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## SENATE BILL NO. 1117

Offered January 9, 2013

Prefiled January 9, 2013

A *BILL to amend and reenact §§ 8.2A-104, 19.2-81, 29.1-738, 29.1-801, and 58.1-1404 of the Code of Virginia, to amend the Code of Virginia by adding in Chapter 7 of Title 29.1 an article numbered 2.1, consisting of sections numbered 29.1-733.2 through 29.1-733.29, and to repeal Article 2 (§§ 29.1-712 through 29.1-733.1) of Chapter 7 of Title 29.1, relating to watercraft titling certificates; penalty.*

Patron—Wagner

Referred to Committee on Agriculture, Conservation and Natural Resources

**Be it enacted by the General Assembly of Virginia:**

1. That §§ 8.2A-104, 19.2-81, 29.1-738, 29.1-801, and 58.1-1404 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 7 of Title 29.1 an article numbered 2.1, consisting of sections numbered 29.1-733.2 through 29.1-733.29, as follows:

**§ 8.2A-104. Leases subject to other law.**

(1) A lease, although subject to this title, is also subject to any applicable:

(a) Certificate of title statute of this Commonwealth such as Article 2 (§ 46.2-616 et seq.) of Chapter 6 of Title 46.2 and Article 2 (§ ~~29.1-712~~ et seq.) 2.1 (§ 29.1-733.2 et seq.) of Chapter 7 of Title 29.1;

(b) Certificate of title statute of another jurisdiction (§ 8.2A-105); or

(c) Consumer protection statute of this Commonwealth, such as Chapter 17 (§ 59.1-196 et seq.) of Title 59.1, or final consumer protection decision of a court of this Commonwealth existing on the effective date of this title.

(2) In case of conflict between this title, other than §§ 8.2A-105, 8.2A-304 (3) and 8.2A-305 (3), and a statute or decision referred to in subsection (1) of this section, the statute or decision controls.

(3) Failure to comply with an applicable law has only the effect specified therein.

**§ 19.2-81. Arrest without warrant authorized in certain cases.**

A. The following officers shall have the powers of arrest as provided in this section:

1. Members of the State Police force of the Commonwealth;

2. Sheriffs of the various counties and cities, and their deputies;

3. Members of any county police force or any duly constituted police force of any city or town of the Commonwealth;

4. The Commissioner, members and employees of the Marine Resources Commission granted the power of arrest pursuant to § 28.2-900;

5. Regular conservation police officers appointed pursuant to § 29.1-200;

6. United States Coast Guard and United States Coast Guard Reserve commissioned, warrant, and petty officers authorized under § 29.1-205 to make arrests;

7. The special policemen of the counties as provided by § 15.2-1737, provided such officers are in uniform, or displaying a badge of office;

8. Conservation officers appointed pursuant to § 10.1-115;

9. Full-time sworn members of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217;

10. Special agents of the Department of Alcoholic Beverage Control; and

11. Campus police officers appointed under Chapter 17 (§ 23-232 et seq.) of Title 23.

B. Such officers may arrest without a warrant any person who commits any crime in the presence of the officer and any person whom he has reasonable grounds or probable cause to suspect of having committed a felony not in his presence.

Such officers may arrest without a warrant any person whom the officer has probable cause to suspect of operating any watercraft or motorboat while (i) intoxicated in violation of subsection B of § 29.1-738 or a substantially similar ordinance of any county, city, or town in the Commonwealth or (ii) in violation of an order issued pursuant to § 29.1-738.4 and may thereafter transfer custody of the person arrested to another officer, who may obtain a warrant based upon statements made to him by the arresting officer.

C. Any such officer may, at the scene of any accident involving a motor vehicle, watercraft as defined in § ~~29.1-712~~ § 29.1-733.2 or motorboat, or at any hospital or medical facility to which any person involved in such accident has been transported, or in the apprehension of any person charged

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59 with the theft of any motor vehicle, on any of the highways or waters of the Commonwealth, upon  
 60 reasonable grounds to believe, based upon personal investigation, including information obtained from  
 61 eyewitnesses, that a crime has been committed by any person then and there present, apprehend such  
 62 person without a warrant of arrest. For purposes of this section, "the scene of any accident" shall include  
 63 a reasonable location where a vehicle or person involved in an accident has been moved at the direction  
 64 of a law-enforcement officer to facilitate the clearing of the highway or to ensure the safety of the  
 65 motoring public.

66 D. Such officers may, within three hours of the alleged offense, arrest without a warrant at any  
 67 location any person whom the officer has probable cause to suspect of driving or operating a motor  
 68 vehicle, watercraft or motorboat while intoxicated in violation of § 18.2-266, 18.2-266.1, 46.2-341.24, or  
 69 subsection B of § 29.1-738; or a substantially similar ordinance of any county, city, or town in the  
 70 Commonwealth, whether or not the offense was committed in such officer's presence. Such officers may,  
 71 within three hours of the alleged offense, arrest without a warrant at any location any person whom the  
 72 officer has probable cause to suspect of operating a watercraft or motorboat in violation of an order  
 73 issued pursuant to § 29.1-738.4, whether or not the offense was committed in such officer's presence.

