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HOUSE BILL NO. 884

Offered January 11, 2012

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A *BILL to amend and reenact §§ 15.2-968.1, 33.1-56.4, 46.2-208, 46.2-819.1, 46.2-819.3:1, and 46.2-819.5 of the Code of Virginia, relating to privileged records of the Department of Motor Vehicles; law-enforcement officer's personal address and telephone number.*

Patron—Sickles

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-968.1, 33.1-56.4, 46.2-208, 46.2-819.1, 46.2-819.3:1, and 46.2-819.5 of the Code of Virginia are amended and reenacted as follows:

§ 15.2-968.1. Use of photo-monitoring systems to enforce traffic light signals.

A. The governing body of any county, city, or town may provide by ordinance for the establishment of a traffic signal enforcement program imposing monetary liability on the operator of a motor vehicle for failure to comply with traffic light signals in such locality in accordance with the provisions of this section. Each such locality may install and operate traffic light signal photo-monitoring systems at no more than one intersection for every 10,000 residents within each county, city, or town at any one time, provided, however, that within planning District 8, each such locality may install and operate traffic light signal photo-monitoring systems at no more than 10 intersections, or at no more than one intersection for every 10,000 residents within each county, city, or town, whichever is greater, at any one time.

B. The operator of a vehicle shall be liable for a monetary penalty imposed pursuant to this section if such vehicle is found, as evidenced by information obtained from a traffic light signal violation monitoring system, to have failed to comply with a traffic light signal within such locality.

C. Proof of a violation of this section shall be evidenced by information obtained from a traffic light signal violation monitoring system authorized pursuant to this section. A certificate, sworn to or affirmed by a law-enforcement officer employed by a locality authorized to impose penalties pursuant to this section, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape, or other recorded images produced by a traffic light signal violation monitoring system, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape, or other recorded images evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such violation pursuant to an ordinance adopted pursuant to this section.

D. In the prosecution for a violation of any local ordinance adopted as provided in this section, prima facie evidence that the vehicle described in the summons issued pursuant to this section was operated in violation of such ordinance, together with proof that the defendant was at the time of such violation the owner, lessee, or renter of the vehicle, shall constitute in evidence a rebuttable presumption that such owner, lessee, or renter of the vehicle was the person who committed the violation. Such presumption shall be rebutted if the owner, lessee, or renter of the vehicle (i) files an affidavit by regular mail with the clerk of the general district court that he was not the operator of the vehicle at the time of the alleged violation or (ii) testifies in open court under oath that he was not the operator of the vehicle at the time of the alleged violation. Such presumption shall also be rebutted if 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 violation of this section, is presented, prior to the return date established on the summons issued pursuant to this section, to the court adjudicating the alleged violation.

E. For purposes of this section, "owner" means the registered owner of such vehicle on record with the Department of Motor Vehicles. For purposes of this section, "traffic light signal violation monitoring system" means a vehicle sensor installed to work in conjunction with a traffic light that automatically produces two or more photographs, two or more microphotographs, video, or other recorded images of each vehicle at the time it is used or operated in violation of § 46.2-833, 46.2-835, or 46.2-836. For each such vehicle, at least one recorded image shall be of the vehicle before it has illegally entered the intersection, and at least one recorded image shall be of the same vehicle after it has illegally entered that intersection.

F. Imposition of a penalty pursuant to this section shall not be deemed a conviction as an operator and shall not be made part of the operating record of the person upon whom such liability is imposed, nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage. No monetary penalty imposed under this section shall exceed \$50, nor shall it include court costs.

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59 G. A summons for a violation of this section may be executed pursuant to § 19.2-76.2.
60 Notwithstanding the provisions of § 19.2-76, a summons for a violation of this section may be executed
61 by mailing by first class mail a copy thereof to the owner, lessee, or renter of the vehicle. In the case of
62 a vehicle owner, the copy shall be mailed to the address contained in the records of the Department of
63 Motor Vehicles; in the case of a vehicle lessee or renter, the copy shall be mailed to the address
64 contained in the records of the lessor or renter. Every such mailing shall include, in addition to the
65 summons, a notice of (i) the summoned person's ability to rebut the presumption that he was the
66 operator of the vehicle at the time of the alleged violation through the filing of an affidavit as provided
67 in subsection D and (ii) instructions for filing such affidavit, including the address to which the affidavit
68 is to be sent. If the summoned person fails to appear on the date of return set out in the summons
69 mailed pursuant to this section, the summons shall be executed in the manner set out in § 19.2-76.3. No
70 proceedings for contempt or arrest of a person summoned by mailing shall be instituted for failure to
71 appear on the return date of the summons. Any summons executed for a violation of this section shall
72 provide to the person summoned at least 30 business days from the mailing of the summons to inspect
73 information collected by a traffic light signal violation monitoring system in connection with the
74 violation.

