by the Commonwealth Transportation Commissioner or the Commissioner of the Department of Motor Vehicles or their designee. Any violation of this subsection shall constitute a Class 1 misdemeanor. In addition to any fines or other penalties provided for by law, any money or other thing of value obtained as a result of a violation of this section shall be forfeited to the Commonwealth.*

The toll facility operator may impose and collect an administrative fee in addition to the unpaid toll so as to recover the expenses of collecting the unpaid toll, which administrative fee shall be reasonably related to the actual cost of collecting the unpaid toll and not exceed \$100 per violation. Such fee shall not may be levied upon the operator of the vehicle until after the second first unpaid toll has been documented. The operator of the vehicle shall pay the unpaid tolls and any administrative fee detailed in an invoice or bill a toll violation notice issued by a toll facility operator. If paid within 30 14 days of notification, the administrative fee shall not exceed \$25.

C. *If the matter proceeds to court pursuant to subsection D of § 46.2-819, subdivision E 1 of § 46.2-819, or subsection C of § 46.2-819.3:1, the registered owner or operator of a vehicle shall be liable for a civil penalty as follows: for a first offense, \$50; for a second offense within one year from the first offense, \$100; for a third offense within two years from the second offense, \$250; and for a fourth and any subsequent offense within three years from the second offense, \$500 plus, in each case, the unpaid toll, all accrued administrative fees imposed by the toll facility operator, and applicable court costs if the vehicle is found, as evidenced by information obtained from a photo-monitoring system or automatic vehicle identification system as provided in this section, to have used such a toll facility without payment of the required toll.*

D. *Any action under this section shall be brought in the General District Court of the city or county in which the toll facility is located.*

E. *Proof of a violation of this section shall be evidenced by information obtained from a photo-monitoring system or automatic vehicle identification system as provided in this section. A certificate, sworn to or affirmed by a technician employed or authorized by the operator of a toll facility or by the locality wherein the toll facility is located, or a facsimile of such a certificate, based on inspection of photographs, microphotographs, videotapes, or other recorded images produced by a photo-monitoring system, or of electronic data collected by an automatic vehicle identification system,*

shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape, or other recorded images or electronic data evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such violation under this section. A record of communication by an automatic vehicle identification device with the automatic vehicle identification system at the time of a violation of this section shall be prima facie evidence that the automatic vehicle identification device was located in the vehicle registered to use such device in the records of the Virginia Department of Transportation.

F. It shall be prima facie evidence that the vehicle described in the summons issued pursuant to subsection K ~~of this section~~ was operated in violation of this section.

Upon a finding by a court of competent jurisdiction that the vehicle described in the summons issued pursuant to subsection K ~~of this section~~ was in violation of this section, the court shall impose a civil penalty upon the registered owner or operator of such vehicle in accordance with the amounts specified in subsection C ~~of this section~~, together with applicable court costs, the operator's administrative fee and the toll due. Penalties assessed as the result of action initiated by the Virginia Department of Transportation shall be remanded by the clerk of the court which adjudicated the action to the Virginia Department of Transportation's Toll Facilities Revolving Fund. Penalties assessed as the result of action initiated by an operator of a toll facility other than the Virginia Department of Transportation shall be remanded by the clerk of the court which adjudicated the action to the treasurer or director of finance of the county or city in which the violation occurred for payment to the toll facility operator.

The registered owner of such vehicle shall be given reasonable notice by way of a summons as provided in subsection K ~~of this section~~ that his vehicle had been used in violation of this section and such owner shall be given notice of the time and place of the hearing as well as the civil penalty and costs for such offense.

Upon either (i) the filing of an affidavit with the toll facility operator within 14 ~~30~~ days of ~~receipt~~ *issuance of an invoice for an unpaid toll from the toll facility operator the toll violation notice* or (ii) the filing of an affidavit with the court at least 14 days prior to the hearing date by the registered owner of the vehicle stating that he was not the driver of the vehicle on the date of the violation and providing the legal name and address of the operator of the vehicle at the time of the violation, ~~an invoice and/or a toll violation notice or summons, as appropriate~~ *whichever the case may be*, will also be issued to the alleged operator of the vehicle at the time of the offense.

In any action against a vehicle operator, an affidavit made by the registered owner providing the name and address of the vehicle operator at the time of the violation shall constitute prima facie evidence that the person named in the affidavit was operating the vehicle at all the relevant times relating to the matter named in the affidavit.