74 E. Such officers may arrest, without a warrant or a capias, persons duly charged with a crime in  
 75 another jurisdiction upon receipt of a photocopy of a warrant or a capias, telegram, computer printout,  
 76 facsimile printout, a radio, telephone or teletype message, in which photocopy of a warrant, telegram,  
 77 computer printout, facsimile printout, radio, telephone or teletype message shall be given the name or a  
 78 reasonably accurate description of such person wanted and the crime alleged.

79 F. Such officers may arrest, without a warrant or a capias, for an alleged misdemeanor not  
 80 committed in his presence when the officer receives a radio message from his department or other  
 81 law-enforcement agency within the Commonwealth that a warrant or capias for such offense is on file.

82 G. Such officers may also arrest without a warrant for an alleged misdemeanor not committed in  
 83 their presence involving (i) shoplifting in violation of § 18.2-96 or 18.2-103 or a similar local ordinance,  
 84 (ii) carrying a weapon on school property in violation of § 18.2-308.1, (iii) assault and battery, (iv)  
 85 brandishing a firearm in violation of § 18.2-282, or (v) destruction of property in violation of  
 86 § 18.2-137, when such property is located on premises used for business or commercial purposes, or a  
 87 similar local ordinance, when any such arrest is based on probable cause upon reasonable complaint of  
 88 the person who observed the alleged offense. The arresting officer may issue a summons to any person  
 89 arrested under this section for a misdemeanor violation involving shoplifting.

#### 90 Article 2.1.

#### 91 Virginia Uniform Certificate of Title for Watercraft Act.

#### 92 § 29.1-733.2. Definitions.

93 *The definitions in this section do not apply to any Virginia or federal law governing licensing,*  
 94 *numbering, or registration if the same term is used in that law. As used in this article, unless the*  
 95 *context requires a different meaning:*

96 *"Abandoned watercraft" means a watercraft that is left unattended on private property for more than*  
 97 *10 days without the consent of the property's owner, regardless of whether it was brought onto the*  
 98 *private property with the consent of the owner or person in control of the private property.*

99 *"Agreement" means the same as that term is defined in subdivision (b) (3) of § 8.1A-201.*

100 *"Barge" means a watercraft that is not self-propelled or fitted for propulsion by sail, paddle, oar, or*  
 101 *similar device.*

102 *"Builder's certificate" means a certificate of the facts of the build of a vessel described in 46 C.F.R.*  
 103 *§ 67.99, as amended.*

104 *"Buyer" means a person that buys or contracts to buy a watercraft.*

105 *"Buyer in ordinary course of business" means the same as that term is defined in subdivision (b) (9)*  
 106 *of § 8.1A-201.*

107 *"Cancel," with respect to a certificate of title, means to make the certificate ineffective.*

108 *"Certificate of origin" means a record created by a manufacturer or importer as the manufacturer's*  
 109 *or importer's proof of identity of a watercraft. The term includes a manufacturer's certificate or*  
 110 *statement of origin and an importer's certificate or statement of origin. The term does not include a*  
 111 *builder's certificate.*

112 *"Certificate of title" means a record, created by the Department under this article or by a*  
 113 *governmental agency of another jurisdiction under the law of that jurisdiction that is designated as a*  
 114 *certificate of title by the Department or agency and is evidence of ownership of a watercraft.*

115 *"Conspicuous" means the same as that term is defined in subdivision (b) (10) of § 8.1A-201.*

116 *"Consumer goods" means the same as that term is defined in subdivision (a) (23) of § 8.9A-102.*

117 *"Dealer" means any watercraft dealer as defined in § 29.1-801.*

118 *"Debtor" means the same as that term is defined in subdivision (a) (28) of § 8.9A-102.*

119 *"Documented vessel" means a watercraft covered by a certificate of documentation issued pursuant*  
 120 *to 46 U.S.C. § 12105, as amended. The term does not include a foreign-documented vessel.*

"Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

"Electronic certificate of title" means a certificate of title consisting of information that is stored solely in an electronic medium and is retrievable in perceivable form.

"Foreign-documented vessel" means a watercraft whose ownership is recorded in a registry maintained by a country other than the United States that identifies each person that has an ownership interest in a watercraft and includes a unique alphanumeric designation for the watercraft.

"Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.

"Hull damaged" means compromised with respect to the integrity of a watercraft's hull by a collision, allision, lightning strike, fire, explosion, running aground, or similar occurrence, or the sinking of a watercraft in a manner that creates a significant risk to the integrity of the watercraft's hull.