75 H. Information collected by a traffic light signal violation monitoring system installed and operated
76 pursuant to subsection A shall be limited exclusively to that information that is necessary for the
77 enforcement of traffic light violations. On behalf of a locality, a private entity that operates a traffic
78 light signal violation monitoring system may enter into an agreement with the Department of Motor
79 Vehicles, in accordance with the provisions of subdivision B C 21 of § 46.2-208, to obtain vehicle
80 owner information regarding the registered owners of vehicles that fail to comply with a traffic light
81 signal. Information provided to the operator of a traffic light signal violation monitoring system shall be
82 protected in a database with security comparable to that of the Department of Motor Vehicles' system,
83 and used only for enforcement against individuals who violate the provisions of this section.
84 Notwithstanding any other provision of law, all photographs, microphotographs, electronic images, or
85 other personal information collected by a traffic light signal violation monitoring system shall be used
86 exclusively for enforcing traffic light violations and shall not (i) be open to the public; (ii) be sold or
87 used for sales, solicitation, or marketing purposes; (iii) be disclosed to any other entity except as may be
88 necessary for the enforcement of a traffic light violation or to a vehicle owner or operator as part of a
89 challenge to the violation; or (iv) be used in a court in a pending action or proceeding unless the action
90 or proceeding relates to a violation of § 46.2-833, 46.2-835, or 46.2-836 or requested upon order from a
91 court of competent jurisdiction. Information collected under this section pertaining to a specific violation
92 shall be purged and not retained later than 60 days after the collection of any civil penalties. If a
93 locality does not execute a summons for a violation of this section within 10 business days, all
94 information collected pertaining to that suspected violation shall be purged within two business days.
95 Any locality operating a traffic light signal violation monitoring system shall annually certify compliance
96 with this section and make all records pertaining to such system available for inspection and audit by
97 the Commissioner of Highways or the Commissioner of the Department of Motor Vehicles or his
98 designee. Any person who discloses personal information in violation of the provisions of this
99 subsection shall be subject to a civil penalty of \$1,000 per disclosure. Any unauthorized use or
100 disclosure of such personal information shall be grounds for termination of the agreement between the
101 Department of Motor Vehicles and the private entity.

102 I. A private entity may enter into an agreement with a locality to be compensated for providing the
103 traffic light signal violation monitoring system or equipment, and all related support services, to include
104 consulting, operations and administration. However, only a law-enforcement officer employed by a
105 locality may swear to or affirm the certificate required by subsection C. No locality shall enter into an
106 agreement for compensation based on the number of violations or monetary penalties imposed.

107 J. When selecting potential intersections for a traffic light signal violation monitoring system, a
108 locality shall consider factors such as (i) the accident rate for the intersection, (ii) the rate of red light
109 violations occurring at the intersection (number of violations per number of vehicles), (iii) the difficulty
110 experienced by law-enforcement officers in patrol cars or on foot in apprehending violators, and (iv) the
111 ability of law-enforcement officers to apprehend violators safely within a reasonable distance from the
112 violation. Localities may consider the risk to pedestrians as a factor, if applicable. A locality shall
113 submit a list of intersections to the Virginia Department of Transportation for final approval.

114 K. Before the implementation of a traffic light signal violation monitoring system at an intersection,
115 the locality shall complete an engineering safety analysis that addresses signal timing and other
116 location-specific safety features. The length of the yellow phase shall be established based on the
117 recommended methodology of the Institute of Transportation Engineers. All traffic light signal violation
118 monitoring systems shall provide a minimum 0.5-second grace period between the time the signal turns
119 red and the time the first violation is recorded. If recommended by the engineering safety analysis, the
120 locality shall make reasonable location-specific safety improvements, including signs and pavement

markings.

L. Any locality that uses a traffic light signal violation monitoring system shall evaluate the system on a monthly basis to ensure all cameras and traffic signals are functioning properly. Evaluation results shall be made available to the public.

M. Any locality that uses a traffic light signal violation monitoring system to enforce traffic light signals shall place conspicuous signs within 500 feet of the intersection approach at which a traffic light signal violation monitoring system is used. There shall be a rebuttable presumption that such signs were in place at the time of the commission of the traffic light signal violation.

N. Prior to or coincident with the implementation or expansion of a traffic light signal violation monitoring system, a locality shall conduct a public awareness program, advising the public that the locality is implementing or expanding a traffic light signal violation monitoring system.

O. Notwithstanding any other provision of this section, if a vehicle depicted in images recorded by a traffic light signal photo-monitoring system is owned, leased, or rented by a county, city, or town, then the county, city, or town may access and use the recorded images and associated information for employee disciplinary purposes.

§ 33.1-56.4. Release of personal information; penalty.

A. The HOT lanes operator may enter into an agreement with the Department of Motor Vehicles, in accordance with the provisions of subdivision C 21 of ~~subsection B of~~ § 46.2-208, to obtain vehicle owner information regarding the registered owners of vehicles that use HOT lanes, and with the Department of Transportation to obtain any information that is necessary to conduct electronic toll collection and otherwise operate HOT lanes. No HOT lanes operator shall disclose or release any personal information received from the Department of Motor Vehicles or the Department of Transportation to any third party, except in the issuance of a summons and institution of court proceedings in accordance with § 33.1-56.3. Information in the possession of a HOT lanes operator under this section shall be exempt from disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

B. Information collected by a photo-enforcement system 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-enforcement 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 § 33.1-56.3 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-enforcement system shall annually certify compliance with this section and make all records pertaining to such system available for inspection and audit by the Commissioner of Highways 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.