If the registered owner of the vehicle produces for the toll facility operator or the court a certified copy of a police report showing that the vehicle had been reported to the police as stolen prior to the time of the alleged offense and remained stolen at the time of the alleged offense, then the toll facility operator shall ~~not pursue the owner for the unpaid toll and, if a summons has been issued, dismiss the toll violation notice or~~ the court shall dismiss the summons issued to the registered owner of the vehicle.

G. ~~Upon~~ *If an owner of a vehicle who received a toll violation notice in accordance with subsection C of § 46.2-819 has failed to either pay the unpaid toll and administrative fee for the violation by the date specified in the toll violation notice or file a notice of intention to contest liability for the violation, or upon a finding by a court that a person has three one or more unpaid tolls and such person fails to pay the required penalties, fees, and unpaid tolls, the court or toll facility operator shall notify the Commissioner of the Department of Motor Vehicles, who shall refuse to issue or renew any vehicle registration certificate of any applicant or the license plate issued for the vehicle driven in the commission of the offense until the court or toll facility operator has notified the Commissioner that such penalties, fees, and unpaid tolls have been paid. If it is proven that the vehicle owner was not the operator at the time of the offense and upon a finding by a court that the person identified in an affidavit pursuant to subsection F as the operator violated this section and such person fails to pay the required penalties, fees, and unpaid tolls, the court or toll facility operator shall notify the Commissioner, who shall refuse to issue or renew any vehicle registration certificate of any applicant or the license plate issued for any vehicle owned or co-owned by such person until the court or toll facility operator has notified the Commissioner that such penalties, fees, and unpaid tolls have been paid. Such funds representing payment of unpaid tolls and all administrative fees of the toll facility operator shall be transferred from the court to the Virginia Department of Transportation's Toll Facilities Revolving Fund or, in the case of an action initiated by an operator of a toll facility other than the Virginia Department of Transportation, to the treasurer or director of finance of the county or city in which the violation occurred for payment to the toll facility operator. The Commissioner shall collect a \$40 administrative fee from the registered owner or operator of the vehicle to defray the cost of processing*

428 and removing an order to deny registration or registration renewal.

429 H. For purposes of this section, *"operator" means a person who was driving a vehicle that was the*
430 *subject of a toll violation but who is not the owner of the vehicle;* "operator of a toll facility other than
431 the Virginia Department of Transportation" means any agency, political subdivision, authority, or other
432 entity that operates a toll facility; "owner" means the registered owner of a vehicle on record with the
433 Department of Motor Vehicles *or, in the case of a vehicle where the owner of the vehicle is a vehicle*
434 *leasing entity, the owner is the lessee.* For purposes of this section, "owner" does not mean a vehicle
435 rental or vehicle leasing company; "photo-monitoring system" means a vehicle sensor installed to work
436 in conjunction with a toll collection device that automatically produces one or more photographs, one or
437 more microphotographs, a videotape, or other recorded images of each vehicle at the time it is used or
438 operated in violation of this section; "automatic vehicle identification system" means an electronic
439 vehicle identification system installed to work in conjunction with a toll collection device that
440 automatically produces an electronic record of each vehicle equipped with an automatic vehicle
441 identification device that uses a toll facility; and "automatic vehicle identification device" means an
442 electronic device that communicates by wireless transmission with an automatic vehicle identification
443 system.

444 I. Any vehicle rental or vehicle leasing company, if it receives an invoice or is named in a summons,
445 shall be released as a party to the action if it provides the operator of the toll facility a copy of the
446 vehicle rental agreement or lease or an affidavit identifying the renter or lessee within 30 days of receipt
447 of the invoice ~~or at least 14 days prior to the date of hearing set forth in the summons.~~ Upon receipt of
448 such rental agreement, lease, or affidavit, a notice shall be mailed to the renter or lessee identified
449 therein. Release of this information shall not be deemed a violation of any provision of the Government
450 Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.) or the Insurance Information and
451 Privacy Protection Act (§ 38.2-600 et seq.). The toll facility operator shall allow at least 30 days from
452 the date of such mailing before pursuing other remedies under this section. In any action against the
453 vehicle operator, a copy of the vehicle rental agreement, lease, or affidavit identifying the renter or
454 lessee of the vehicle at the time of the violation is prima facie evidence that the person named in the
455 rental agreement, lease, or affidavit was operating the vehicle at all the relevant times relating to the
456 matter named in the summons.