"Hull identification number" means the alphanumeric designation assigned to a watercraft pursuant to 33 C.F.R. Part 181, as amended.

"Knowledge" means the same as that term is defined in § 8.1A-202.

"Lease" means the same as that term is defined in subdivision (1) (j) of § 8.2A-103.

"Lessor" means the same as that term is defined in subdivision (1) (p) of § 8.2A-103.

"Lien creditor," with respect to a watercraft, means:

1. A creditor that has acquired a lien on the watercraft by attachment, levy, or the like;
2. An assignee for benefit of creditors from the time of assignment;
3. A trustee in bankruptcy from the date of the filing of the petition; or
4. A receiver in equity from the time of appointment.

"Notice" means the same as that term is defined in § 8.1A-202.

"Owner" means a person that has legal title to a watercraft.

"Owner of record" means the owner indicated in the files of the Department or, if the files indicate more than one owner, the one first indicated.

"Person" means an individual, corporation, business trust, estate, trust, statutory trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

"Purchase" means to take by sale, lease, mortgage, pledge, consensual lien, security interest, gift, or any other voluntary transaction that creates an interest in a watercraft.

"Purchaser" means a person that takes by purchase.

"Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

"Registration number" means the alphanumeric designation for a vessel issued pursuant to 46 U.S.C. § 12301, as amended.

"Representative" means the same as that term is defined in subdivision (b) (33) of § 8.1A-201.

"Sale" means the same as that term is defined in § 8.2-106.

"Secured party," with respect to a watercraft, means a person:

1. In whose favor a security interest is created or provided for under a security agreement, whether or not any obligation to be secured is outstanding;
2. That is a consignor under Title 8.9A; or
3. That holds a security interest arising under § 8.2-401 or 8.2-505, subsection (3) of § 8.2-711, or subsection (5) of § 8.2A-508.

"Secured party of record" means the secured party whose name is indicated as the name of the secured party in the files of the Department or, if the files indicate more than one secured party, the one first indicated.

"Security agreement" means the same as that term is defined in subdivision (a) (74) of § 8.9A-102.

"Security interest" means an interest in a watercraft that secures payment or performance of an obligation if the interest is created by contract or arises under § 8.2-401 or 8.2-505, subsection (3) of § 8.2-711, or subsection (5) of § 8.2A-508. The term includes any interest of a consignor in a watercraft in a transaction that is subject to Title 8.9A. The term does not include the special property interest of a buyer of a watercraft on identification of that watercraft to a contract for sale under § 8.2-401, but a buyer also may acquire a security interest by complying with Title 8.9A. Except as otherwise provided in § 8.2-505, the right of a seller or lessor of a watercraft under Title 8.2 or Title 8.2A to retain or acquire possession of the watercraft is not a security interest, but a seller or lessor also may acquire a security interest by complying with Title 8.9A. The retention or reservation of title by a seller of a watercraft notwithstanding shipment or delivery to the buyer under § 8.2-401 is limited in effect to a reservation of a security interest. Whether a transaction in the form of a lease creates a security interest is determined by § 8.1A-304.

182 "Seller" means the same as that term is defined in subdivision (1) (o) of § 8.2A-103.

183 "Send" means the same as that term is defined in subdivision (b) (36) of § 8.1A-201.

184 "Sign" means, with present intent to authenticate or adopt a record, to:

185 1. Make or adopt a tangible symbol; or

186 2. Attach to or logically associate with the record an electronic symbol, sound, or process.

187 "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States  
188 Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

189 "State of principal use" means the state on whose waters a watercraft is or will be used, operated,  
190 navigated, or employed more than on the waters of any other state during a calendar year.

191 "Title brand" means a designation of previous damage, use, or condition that shall be indicated on a  
192 certificate of title.

193 "Transfer of ownership" means a voluntary or involuntary conveyance of an interest in a watercraft.

194 "Value" means the same as that term is defined in § 8.1A-204.

195 "Watercraft" means any vessel used or capable of being used as a means of transportation on water,  
196 except:

197 1. A seaplane;

198 2. An amphibious vehicle for which a certificate of title is issued pursuant to Chapter 6 (§ 46.2-600  
199 et seq.) of Title 46.2 or a similar statute of another state;

200 3. Vessels less than 16 feet in length and propelled solely by sail, paddle, oar, or an engine of less  
201 than 10 horsepower;

202 4. Vessels that operate only on a permanently fixed, manufactured course and whose movement is  
203 restricted to or guided by means of a mechanical device to which the vessel is attached or by which the  
204 vessel is controlled;

205 5. A stationary floating structure that:

206 a. Does not have and is not designed to have a mode of propulsion of its own;

207 b. Is dependent for utilities upon a continuous utility hookup to a source originating on shore; and

208 c. Has a permanent, continuous hookup to a shoreside sewage system;

209 6. Vessels owned by the United States, a state, or a foreign government or a political subdivision of  
210 any of them; and

211 7. A vessel used solely as a lifeboat on another vessel.