§ 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. *Upon written request by any United States law-enforcement officer with the authority to make arrests or by any law-enforcement officer as defined in § 9.1-101, any records in the office of the Department containing such law-enforcement officer's home address and personal telephone number shall be considered privileged records.*

C. The Commissioner shall release ~~such~~ any information deemed privileged under subsection A or B only under the following conditions:

1. Notwithstanding other provisions of this section, medical data included in personal data shall be released only to a physician, physician assistant, or nurse practitioner as provided in § 46.2-322.
2. Insurance data may be released as specified in §§ 46.2-372, 46.2-380, and 46.2-706.
3. Notwithstanding other provisions of this section, information disclosed or furnished shall be assessed a fee as specified in § 46.2-214.
4. When the person requesting the information is (i) the subject of the information, (ii) the parent or

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

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

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

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

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

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

be provided free of charge.

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

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

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

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

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

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

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

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

18. Upon the request, in the course of business, of any authorized representative of an insurance

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

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

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

320 21. Upon the request of the operator of a toll facility or traffic light photo-monitoring system acting
321 on behalf of a government entity, or of the Dulles Access Highway, or an authorized agent or employee
322 of a toll facility operator or traffic light photo-monitoring system operator acting on behalf of a
323 government entity or the Dulles Access Highway, for the purpose of obtaining vehicle owner data under
324 subsection L of § 46.2-819.1 or subsection H of § 15.2-968.1 or subsection N of § 46.2-819.5.
325 Information released pursuant to this subdivision shall be limited to the name and address of the
326 registered owner of the vehicle having failed to pay a toll or having failed to comply with a traffic light
327 signal or having improperly used the Dulles Access Highway and the vehicle information, including all
328 descriptive vehicle data and title and registration data of the same vehicle.

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

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

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

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

364 26. On the written request of any person who has applied to be a volunteer vehicle operator with
365 Faith in Action, the Commissioner shall (i) compare personal information supplied by Faith in Action
366 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.

28. On the written request of any person who has applied to be a volunteer with a Virginia Council of the Girl Scouts of the USA, the Commissioner shall (i) compare personal information supplied by a Virginia Council of the Girl Scouts of the USA with that contained in the Department's records and, when the information supplied by a Virginia Council of the Girl Scouts of the USA is different from that contained in the Department's records, provide a Virginia Council of the Girl Scouts of the USA 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 the Virginia Council of the Girl Scouts of the USA.

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

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

~~H. I.~~ 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. J.~~ 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 C 9.

§ 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 for unpaid tolls 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

428 upon order from a court of competent jurisdiction. Information collected under this section shall be
429 purged and not retained later than 30 days after the collection and reconciliation of any unpaid tolls,
430 administrative fees, and/or civil penalties. Any entity operating a photo-monitoring system or automatic
431 vehicle identification system shall annually certify compliance with this section and make all records
432 pertaining to such system available for inspection and audit by the Commissioner of Highways or the
433 Commissioner of the Department of Motor Vehicles or their designee. Any violation of this subsection
434 shall constitute a Class 1 misdemeanor. In addition to any fines or other penalties provided for by law,
435 any money or other thing of value obtained as a result of a violation of this section shall be forfeited to
436 the Commonwealth.

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

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

452 D. Any action under this section shall be brought in the General District Court of the city or county
453 in which the toll facility is located. Such action shall be considered a traffic infraction but shall be tried
454 as a civil case. The attorney for the Commonwealth may represent the interests of the toll facility
455 operator. Any authorized agent or employee of a toll facility operator acting on behalf of a
456 governmental entity shall be allowed the privileges accorded by § 16.1-88.03 in such cases.

457 E. Proof of a violation of this section shall be evidenced by information obtained from a
458 photo-monitoring system or automatic vehicle identification system as provided in this section. A
459 certificate, sworn to or affirmed by a technician employed or authorized by the operator of a toll facility
460 or by the locality wherein the toll facility is located, or a facsimile of such a certificate, based on
461 inspection of photographs, microphotographs, videotapes, or other recorded images produced by a
462 photo-monitoring system, or of electronic data collected by an automatic vehicle identification system,
463 shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs,
464 videotape, or other recorded images or electronic data evidencing such a violation shall be available for
465 inspection in any proceeding to adjudicate the liability for such violation under this section. A record of
466 communication by an automatic vehicle identification device with the automatic vehicle identification
467 system at the time of a violation of this section shall be prima facie evidence that the automatic vehicle
468 identification device was located in the vehicle registered to use such device in the records of the
469 Virginia Department of Transportation.

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

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

482 The registered owner of such vehicle shall be given reasonable notice by way of a summons as
483 provided in subsection K that his vehicle had been used in violation of this section and such owner shall
484 be given notice of the time and place of the hearing as well as the civil penalty and costs for such
485 offense. The toll facility operator may offer to the owner an option to pay the unpaid toll and fees plus
486 a reduced civil penalty of \$25 for a first or second offense or \$50 for a third, fourth, or subsequent
487 offense, as specified on the summons, provided the owner actually pays to the toll facility operator the
488 entire amount so calculated at least 14 days prior to the hearing date specified on the summons. If the
489 owner accepts such offer and such amount is actually received by the toll facility operator at least 14

days prior to the hearing date specified on the summons, the toll facility operator shall move the court at least five business days prior to the date set for trial to dismiss the summons issued to the registered owner of the vehicle, and the court shall dismiss upon such motion.

