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HOUSE BILL NO. 688

Offered January 11, 2012

Prefiled January 11, 2012

A *BILL to amend and reenact §§ 46.2-342 and 46.2-345 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-248.04, relating to special driver's licenses for persons convicted of methamphetamine offenses.*

Patron—O'Quinn

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-342 and 46.2-345 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-248.04 as follows:

§ 18.2-248.04. Special driver's license for persons convicted of methamphetamine offenses.

Any person convicted of a violation of § 18.2-248, 18.2-248.02, 18.2-248.03, 18.2-266, 29.1-738, or 46.2-341.24 when such offense involves the possession, manufacture, sale, or consumption of methamphetamine shall be required, if he is licensed to drive a motor vehicle in the Commonwealth, to have a special driver's license containing a unique identifying mark or symbol for a period of 18 months following his first licensure after the conviction indicating that he is a convicted methamphetamine offender. Upon any such conviction, the court shall communicate to the Department of Motor Vehicles that any driver's license issued to such person shall contain such identifying mark or symbol. Additionally, if such person is not a licensed driver but is issued a special identification card by the Department of Motor Vehicles, such special identification card shall also be required to contain the identifying mark or symbol. The person may be issued an unmarked driver's license at the end of the 18-month period, if otherwise eligible for licensure, upon payment of the renewal licensure fee to the Department of Motor Vehicles.

§ 46.2-342. What license to contain; organ donor information; Uniform Donor Document.

A. Every license issued under this chapter shall bear:

1. For licenses issued or renewed on or after July 1, 2003, a license number which shall be assigned by the Department to the licensee and shall not be the same as the licensee's social security number;

2. A photograph of the licensee;

3. The licensee's full name, year, month, and date of birth;

4. The licensee's address, subject to the provisions of subsection B of this section;

5. A brief description of the licensee for the purpose of identification;

6. A space for the signature of the licensee; and

7. A unique identifying mark or symbol if such is required pursuant to § 18.2-248.04; and

8. Any other information deemed necessary by the Commissioner for the administration of this title.

No abbreviated names or nicknames shall be shown on any license.

B. At the option of the licensee, the address shown on the license may be either the post office box, business, or residence address of the licensee, provided such address is located in Virginia. However, regardless of which address is shown on the license, the licensee shall supply the Department with his residence address, which shall be an address in Virginia. This residence address shall be maintained in the Department's records. Whenever the licensee's address shown either on his license or in the Department's records changes, he shall notify the Department of such change as required by § 46.2-324.

C. The Department may contract with the United States Postal Service or an authorized agent to use the National Change of Address System for the purpose of obtaining current address information for a person whose name appears in customer records maintained by the Department. If the Department receives information from the National Change of Address System indicating that a person whose name appears in a Department record has submitted a permanent change of address to the Postal Service, the Department may then update its records with the mailing address obtained from the National Change of Address System.

D. The license shall be made of a material and in a form to be determined by the Commissioner.

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

F. The Department shall establish a method by which an applicant for a driver's license or an

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59 identification card may designate his willingness to make an anatomical gift for transplantation, therapy,
60 research, and education as provided in Article 2 (§ 32.1-289.2 et seq.) of Chapter 8 of Title 32.1 and
61 shall cooperate with the Virginia Transplant Council to ensure that such method is designed to
62 encourage organ, tissue, and eye donation with a minimum of effort on the part of the donor and the
63 Department.

64 G. If an applicant designates his willingness to be a donor pursuant to subsection F, the Department
65 may make a notation of this designation on his license or card and shall make a notation of this
66 designation in his driver record.

67 H. The donor designation authorized in subsection G shall be sufficient legal authority for the
68 removal, following death, of the subject's organs or tissues without additional authority from the donor,
69 or his family or estate. No family member, guardian, agent named pursuant to an advance directive or
70 person responsible for the decedent's estate shall refuse to honor the donor designation or, in any way,
71 seek to avoid honoring the donor designation.