212 "Written certificate of title" means a certificate of title consisting of information inscribed on a  
213 tangible medium.

214 **§ 29.1-733.3. Applicability.**

215 Subject to § 29.1-733.29, this article applies to any transaction, certificate of title, or record relating  
216 to a watercraft, even if the transaction, certificate of title, or record was entered into or created before  
217 July 1, 2013.

218 **§ 29.1-733.4. Supplemental principles of law and equity.**

219 Unless displaced by a provision of this article, the principles of law and equity supplement its  
220 provisions.

221 **§ 29.1-733.5. Law governing watercraft covered by certificate of title.**

222 A. The law of the state or other jurisdiction under whose certificate of title a watercraft is covered  
223 governs all issues relating to the certificate from the time the watercraft becomes covered by the  
224 certificate until the watercraft becomes covered by another certificate or becomes a documented  
225 watercraft, even if no other relationship exists between the jurisdiction and the watercraft or its owner.

226 B. A watercraft becomes covered by a certificate of title when an application for the certificate and  
227 the applicable fee are delivered to the Department in accordance with this article or to the  
228 governmental agency that creates a certificate in another jurisdiction in accordance with the law of that  
229 jurisdiction.

230 **§ 29.1-733.6. Certificate of title required.**

231 A. No person shall operate a watercraft subject to titling under this chapter unless the owner has  
232 applied to the Department for a certificate of title for the watercraft or has been issued a valid  
233 temporary registration certificate as provided for in § 29.1-703.1. Except as otherwise provided in  
234 subsections B through E, the owner of a watercraft for which Virginia is the state of principal use shall  
235 deliver to the Department an application for a certificate of title for the watercraft, with the applicable  
236 fee, not later than 20 days after the later of:

237 1. The date of a transfer of ownership; or

238 2. The date Virginia becomes the state of principal use.

239 B. An application for a certificate of title is not required for:

240 1. A documented vessel;

241 2. A foreign-documented vessel;

242 3. A barge;

243 4. A watercraft before delivery if the watercraft is under construction or completed pursuant to

contract; or

5. A watercraft held by a dealer for sale or lease.

C. A dealer transferring a watercraft required to be titled under this article shall assign the title to the new owner or, in the case of a new watercraft, assign the certificate of origin. The dealer shall forward all fees and applications to the Department within 20 days of sale. Each dealer shall maintain a record for six years of any watercraft he bought, sold, exchanged, or received for sale or exchange. This record shall be available for inspection by Department representatives during reasonable business hours.

D. No dealer shall purchase or acquire a new watercraft without obtaining from the seller a certificate of origin. No manufacturer, importer, dealer, or other person shall sell or otherwise dispose of a new watercraft to a dealer for purposes of display and resale without delivering to the dealer a certificate of origin. The certificate of origin shall be a uniform or standardized form prescribed by the Department and shall contain:

1. On the front, a description of the watercraft including its trade name, if any, year, series or model, body type, and manufacturer's serial number; certification of date of transfer of watercraft and name and address of transferee; certification that this was the transfer of watercraft in ordinary trade and commerce; and the signature and address of a representative of the transferor; and

2. On the reverse side, an assignment form, including the name and address of the transferee, a certification that the watercraft is new, and a warranty that the title at the time of delivery is subject only to such liens and encumbrances as set forth and described in full in the assignment.

E. The Department shall not issue, transfer, or renew pursuant to the requirements of 46 U.S.C. § 12301, as amended, a certificate of number for a watercraft unless the Department has created a certificate of title for the watercraft or an application for a certificate for the watercraft and the applicable fee have been delivered to the Department. Any owner of a watercraft that was not previously required to be titled and whose certificate of number expires after January 1, 1998, shall apply for a certificate of title at the time of renewal of the certificate of number.

**§ 29.1-733.7. Application for certificate of title.**

A. Except as otherwise provided in § 29.1-733.10, 29.1-733.15, 29.1-733.19, 29.1-733.20, 29.1-733.21, or 29.1-733.22, only an owner may apply for a certificate of title.