Upon either (i) the filing of an affidavit with the toll facility operator within 14 days of receipt of an invoice for an unpaid toll from the toll facility operator 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 summons, as appropriate, 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, the court shall dismiss the summons issued to the registered owner of the vehicle.

G. Upon a finding by a court that a person has two or more unpaid tolls and such person fails to pay the required penalties, fees, and unpaid tolls, the court 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 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 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 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 Account 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 and removing an order to deny registration or registration renewal.

H. 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; "owner" means the registered owner of a vehicle on record with the Department of Motor Vehicles. For purposes of this section, "owner" does not mean a vehicle rental or vehicle leasing company; "photo-monitoring system" means a vehicle sensor installed to work in conjunction with a toll collection device that automatically produces one or more photographs, one or more microphotographs, a videotape, or other recorded images of each vehicle at the time it is used or operated in violation of this section; "automatic vehicle identification system" means an electronic vehicle identification system installed to work in conjunction with a toll collection device that automatically produces an electronic record of each vehicle equipped with an automatic vehicle identification device that uses a toll facility; and "automatic vehicle identification device" means an electronic device that communicates by wireless transmission with an automatic vehicle identification system.

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

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

556 K. On a form prescribed by the Supreme Court, a summons for a violation of this section may be
557 executed pursuant to § 19.2-76.2. Toll facility personnel or their agents mailing such summons shall be
558 considered conservators of the peace for the sole and limited purpose of mailing such summons.
559 Notwithstanding the provisions of § 19.2-76, a summons for a violation of this section may be executed
560 by mailing by first-class mail a copy thereof to the address of the owner of the vehicle as shown on the
561 records of the Department of Motor Vehicles or, if the registered owner has named and provided a valid
562 address for the operator of the vehicle at the time of the violation in an affidavit executed pursuant to
563 subsection F, such named operator of the vehicle. If the summoned person fails to appear on the date of
564 return set out in the summons mailed pursuant to this section, the summons shall be executed in the
565 manner set out in § 19.2-76.3.

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

574 M. No person shall be subject to both the provisions of this section and to prosecution under
575 § 46.2-819 for actions arising out of the same transaction or occurrence.

576 § 46.2-819.3:1. Installation and use of video-monitoring system and automatic vehicle identification
577 system in conjunction with certain toll facilities; penalty.

578 A. The operator of any toll facility or the locality within which such toll facility is located may
579 install and operate or cause to be installed and operated a video-monitoring system in conjunction with
580 an automatic vehicle identification system on facilities for which tolls are collected for the use of such
581 toll facility and that do not offer manual toll collection. A video-monitoring system shall include, but
582 not be limited to, electronic systems that monitor and capture images of vehicles using a toll facility to
583 enable toll collection for vehicles that do not pay using a toll collection device. The operator of a toll
584 facility shall send an invoice for unpaid tolls in accordance with the requirements of § 46.2-819.6 to the
585 registered owner of a vehicle as part of a video-monitoring toll collection process, prior to seeking
586 remedies under this section.

587 B. Information collected by a video-monitoring system in conjunction with an automatic vehicle
588 identification system installed and operated pursuant to subsection A shall be limited exclusively to that
589 information that is necessary for the collection of unpaid tolls and establishing when violations occur,
590 including use in any proceeding to determine whether a violation occurred. Notwithstanding any other
591 provision of law, all images or other data collected by a video-monitoring system in conjunction with an
592 automatic vehicle identification system shall be protected in a database with security comparable to that
593 of the Department of Motor Vehicles' system and used exclusively for the collection of unpaid tolls and
594 for efforts to pursue violators of this section and shall not (i) be open to the public; (ii) be sold and/or
595 used for sales, solicitation, or marketing purposes other than those of the toll facility operator to
596 facilitate toll payment; (iii) be disclosed to any other entity except as may be necessary for the
597 collection of unpaid tolls or to a vehicle owner or operator as part of a challenge to the imposition of a
598 toll; and/or (iv) be used in a court in a pending action or proceeding unless the action or proceeding
599 relates to a violation of this section or upon order from a court of competent jurisdiction. Except as
600 provided above, information collected under this section shall be purged and not retained later than 30
601 days after the collection and reconciliation of any unpaid tolls, administrative fees, and/or civil penalties.
602 Any entity operating a video-monitoring system in conjunction with an automatic vehicle identification
603 system shall annually certify compliance with this section and make all records pertaining to such
604 system available for inspection and audit by the Commissioner of Highways or the Commissioner of the
605 Department of Motor Vehicles or their designee. Any violation of this subsection shall constitute a Class
606 1 misdemeanor. In addition to any fines or other penalties provided for by law, any money or other
607 thing of value obtained as a result of a violation of this section shall be forfeited to the Commonwealth.

608 If a vehicle uses a toll facility without paying the toll, the owner or operator shall be in violation of
609 this section if he refuses to pay the toll within 30 days of notification. The toll facility operator may
610 impose and collect an administrative fee in addition to the unpaid toll so as to recover the expenses of
611 collecting the unpaid toll, which administrative fee shall be reasonably related to the actual cost of
612 collecting the unpaid toll and not exceed \$100 per violation. Such fee shall not be levied upon the

owner or operator of the vehicle unless the toll has not been paid by the owner or operator within 30 days after receipt of the invoice for the unpaid toll, which nonpayment for 30 days shall constitute the violation of this section. Once such a violation has occurred, the owner or operator of the vehicle shall pay the unpaid tolls and any administrative fee detailed in the invoice for the unpaid toll issued by a toll facility operator. If paid within 30 days of the toll violation, the administrative fee shall not exceed \$25.