457 J. Imposition of a civil penalty pursuant to this section shall not be deemed a conviction as an
458 operator and shall not be made part of the driving record of the person upon whom such civil penalty is
459 imposed nor shall it be used for insurance purposes in the provision of motor vehicle insurance
460 coverage. The provisions of § 46.2-395 shall not be applicable to any civil penalty, fee, unpaid toll, fine
461 or cost imposed or ordered paid under this section for a violation of this section.

462 K. On a form prescribed by the Supreme Court, a summons for ~~a violation~~ *one or more violations of*
463 *this section may be executed pursuant to § 19.2-76.2 § 46.2-819.7. Such form shall contain the option*
464 *for the driver or registered owner to prepay all penalties, unpaid tolls, administrative fees, and costs to*
465 *the toll facility operator, and if settled with the toll facility operator, the toll facility operator shall*
466 *inform the court of such settlement.* Toll facility personnel or their agents mailing such summons shall
467 be considered conservators of the peace for the sole and limited purpose of mailing such summons.
468 Notwithstanding the provisions of ~~§ 19.2-76~~ *§ 46.2-819.7*, a summons for ~~a violation~~ *one or more*
469 *violations of this section by the same vehicle owner or operator may be executed by mailing by*
470 *first-class mail a copy thereof to the address of the owner of the vehicle as shown on the records of the*
471 *Department of Motor Vehicles, the Customer Service Center of the Department of Transportation, or, if*
472 *the registered owner has named and provided a valid address for the operator of the vehicle at the time*
473 *of the violation in an affidavit executed pursuant to subsection F, such named operator of the vehicle. If*
474 *the summoned person fails to appear on the date of return set out in the summons mailed pursuant to*
475 *this section, the summons shall be executed in the manner set out in § 19.2-76.3.*

476 L. The operator of a toll facility may enter into an agreement with the Department of Motor
477 Vehicles, in accordance with the provisions of subdivision B 21 ~~of subsection B~~ of § 46.2-208, to obtain
478 vehicle owner information regarding the registered owners of vehicles that fail to pay tolls required for
479 the use of toll facilities and with the Virginia Department of Transportation to obtain any information
480 that is necessary to conduct electronic toll collection. Information provided to the operator of a toll
481 facility shall only be used for the collection of unpaid tolls and the operator of the toll facility shall be
482 subject to the same conditions and penalties regarding release of the information as contained in
483 subsection B.

484 M. No person shall be subject to both the provisions of this section and to prosecution under
485 § 46.2-819 for actions arising out of the same transaction or occurrence.

486 § 46.2-819.3. Use of toll facility without payment of toll; enforcement; penalty.

487 A. The toll facility operator may impose and collect an administrative fee in addition to the unpaid
488 toll so as to recover the expenses of collecting the unpaid toll, which administrative fee shall be
489 reasonably related to the actual cost of collecting the unpaid toll and not exceed \$100 per violation.

Such fee ~~shall not~~ *may* be levied upon the operator of the vehicle ~~until after the second~~ *first* unpaid toll has been documented. The owner or operator of the vehicle shall pay the unpaid tolls and any administrative fee detailed in ~~an invoice or bill~~ *a toll violation notice* issued by a toll facility operator. If paid within ~~30~~ *14* days of notification, the administrative fee shall not exceed \$25.

B. If the matter proceeds to court, the owner or operator of the vehicle shall be liable for a civil penalty as follows: for a first offense, \$50; for a second offense within one year from the first offense, \$100; for a third offense within two years from the second offense, \$250; and for a fourth and any subsequent offense within three years from the second offense, \$500 plus, in each case, the unpaid toll, all accrued administrative fees imposed by the toll facility operator and applicable court costs if the vehicle operator is found, as evidenced by information obtained from the toll facility operator, to have used such a toll facility without payment of the required toll.

C. A written promise to pay an unpaid toll within a specified period of time executed by the driver of a motor vehicle, accompanied by a certificate sworn to or affirmed by an authorized agent of the toll facility that the unpaid toll was not paid within such specified period, shall be prima facie evidence of the facts contained therein.

D. The operator of a toll facility may send ~~an invoice or bill~~ *a toll violation notice* to the driver of a motor vehicle using a toll facility without payment of the specified toll as part of an electronic or manual toll collection process prior to seeking remedies under this section. Any action under this section shall be brought in the general district court of the city or county in which the toll facility is located.