B. An application for a certificate of title shall be signed by the applicant and contain:

1. The applicant's name, the street address of the applicant's principal residence, and, if different, the applicant's mailing address;

2. The name and mailing address of each other owner of the watercraft at the time of application;

3. The motor vehicle driver's license number, social security number, or taxpayer identification number of each owner;

4. The hull identification number for the watercraft or, if none, an application for the issuance of a hull identification number for the watercraft;

5. The registration number for the watercraft or, if none issued by the Department, an application for a registration number;

6. A description of the watercraft as required by the Department, which shall include:

a. The official number for the watercraft, if any, assigned by the U.S. Coast Guard;

b. The name of the manufacturer, builder, or maker;

c. The model year or the year in which the manufacture or build of the watercraft was completed;

d. The overall length of the watercraft;

e. The watercraft type;

f. The hull material;

g. The propulsion type;

h. The engine drive type, if any;

i. The motor identification, including manufacturer's name and serial number, except on motors of 25 horsepower or less; and

j. The fuel type, if any;

7. An indication of all security interests in the watercraft known to the applicant and the name and mailing address of each secured party;

8. A statement that the watercraft is not a documented vessel or a foreign-documented vessel;

9. Any title brand known to the applicant and, if known, the jurisdiction under whose law the title brand was created;

10. If the applicant knows that the watercraft is hull damaged, a statement that the watercraft is hull damaged;

11. If the application is made in connection with a transfer of ownership, the transferor's name, street address and, if different, mailing address, the sales price, if any, and the date of the transfer; and

12. If the watercraft previously was registered or titled in another jurisdiction, a statement

305 identifying each jurisdiction known to the applicant in which the watercraft was registered or titled.

306 C. In addition to the information required by subsection B, an application for a certificate of title  
307 may contain an electronic communication address of the owner, transferor, or secured party.

308 D. Except as otherwise provided in § 29.1-733.19, 29.1-733.20, 29.1-733.21, or 29.1-733.22, an  
309 application for a certificate of title shall be accompanied by:

310 1. A certificate of title that is signed by the owner shown on the certificate and that:

311 a. Identifies the applicant as the owner of the watercraft; or

312 b. Is accompanied by a record that identifies the applicant as the owner; or

313 2. If there is no certificate of title:

314 a. If the watercraft was a documented vessel, a record issued by the U.S. Coast Guard that shows  
315 that the watercraft is no longer a documented vessel and identifies the applicant as the owner;

316 b. If the watercraft was a foreign-documented vessel, a record issued by the foreign country that  
317 shows that the watercraft is no longer a foreign-documented vessel and identifies the applicant as the  
318 owner; or

319 c. In all other cases, a certificate of origin, bill of sale, or other record that to the satisfaction of the  
320 Department identifies the applicant as the owner. Issuance of registration under the provisions of  
321 § 29.1-702 is prima facie evidence of ownership of a watercraft and entitlement to a certificate of title  
322 under the provisions of this article.

323 E. A record submitted in connection with an application is part of the application. The Department  
324 shall maintain the record in its files.

325 F. The Department shall require that an application for a certificate of title be accompanied by  
326 payment or evidence of payment of all fees and taxes payable by the applicant under law of the  
327 Commonwealth other than this article in connection with the application or the acquisition or use of the  
328 watercraft. The Department shall charge \$7 for issue of each certificate of title, transfer of title, or for  
329 the recording of a supplemental lien. The Department shall charge \$2 for the issuance of each duplicate  
330 title or for changes to a previously issued certificate of title that are made necessary by a change of the  
331 motor on the watercraft. Any watercraft purchased and used by a nonprofit volunteer rescue squad shall  
332 be exempt from the fees imposed under this section.

333 G. The application shall be on forms prescribed and furnished by the Department and shall contain  
334 any other information required by the Director.

335 H. Whenever any person, after applying for or obtaining the certificate of title of a watercraft, moves  
336 from the address shown in the application or upon the certificate of title, he shall, within 30 days, notify  
337 the Department in writing of his change of address. A fee of \$7 shall be imposed upon anyone failing to  
338 comply with this subsection within the time prescribed.

339 **§ 29.1-733.8. Creation and cancellation of certificate of title.**

340 A. Unless an application for a certificate of title is rejected under subsection C or D, the Department  
341 shall create a certificate for the watercraft in accordance with subsection B not later than 20 days after  
342 delivery to it of an application that complies with § 29.1-733.7.

343 B. If the Department creates electronic certificates of title, the Department shall create an electronic  
344 certificate unless in the application the secured party of record or, if none, the owner of record,  
345 requests that the Department create a written certificate.

346 C. Except as otherwise provided in subsection D, the Department shall reject an application for a  
347 certificate of title only if:

348 1. The application does not comply with § 29.1-733.7;

349 2. The application does not contain documentation sufficient for the Department to determine  
350 whether the applicant is entitled to a certificate;

351 3. There is a reasonable basis for concluding that the application is fraudulent or issuance of a  
352 certificate would facilitate a fraudulent or illegal act; or

353 4. The application does not comply with the law of the Commonwealth other than this article.

354 D. The Department shall reject an application for a certificate of title for a watercraft that is a  
355 documented vessel or a foreign-documented vessel.