The toll facility operator may levy charges for the direct cost of use of and processing for a video-monitoring system and to cover the cost of the invoice, which are in addition to the toll and may not exceed double the amount of the base toll, provided that potential toll facility users are provided notice before entering the facility by conspicuous signs that clearly indicate that the toll for use of the facility could be tripled for any vehicle that does not have an active, functioning automatic vehicle identification device registered for and in use in the vehicle using the toll facility, and such signs are posted at a location where the driver can still choose to avoid the use of the toll facility if he chooses not to pay the toll.

A person receiving an invoice for an unpaid toll under this section may (a) pay the toll and administrative fees directly to the toll facility operator or (b) file with the toll facility operator a notice, on a form provided by the toll facility operator as required under subsection B of § 46.2-819.6, to contest liability for a toll violation. The notice to contest liability for a toll violation may be filed by any person receiving an invoice for an unpaid toll by mailing or delivering the notice to the toll facility operator within 60 days of receiving such invoice for unpaid toll. Upon receipt of such notice, the toll facility operator may issue a summons pursuant to subsection K and may not seek withholding of registration or renewal thereof under subsection G until a court of competent jurisdiction has found the alleged violator liable for tolls under this section.

C. If the matter proceeds to court, 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 video-monitoring system in conjunction with an automatic vehicle identification system as provided in this section, to have used such a toll facility without payment of the required toll within 30 days of receipt of the invoice for the 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. Such action shall be considered a traffic infraction but shall be tried as a civil case. The attorney for the Commonwealth may represent the interests of the toll facility operator. Any authorized agent or employee of a toll facility operator acting on behalf of a governmental entity shall be allowed the privileges accorded by § 16.1-88.03 in such cases.

E. Proof of a violation of this section shall be evidenced by information obtained from a video-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 video-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 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 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, 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 that adjudicated the action to the Virginia Department of Transportation's Toll Facilities Revolving Account. 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 that 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

674 provided in subsection K that his vehicle had been used in violation of this section, and such owner
675 shall be given notice of the time and place of the hearing as well as the civil penalty and costs for such
676 offense.

677 Upon the filing of an affidavit by the registered owner of the vehicle with the toll facility operator
678 within 14 days of receipt of an invoice for unpaid toll or a summons stating that such owner was not
679 the driver of the vehicle on the date of the violation and providing the legal name and address of the
680 operator of the vehicle at the time of the violation, an invoice for unpaid toll or summons, whichever
681 the case may be, will also be issued to the alleged operator of the vehicle at the time of the offense.

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

686 If the registered owner of the vehicle produces for the toll facility operator or the court a certified
687 copy of a police report showing that the vehicle had been reported to the police as stolen prior to the
688 time of the alleged offense and remained stolen at the time of the alleged offense, then the toll facility
689 operator shall not pursue the owner for the unpaid toll contained in the invoice for unpaid toll or the
690 court shall dismiss the summons issued to the registered owner of the vehicle.

691 G. 1. Upon a finding by a court that a person has two or more unpaid tolls and such person fails to
692 pay the required penalties, fees, and unpaid tolls, then the court or toll facility operator shall notify the
693 Commissioner of the Department of Motor Vehicles, who shall refuse to issue or renew any vehicle
694 registration certificate of any applicant or the license plate issued for the vehicle driven in the
695 commission of the offense until the court has notified the Commissioner that such penalties, fees, and
696 unpaid tolls have been paid. If it is proven that the vehicle owner was not the operator at the time of
697 the offense and upon a finding by a court that the person identified in an affidavit pursuant to
698 subsection F as the operator violated this section and such person fails to pay the required penalties,
699 fees, and unpaid tolls, the court shall notify the Commissioner, who shall refuse to issue or renew any
700 vehicle registration certificate of any applicant or the license plate issued for any vehicle owned or
701 co-owned by such person until the court has notified the Commissioner that such penalties, fees, and
702 unpaid tolls have been paid. Such funds representing payment of unpaid tolls and all administrative fees
703 of the toll facility operator shall be transferred from the court to the Virginia Department of
704 Transportation's Toll Facilities Revolving Account or, in the case of an action initiated by an operator of
705 a toll facility other than the Virginia Department of Transportation, to the treasurer or director of finance
706 of the county or city in which the violation occurred for payment to the toll facility operator. The
707 Commissioner shall collect a \$40 administrative fee from the registered owner or operator of the vehicle
708 to defray the cost of processing and removing an order to deny registration or registration renewal.

709 2. If an owner of a vehicle has received at least one invoice for two or more unpaid tolls in
710 accordance with § 46.2-819.6 by certified mail and has (i) failed to pay the unpaid tolls and
711 administrative fees and (ii) failed to file a notice to contest liability for a toll violation, then the toll
712 facility operator may notify the Commissioner, who shall, if no form contesting liability has been timely
713 filed with the toll facility operator pursuant to this section, refuse to issue or renew the vehicle
714 registration certificate of any applicant therefor or the license plate issued for any vehicle driven in the
715 commission of the offense until the toll facility operator has notified the Commissioner that such fees
716 and unpaid tolls have been paid.