72 I. The donor designation provided pursuant to subsection F may be rescinded by notifying the
73 Department. In addition, the Department shall remove from the driver's license or identification card any
74 donor designation made pursuant to subsection F, if, at the time the applicant renews or replaces the
75 license or identification card, the applicant does not again designate his willingness to be a donor
76 pursuant to subsection F.

77 J. A minor may make a donor designation pursuant to subsection F without the consent of a parent
78 or legal guardian as authorized by the Revised Uniform Anatomical Gift Act (§ 32.1-291.1 et seq.).

79 K. The Department shall provide a method by which an applicant conducting a Department of Motor
80 Vehicles transaction using electronic means may make a voluntary contribution to the Virginia Donor
81 Registry and Public Awareness Fund (Fund) established pursuant to § 32.1-297.1. The Department shall
82 inform the applicant of the existence of the Fund and also that contributing to the Fund is voluntary.

83 L. The Department shall collect all moneys contributed pursuant to subsection K and transmit the
84 moneys on a regular basis to the Virginia Transplant Council, which shall credit the contributions to the
85 Fund.

86 M. When requested by the applicant, and upon presentation of a signed statement by a licensed
87 physician confirming the applicant's condition, the Department shall indicate on the applicant's driver's
88 license that the applicant is (i) an insulin-dependent diabetic, or (ii) hearing or speech impaired.

89 N. In the absence of gross negligence or willful misconduct, the Department and its employees shall
90 be immune from any civil or criminal liability in connection with the making of or failure to make a
91 notation of donor designation on any license or card or in any person's driver record.

92 O. Notwithstanding the foregoing provisions of this section, the Department shall continue to use the
93 uniform donor document, as formerly set forth in subsection F, for organ donation designation until such
94 time as a new method is fully implemented, which shall be no later than July 1, 1994. Any such
95 uniform donor document shall, when properly executed, remain valid and shall continue to be subject to
96 all conditions for execution, delivery, amendment, and revocation as set out in Article 2 (§ 32.1-289.2 et
97 seq.) of Chapter 8 of Title 32.1.

98 P. The Department shall, in coordination with the Virginia Transplant Council, prepare an organ
99 donor information brochure describing the organ donor program and providing instructions for
100 completion of the uniform donor document information describing the bone marrow donation program
101 and instructions for registration in the National Bone Marrow Registry. The Department shall include a
102 copy of such brochure with every driver's license renewal notice or application mailed to licensed
103 drivers in Virginia.

104 § 46.2-345. Issuance of special identification cards; fee; confidentiality; penalties.

105 A. On the application of any person who is a resident of the Commonwealth or the parent or legal
106 guardian of any such person who is under the age of 15, the Department shall issue a special
107 identification card to the person provided:

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

110 2. The applicant presents, when required by the Department, proof of identity, legal presence,
111 residency, and social security number or non-work authorized status;

112 3. The Department is satisfied that the applicant needs an identification card or the applicant shows
113 he has a bona fide need for such a card; and

114 4. The applicant does not hold a driver's license, commercial driver's license, temporary driver's
115 permit, learner's permit, or motorcycle learner's permit.

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

119 B. The fee for the issuance of an original or renewal special identification card is \$5. The fee for the
120 issuance of a duplicate or reissue of a special identification card is \$5. Persons 21 years old or older

may be issued a scenic special identification card for an additional fee of \$5.

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

D. A special identification card issued under this section may be similar in size, shape, and design to a driver's license, and include a photograph of its holder, but the card shall be readily distinguishable from a driver's license and shall clearly state that it does not authorize the person to whom it is issued to drive a motor vehicle. *Additionally, a special identification card issued under this section shall contain a unique identifying mark or symbol if such is required pursuant to § 18.2-248.04.* Every applicant for a special identification card shall appear in person before the Department to apply for a renewal, duplicate or reissue unless specifically permitted by the Department to apply in another manner.

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

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

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

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

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

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

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

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