356 E. The Department shall cancel a certificate of title created by it only if the Department:

357 1. Could have rejected the application for the certificate under subsection C;

358 2. Is required to cancel the certificate under another provision of this article; or

359 3. Receives satisfactory evidence that the watercraft is a documented vessel or a foreign-documented  
360 vessel.

361 F. The Department shall provide an opportunity for an informal finding at which the owner and any  
362 other interested party may present evidence in support of or opposition to cancellation of a certificate of  
363 title. The Department shall serve all owners and secured parties indicated in the files of the Department  
364 with notice of the opportunity for an informal finding. Service shall be made personally or by mail  
365 through the U.S. Postal Service, properly addressed, postage paid, return receipt requested. Service by  
366 mail is complete on deposit with the U.S. Postal Service. The Department by rule may authorize service

by electronic transmission if a copy is sent on the same day by first-class mail or by a commercial delivery company. If not later than 30 days after the notice was served, the Department receives a request for an informal finding from an interested party, the Department shall hold the hearing not later than 20 days after receiving the request.

**§ 29.1-733.9. Content of certificate of title.**

A. A certificate of title shall contain:

1. The date the certificate was created;
2. The name of the owner of record and, if not all owners are listed, an indication that there are additional owners indicated in the files of the Department;
3. The mailing address of the owner of record;
4. The hull identification number;
5. The information listed in subdivision B 6 of § 29.1-733.7;
6. Except as otherwise provided in subsection B of § 29.1-733.15, the name and mailing address of the secured party of record, if any, and if not all secured parties are listed, an indication that there are other security interests indicated in the files of the Department; and
7. All title brands indicated in the files of the Department covering the watercraft, including brands indicated on a certificate created by a governmental agency of another jurisdiction and delivered to the Department.

B. The Department may note on a certificate of title the name and mailing address of a secured party that is not a secured party of record.

C. For each title brand indicated on a certificate of title, the certificate shall identify the jurisdiction under whose law the title brand was created or the jurisdiction that created the certificate on which the title brand was indicated. If the meaning of a title brand is not easily ascertainable or cannot be accommodated on the certificate, the certificate may state: "Previously branded in (insert the jurisdiction under whose law the title brand was created or whose certificate of title previously indicated the title brand)."

D. If the files of the Department indicate that a watercraft previously was registered or titled in a foreign country, the Department shall indicate on the certificate of title that the watercraft was registered or titled in that country.

E. A written certificate of title shall contain a form that all owners indicated on the certificate may sign to evidence consent to a transfer of an ownership interest to another person. The form shall include a certification, signed under penalty of perjury, that the statements made are true and correct to the best of each owner's knowledge, information, and belief.

F. A written certificate of title shall contain a form for the owner of record to indicate, in connection with a transfer of an ownership interest, that the watercraft is hull damaged.

**§ 29.1-733.10. Title brand.**

A. Unless subsection C applies, at or before the time the owner of record transfers an ownership interest in a hull-damaged watercraft that is covered by a certificate of title created by the Department, if the damage occurred while that person was an owner of the watercraft and the person has notice of the damage at the time of the transfer, the owner shall:

1. Deliver to the Department an application for a new certificate that complies with § 29.1-733.7 and includes the title brand designation "Hull Damaged"; or
2. Indicate on the certificate in the place designated for that purpose that the watercraft is hull damaged and deliver the certificate to the transferee.

B. Not later than 20 days after delivery to the Department of the application under subdivision A 1 or the certificate of title under subdivision A 2, the Department shall create a new certificate that indicates that the watercraft is branded "Hull Damaged."

C. Before an insurer transfers an ownership interest in a hull-damaged watercraft that is covered by a certificate of title created by the Department, the insurer shall deliver to the Department an application for a new certificate that complies with § 29.1-716.1 and includes the title brand designation "Hull Damaged." Not later than 20 days after delivery of the application to the Department, the Department shall create a new certificate that indicates that the watercraft is branded "Hull Damaged."

D. An owner of record that fails to comply with subsection A, a person that solicits or colludes in a failure by an owner of record to comply with subsection A, or an insurer that fails to comply with subsection C is subject to a civil penalty of \$1,000.

**§ 29.1-733.11. Maintenance of and access to files.**

A. For each record relating to a certificate of title submitted to the Department, the Department shall:

1. Ascertain or assign the hull identification number for the watercraft;
2. Maintain the hull identification number and all the information submitted with the application

428 pursuant to subsection B of § 29.1-733.7 to which the record relates, including the date and time the  
429 record was delivered to the Department;

430 3. Maintain the files for public inspection subject to subsection E; and

431 4. Index the files of the Department as required by subsection B.

432 B. The Department shall maintain in its files the information contained in all certificates of title  
433 created under this article. The information in the files of the Department shall be searchable by the hull  
434 identification number of the watercraft, the registration number, the name of the owner of record, and  
435 any other method used by the Department.