717 If the vehicle owner was not the operator at the time of the offense and the person identified in an
718 affidavit pursuant to subsection F as the operator has received at least one invoice for two or more
719 unpaid tolls in accordance with § 46.2-819.6 by certified mail and such person has (i) failed to pay the
720 unpaid tolls and administrative fees and (ii) failed to file a notice to contest liability for a toll violation,
721 then the toll facility operator may notify the Commissioner, who shall, if no form contesting liability has
722 been timely filed with the toll facility operator pursuant to this section, refuse to issue or renew any
723 vehicle registration certificate of any applicant therefor or the license plate issued for any vehicle owned
724 or co-owned by such person until the toll facility operator has notified the Commissioner that such fees
725 and unpaid tolls have been paid.

726 The Commissioner may only refuse to issue or renew any vehicle registration pursuant to this
727 subsection upon the request of a toll facility operator if such toll facility operator has entered into an
728 agreement with the Commissioner whereby the Commissioner will refuse to issue or renew any vehicle
729 registration of any applicant therefor who owes unpaid tolls and administrative fees to the toll facility
730 operator. The toll facility operator seeking to collect unpaid tolls and administrative fees through the
731 withholding of registration or renewal thereof by the Commissioner as provided for in this subsection
732 shall notify the Commissioner in the manner provided for in his agreement with the Commissioner and
733 supply to the Commissioner information necessary to identify the violator whose registration or renewal
734 is to be denied. The Commissioner shall charge a \$40 fee to defray the cost of processing and
735 withholding the registration or registration renewal, and the toll facility operator may add this fee to the

amount of the unpaid tolls and administrative fees. Any agreement entered into pursuant to the provisions of this subsection shall provide for the Department to send the violator notice of the intent to deny renewal of registration at least 30 days prior to the expiration date of a current vehicle registration and such notice shall include a form, as required under subsection B of § 46.2-819.6, to contest liability of the underlying toll violation. The notice provided by the Commissioner shall include instructions for filing the form to contest liability with the toll facility operator within 21 days after the date of mailing of the Commissioner's notice. Upon timely receipt of the form, the toll facility operator shall notify the Commissioner, who shall refrain from withholding the registration or renewal thereof, after which the toll facility operator may proceed to issue a summons for unpaid toll. For the purposes of this subsection, notice by first-class mail to the registrant's address as maintained in the records of the Department shall be deemed sufficient.

H. For purposes of this section, "operator" means a person who was driving a vehicle that was the subject of a toll violation but who is not the owner of the vehicle; "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; "owner" means the registered owner of a vehicle on record with the Department or, in the case of a vehicle where the owner of the vehicle is a vehicle leasing entity, the lessee. For purposes of this section, "owner" does not mean a vehicle rental or vehicle leasing company; "video-monitoring system" means a vehicle sensor installed to work in conjunction with a toll collection device that automatically produces one or more photographs, one or more microphotographs, a videotape, or other recorded images of each vehicle at the time it is used or operated in violation of this section; "automatic vehicle identification system" means an electronic vehicle identification system installed to work in conjunction with a toll collection device that automatically produces an electronic record of each vehicle equipped with an automatic vehicle identification device that uses a toll facility; and "automatic vehicle identification device" means an electronic device that communicates by wireless transmission with an automatic vehicle identification system.

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

J. 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.

K. On a form prescribed by the Supreme Court, a summons for a violation of this section may be executed pursuant to § 19.2-76.2. 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 § 19.2-76, a summons or summonses for a violation of unpaid tolls may be executed by mailing by first-class mail a copy thereof to the address of the owner of the vehicle as shown on the records of the Department or, if the registered owner has named and provided a valid address for the operator of the vehicle at the time of the violation in an affidavit executed pursuant to subsection F, such named operator of the vehicle. 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.

L. The toll facility operator may offer to the owner an option to pay the unpaid toll and fees plus a reduced civil penalty of \$25 for a first or second offense or \$50 for a third, fourth, or subsequent offense, as specified on the summons, provided the owner actually pays to the toll facility operator the entire amount so calculated at least 14 days prior to the hearing date specified on the summons. If the owner accepts such offer and such amount is actually received by the toll facility operator at least 14 days prior to the hearing date specified on the summons, the toll facility operator shall move the court at least five business days prior to the date set for trial to dismiss the summons issued to the registered owner of the vehicle, and the court shall dismiss upon such motion.

M. The operator of a toll facility may enter into an agreement with the Department, in accordance

797 with the provisions of subdivision B C 21 of § 46.2-208, to obtain vehicle owner information regarding
798 the registered owners of vehicles that fail to pay tolls required for the use of toll facilities and with the
799 Virginia Department of Transportation to obtain any information that is necessary to conduct electronic
800 toll collection. Information provided to the operator of a toll facility shall be used only for the collection
801 of unpaid tolls, and the operator of the toll facility shall be subject to the same conditions and penalties
802 regarding release of the information as contained in subsection B.