E. Upon a finding by a court of competent jurisdiction that the driver of a motor vehicle identified in the summons issued pursuant to subsection I was in violation of this section, the court shall impose a civil penalty upon the driver of a motor vehicle in accordance with the amounts specified in subsection B, together with applicable court costs, the operator's administrative fee, and the toll due. Penalties assessed as the result of action initiated by the Virginia Department of Transportation shall be remanded by the clerk of the court which adjudicated the action to the Virginia Department of Transportation's Toll Facilities Revolving Fund. Penalties assessed as the result of action initiated by an operator of a toll facility other than the Virginia Department of Transportation shall be remanded by the clerk of the court which adjudicated the action to the treasurer or director of finance of the county or city in which the violation occurred for payment to the toll facility operator.

~~Upon~~ *If an owner of a vehicle who received a toll violation notice in accordance with subsection C of § 46.2-819 has failed to either pay the unpaid toll and administrative fee for the violation by the date specified in the toll violation notice or file a notice of intention to contest liability for the violation, or upon a finding by a court that a person has three one or more unpaid tolls and such person fails to pay the required penalties, fees, and unpaid tolls, the court or toll facility operator shall notify the Commissioner of the Department of Motor Vehicles, who shall refuse to issue or renew any vehicle registration certificate of any applicant or the license plate issued for any vehicle owned or co-owned by the offender. The Commissioner shall collect a \$40 administrative fee from the owner or operator of the vehicle to defray the cost of processing and removing an order to deny registration or registration renewal.*

G. For purposes of this section, "operator of a toll facility other than the Virginia Department of Transportation" means any agency, political subdivision, authority, or other entity that operates a toll facility.

H. Imposition of a civil penalty pursuant to this section shall not be deemed a conviction as an operator and shall not be made part of the driving record of the person upon whom such civil penalty is imposed nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage. The provisions of § 46.2-395 shall not be applicable to any civil penalty, fee, unpaid toll, fine or cost imposed or ordered paid under this section for a violation of this section.

I. A summons for a ~~violation one or more violations~~ of this section ~~by the same vehicle owner or operator~~ may be executed pursuant to ~~§ 46.2-76.2~~ *§ 46.2-819.7*. ~~Such form shall contain the option for the driver or registered owner to prepay all penalties, unpaid tolls, administrative fees, and costs to the toll facility operator, and if settled with the toll facility operator, the toll facility operator shall inform the court of such settlement.~~ Toll facility personnel or their agents mailing such summons shall be considered conservators of the peace for the sole and limited purpose of mailing such summons. Notwithstanding the provisions of ~~§ 46.2-76~~ *§ 46.2-819.7*, a summons for a ~~violation one or more violations~~ of this section ~~by the same vehicle owner or operator~~ may be executed by mailing by first-class mail a copy thereof to the address of the driver of a motor vehicle as shown on the records of the Department of Motor Vehicles. If the summoned person fails to appear on the date of return set out in the summons mailed pursuant to this section, the summons shall be executed in the manner set out in § 19.2-76.3.

J. No person shall be subject to both the provisions of this section and to prosecution under § 46.2-819 for actions arising out of the same transaction or occurrence.

551 § 46.2-819.6. *Mailing of toll violation notice for unpaid tolls.*

552 Whenever a toll violation notice for one or more violations for unpaid tolls is served by the toll
553 facility operator in any county, city, or town, it may be executed by mailing by first-class mail a copy
554 thereof to the address of the owner of the vehicle as shown on the records of the Department of Motor
555 Vehicles or the Customer Service Center of the Department of Transportation. If the person fails to pay
556 the unpaid toll by the date set out in the toll violation notice mailed pursuant to this section, then a
557 summons may be executed in the manner set out in § 46.2-819.7. Personal service upon the vehicle
558 owner shall not be required, and a record of mailing kept in the ordinary course of business shall be
559 admissible evidence of the mailing of the toll violation notice.

560 § 46.2-819.7. *Summons for failure to pay unpaid toll by return date on toll violation notice.*

561 A. If any person fails to pay the unpaid toll on the date set out in the toll violation notice mailed
562 pursuant to § 46.2-819.6, then a summons shall be delivered to the sheriff of the county, city, or town
563 for service on that person as set out in § 8.01-296.

564 B. If such person then fails to appear on the date of return as contained in the summons so issued, a
565 summons shall be executed in the manner set out in § 19.2-76.

566 C. No proceedings for contempt or arrest of any person summoned under the provisions of this
567 section shall be instituted unless such person has been personally served with a summons and has failed
568 to appear on the return date contained therein.