436 C. The Department shall maintain in its files, for each watercraft for which it has created a  
437 certificate of title, all title brands known to the Department, the name of each secured party known to  
438 the Department, the name of each person known to the Department to be claiming an ownership  
439 interest, and all stolen-property reports the Department has received.

440 D. Upon request, for safety, security, or law-enforcement purposes, the Department shall provide to  
441 federal, state, or local government the information in its files relating to any watercraft for which the  
442 Department has issued a certificate of title.

443 E. Except as otherwise provided by the law of the Commonwealth other than this article, the  
444 information required under § 29.1-733.9 is a public record. The information provided under subdivision  
445 B 3 of § 29.1-733.7 is not a public record.

446 **§ 29.1-733.12. Action required on creation of certificate of title.**

447 A. On creation of a written certificate of title, the Department promptly shall send the certificate to  
448 the secured party of record or, if none, to the owner of record at the address indicated for that person  
449 in the files of the Department. On creation of an electronic certificate of title, the Department promptly  
450 shall send a record evidencing the certificate to the owner of record and, if there is one, to the secured  
451 party of record at the address indicated for that person in the files of the Department. The Department  
452 shall send the record to the person's mailing address or, if indicated in the files of the Department, an  
453 electronic address.

454 B. If the Department creates a written certificate of title, any electronic certificate of title for the  
455 watercraft is canceled and replaced by the written certificate. The Department shall maintain in the files  
456 of the Department the date and time of cancellation.

457 C. Before the Department creates an electronic certificate of title, any written certificate for the  
458 watercraft shall be surrendered to the Department. If the Department creates an electronic certificate,  
459 the Department shall destroy or otherwise cancel the written certificate for the watercraft that has been  
460 surrendered to the Department and maintain in the files of the Department the date and time of  
461 destruction or other cancellation. If a written certificate being canceled is not destroyed, the Department  
462 shall indicate on the face of the certificate that it has been canceled.

463 **§ 29.1-733.13. Effect of certificate of title.**

464 A certificate of title is prima facie evidence of the accuracy of the information in the record that  
465 constitutes the certificate.

466 **§ 29.1-733.14. Effect of possession of certificate of title; judicial process; levy; penalty.**

467 A. Possession of a certificate of title does not by itself provide a right to obtain possession of a  
468 watercraft. Garnishment, attachment, levy, replevin, or other judicial process against the certificate is  
469 not effective to determine possessory rights to the watercraft. This article does not prohibit enforcement  
470 under law of the Commonwealth other than this article of a security interest in, levy on, or foreclosure  
471 of a statutory or common-law lien on a watercraft. Absence of an indication of a statutory or  
472 common-law lien on a certificate does not invalidate the lien.

473 B. A levy made by virtue of an execution, fieri facias, or other proper court order, upon a watercraft  
474 for which a certificate of title has been issued by the Department, shall constitute a lien, when the  
475 officer making the levy reports to the Department at its principal office, on forms provided by the  
476 Department, that the levy has been made and that the vessel levied upon is in the custody of the officer.  
477 Should the lien thereafter be satisfied or should the vessel levied upon and seized thereafter be released  
478 by the officer, he shall immediately report that fact to the Department at its principal office. Any owner  
479 who, after such levy and seizure by an officer and before the report is made by the officer to the  
480 Department, fraudulently assigns or transfers his title to or interest in the watercraft, or causes the  
481 certificate of title to be assigned or transferred, or causes a security interest to be shown upon such  
482 certificate of title, is guilty of a Class 1 misdemeanor.

483 **§ 29.1-733.15. Perfection of security interest.**

484 A. Except as otherwise provided in this section or § 29.1-733.29, a security interest in a watercraft  
485 shall be perfected only by delivery to the Department of an application for a certificate of title that  
486 identifies the secured party and otherwise complies with § 29.1-733.7. The security interest is perfected  
487 on the later of delivery to the Department of the application and the applicable fee or attachment of the  
488 security interest under § 8.9A-203.

489 B. If the interest of a person named as owner, lessor, consignor, or bailor in an application for a



certificate of title delivered to the Department is a security interest, the application sufficiently identifies the person as a secured party. Identification on the application for a certificate of a person as owner, lessor, consignor, or bailor is not by itself a factor in determining whether the person's interest is a security interest.

C. If the Department has created a certificate of title for a watercraft, a security interest in the watercraft shall be perfected by delivery to the Department of an application, on a form the Department shall require, to have the security interest added to the certificate. The application shall be signed by an owner of the watercraft or by the secured party and shall include:

1. The name of the owner of record;
2. The name and mailing address of the secured party;
3. The hull identification number for the watercraft; and
4. If the Department has created a written certificate of title for the watercraft, the certificate.

D. A security interest perfected under subsection C is perfected on the later of delivery to the Department of the application and all applicable fees or attachment of the security interest under § 8.9A-203.