803 N. No person shall be subject to both the provisions of this section and to prosecution under
804 § 46.2-819 for actions arising out of the same transaction or occurrence.

805 § 46.2-819.5. Enforcement through use of photo-monitoring system or automatic vehicle identification
806 system in conjunction with usage of Dulles Access Highway.

807 A. A photo-monitoring system or automatic vehicle identification system established at locations
808 along the Dulles Access Highway, in order to identify vehicles that are using the Dulles Access
809 Highway in violation of the Metropolitan Washington Airports Authority (Authority) regulation
810 regarding usage, which makes violations of the regulation subject to civil penalties, shall be administered
811 in accordance with this section. The civil penalties for violations of such regulation may not exceed the
812 following: \$50 for the first violation; \$100 for a second violation within one year from the first
813 violation; \$250 for a third violation within two years from the second violation; and \$500 for a fourth
814 and any subsequent violation within three years from the second violation. In the event a violation of
815 the Authority regulation is identified via the photo-monitoring system or automatic vehicle identification
816 system, the operator of the Dulles Access Highway shall send a notice of the violation, of the applicable
817 civil penalty and of any administrative fee calculated in accordance with subsection C to the registered
818 owner of the vehicle identified by the system prior to seeking further remedies under this section. Upon
819 receipt of the notice, the registered owner of the vehicle may elect to avoid any action by the operator
820 to enforce the violation in court by waiving his right to a court hearing, pleading guilty to the violation,
821 and paying a reduced civil penalty along with any applicable administrative fee to the operator. Should
822 the recipient of the notice make such an election, the amount of the reduced civil penalty shall be as
823 follows: \$30 for the first violation; \$50 for a second violation within one year from the first violation;
824 \$125 for a third violation within two years from the second violation; and \$250 for a fourth and any
825 subsequent violations within three years from the second violation.

826 B. Information collected by the photo-monitoring system or automatic vehicle identification system
827 referenced in subsection A shall be limited exclusively to that information that is necessary for
828 identifying those drivers who improperly use the Dulles Access Highway in violation of the Authority
829 regulation. Notwithstanding any other provision of law, all photographs, microphotographs, electronic
830 images, or other data collected by a photo-monitoring system or automatic vehicle identification system
831 shall be used exclusively for the identification of violators and shall not (i) be open to the public; (ii) be
832 sold or used for sales, solicitation, or marketing purposes; (iii) be disclosed to any other entity except as
833 may be necessary for the identification of violators or to a vehicle owner or operator as part of a
834 challenge to the imposition of a civil penalty; or (iv) be used in a court in a pending action or
835 proceeding unless the action or proceeding relates to a violation of the Authority regulation governing
836 usage of the Dulles Access Highway or upon order from a court of competent jurisdiction. Information
837 collected by the system shall be protected in a database with security comparable to that of the
838 Department of Motor Vehicles' system, and be purged and not retained later than 30 days after the
839 collection and reconciliation of any civil penalties and administrative fees. The operator of the Dulles
840 Access Highway shall annually certify compliance with this subsection and make all records pertaining
841 to such system available for inspection and audit by the Commissioner of Highways or the
842 Commissioner of the Department of Motor Vehicles or their designee. Any violation of this subsection
843 shall constitute a Class 1 misdemeanor. In addition to any fines or other penalties provided for by law,
844 any money or other thing of value obtained as a result of a violation of this subsection shall be forfeited
845 to the Commonwealth.

846 C. The operator of the Dulles Access Highway may impose and collect an administrative fee, in
847 addition to the civil penalty established by regulation, so as to recover the expenses of collecting the
848 civil penalty, which administrative fee shall be reasonably related to the actual cost of collecting the
849 civil penalty and shall not exceed \$100 per violation. Such fee shall not be levied upon the operator of
850 the vehicle until a second violation has been documented within 12 months of an initial violation, in
851 which case the fee shall apply to such second violation and to any additional violation occurring
852 thereafter. If the recipient of the notice referenced in subsection A makes the election provided by that
853 subsection, the administrative fee shall not exceed \$25.

854 D. If the election provided for in subsection A is not made, the operator of the Dulles Access
855 Highway may proceed to enforce the violation in court. If the matter proceeds to court, the registered
856 owner or operator of a vehicle shall be liable for the civil penalty set out in the Authority regulation
857 governing usage of the Dulles Access Highway, any applicable administrative fees calculated in
858 accordance with subsection C 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 the Dulles Access Highway in violation of the Authority regulation, provided, that the civil penalty may not exceed the amount of the penalty identified in subsection A.

E. Any action under this section shall be brought in the General District Court of the county in which the violation occurred.

F. Proof of a violation of the Authority regulation governing the use of the Dulles Access Highway shall be evidenced by information obtained from the photo-monitoring system or automatic vehicle identification system referenced in subsection A. A certificate, sworn to or affirmed by a technician employed or authorized by the operator of the Dulles Access Highway, or a facsimile of such a certificate, that is based on inspection of photographs, microphotographs, videotapes, or other recorded images or electronic data produced by the photo-monitoring 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.

G. A summons issued under this section, which describes a vehicle that, on the basis of a certificate referenced in subsection F, is alleged to have been operated in violation of the Authority regulation governing usage of the Dulles Access Highway, shall be prima facie evidence that such vehicle was operated in violation of the Authority regulation.

H. Upon a finding by a court that the vehicle described in the summons issued under this section was in violation of the Authority regulation, the court shall impose a civil penalty upon the registered owner or operator of such vehicle in accordance with the penalty amounts specified in subsection D, together with any applicable court costs and applicable administrative fees calculated in accordance with subsection C. Civil penalties and administrative fees assessed as a result of an action initiated under this section and collected by the court shall be remanded by the clerk of the court that adjudicated the action to the treasurer or director of finance of the county or city in which the violation occurred for payment to the operator of the Dulles Access Highway.

The registered owner of a vehicle shall be given reasonable notice of an enforcement action in court by way of a summons that informs the owner that his vehicle has been used in violation of the Authority regulation governing the use of the Dulles Access Highway and of the time and place of the court hearing, as well as of the civil penalty and court costs for the violation. Upon 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, a summons shall be issued to such alleged operator of the vehicle.

In any action against such 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 addressed in the affidavit.

If the registered owner of the vehicle produces 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 court shall dismiss the summons issued to the registered owner of the vehicle.

I. Upon a finding by a court that a person has three or more violations of the Authority regulation governing the use of the Dulles Access Highway and has failed to pay the required civil penalties, administrative fees and court costs into the court, the court shall notify the Commissioner of the Department of Motor Vehicles, who shall refuse to issue or renew any vehicle registration certificate to or for such person or the license plate for the vehicle owned by such person until the court has notified the Commissioner that such civil penalties, fees, and costs have been paid. The Commissioner shall collect a \$40 administrative fee from such person to defray the cost of responding to court notices given pursuant to this subsection.

J. For purposes of this section, "operator of the Dulles Access Highway" means the Metropolitan Washington Airports Authority; "owner" means the registered owner of a vehicle on record with the Department of Motor Vehicles; "photo-monitoring system" means equipment that produces one or more photographs, microphotographs, videotapes, or other recorded images of vehicles at the time they are used or operated in violation of the Authority regulation governing the use of the Dulles Access Highway; "automatic vehicle identification system" means an electronic vehicle identification system that automatically produces an electronic record of each vehicle equipped with an automatic vehicle identification device that uses monitored portions of the Dulles Access Highway; and "automatic vehicle identification device" means an electronic device that communicates by wireless transmission with an automatic vehicle identification system.

920 K. Any vehicle rental or vehicle leasing company, if named in a summons, shall be released as a
921 party to the action if it provides the operator of the Dulles Access Highway with a copy of the vehicle
922 rental agreement or lease, or an affidavit that identifies the renter or lessee, prior to the date of hearing
923 set forth in the summons. Upon receipt of such rental agreement, lease, or affidavit, a summons shall be
924 issued to such renter or lessee. Release of this information shall not be deemed a violation of any
925 provision of the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.) or the
926 Insurance Information and Privacy Protection Act (§ 38.2-600 et seq.). In any action against the renter or
927 lessee, a copy of the vehicle rental agreement, lease, or affidavit identifying the renter or lessee of the
928 vehicle at the time of the violation shall be prima facie evidence that the person named in the rental
929 agreement, lease, or affidavit was operating the vehicle at all the relevant times relating to the matter
930 named in the summons.

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

936 M. On a form prescribed by the Supreme Court, a summons for a violation of the Authority
937 regulation governing the use of the Dulles Access Highway may be executed pursuant to § 19.2-76.2.
938 The operator of the Dulles Access Highway or its personnel or agents mailing such summons shall be
939 considered conservators of the peace for the sole and limited purpose of mailing such summons.
940 Pursuant to § 19.2-76.2, the summons for a violation of the Authority regulation governing usage of the
941 Dulles Access Highway may be executed by mailing by first-class mail a copy thereof to the address of
942 the owner of the vehicle as shown on the records of the Department of Motor Vehicles or, if the
943 registered owner or rental or leasing company has named and provided a valid address for the operator
944 of the vehicle at the time of the violation as provided in this section, to the address of such named
945 operator of the vehicle. If the summoned person fails to appear on the date of return set out in the
946 summons mailed pursuant to this section, the summons shall be executed in the manner set out in
947 § 19.2-76.3.

948 N. The operator of the Dulles Access Highway may enter into an agreement with the Department of
949 Motor Vehicles, in accordance with the provisions of subdivision B C 21 of § 46.2-208, to obtain
950 vehicle owner information regarding the registered owners of vehicles that improperly use the Dulles
951 Access Highway. Information provided to the operator of the Dulles Access Highway shall only be used
952 in the enforcement of the Authority regulation governing use of the Dulles Access Highway, and the
953 operator shall be subject to the same conditions and penalties regarding release of the information as
954 contained in subsection B.

955 O. Should other vehicle recognition technology become available that is appropriate to be used for
956 the purpose of monitoring improper usage of the Dulles Access Highway, the operator of the Dulles
957 Access Highway shall be permitted to use any such technology that has been approved for use by the
958 Virginia State Police, the Commonwealth of Virginia, or any of its localities.

959 P. All civil penalties paid to the operator of the Dulles Access Highway pursuant to this section shall
960 be used by the operator of the Dulles Access Highway only for the operation and improvement of the
961 Dulles Corridor, including the Dulles Toll Road.