E. On delivery of an application that complies with subsection C and payment of all applicable fees, the Department shall create a new certificate of title pursuant to § 29.1-733.8 and deliver the new certificate or a record evidencing an electronic certificate pursuant to subsection A of § 29.1-733.12. The Department shall maintain in the files of the Department the date and time of delivery of the application to the Department.

F. If a secured party assigns a perfected security interest in a watercraft, the receipt by the Department of a statement providing the name of the assignee as secured party is not required to continue the perfected status of the security interest against creditors of and transferees from the original debtor. A purchaser of a watercraft subject to a security interest that obtains a release from the secured party indicated in the files of the Department or on the certificate takes free of the security interest and of the rights of a transferee unless the transfer is indicated in the files of the Department or on the certificate.

G. This section does not apply to a security interest:

1. In a watercraft by a person during any period in which the watercraft is inventory held for sale or lease by the person or is leased by the person as lessor if the person is in the business of selling watercraft;

2. In a barge for which no application for a certificate of title has been delivered to the Department; or

3. In a watercraft before delivery if the watercraft is under construction, or completed, pursuant to contract and for which no application for a certificate has been delivered to the Department.

H. This subsection applies if a certificate of documentation for a documented vessel is deleted or canceled. If a security interest in the watercraft was valid immediately before deletion or cancellation against a third party as a result of compliance with 46 U.S.C. § 31321, the security interest is and remains perfected until the earlier of four months after cancellation of the certificate or the time the security interest becomes perfected under this article.

I. A security interest in a watercraft arising under § 8.2-401 or 8.2-505, subsection (3) of § 8.2-711, or subsection (5) of § 8.2A-508 is perfected when it attaches but becomes unperfected when the debtor obtains possession of the watercraft, unless before the debtor obtains possession the security interest is perfected pursuant to subsection A or C.

J. A security interest in a watercraft as proceeds of other collateral is perfected to the extent provided in § 8.9A-315.

K. A security interest in a watercraft perfected under the law of another jurisdiction is perfected to the extent provided in subsection (d) of § 8.9A-316.

**§ 29.1-733.16. Termination statement; delivery of certificate of title; penalty.**

A. A secured party indicated in the files of the Department as having a security interest in a watercraft shall deliver a termination statement to the Department and, on the debtor's request, to the debtor by the earlier of:

1. Twenty days after the secured party receives a signed demand from an owner for a termination statement and there is no obligation secured by the watercraft subject to the security interest and no commitment to make an advance, incur an obligation, or otherwise give value secured by the watercraft; or

2. If the watercraft is consumer goods, 30 days after there is no obligation secured by the watercraft and no commitment to make an advance, incur an obligation, or otherwise give value secured by the watercraft.

B. If a written certificate of title has been created and delivered to a secured party and a termination statement is required under subsection A, the secured party, not later than the date required

by subsection A, shall deliver the certificate to the debtor or to the Department with the statement. An owner, upon securing the release of any security interest upon a vessel shown upon the certificate of title issued for the watercraft, may exhibit the documents evidencing the release, signed by the person or persons making such release, and the certificate of title to the Department. If the certificate is lost, stolen, mutilated, destroyed, or is otherwise unavailable or illegible, the secured party shall deliver with the statement, not later than the date required by subsection A, an application for a replacement certificate meeting the requirements of § 29.1-733.22.

C. On delivery to the Department of a termination statement authorized by the secured party, the security interest to which the statement relates ceases to be perfected. If the security interest to which the statement relates was indicated on the certificate of title, the Department shall create a new certificate and deliver the new certificate or a record evidencing an electronic certificate. The Department shall maintain in its files the date and time of delivery to the Department of the statement.

D. A secured party that fails to deliver a required termination statement is liable for any loss that the secured party had reason to know might result from its failure to comply and that could not reasonably have been prevented and for the cost of an application for a certificate of title under § 29.1-733.7 or 29.1-733.22.

F. It shall constitute a Class 1 misdemeanor for a secured party who holds a certificate of title to refuse or fail to surrender the certificate to the owner or his agent within 10 days after the security interest has been paid and satisfied.

**§ 29.1-733.17. Transfer of ownership.**

A. On voluntary transfer of an ownership interest in a watercraft covered by a certificate of title, the following rules apply:

1. If the certificate is a written certificate of title and the transferor's interest is noted on the certificate, the transferor promptly shall sign the certificate and deliver it to the transferee. If the transferor does not have possession of the certificate, the person in possession of the certificate has a duty to facilitate the transferor's compliance with this subdivision. A secured party does not have a duty to facilitate the transferor's compliance with this subdivision if the proposed transfer is prohibited by the security agreement.

2. If the certificate of title is an electronic certificate of title, the transferor promptly shall sign and deliver to the transferee a record evidencing the transfer of ownership to the transferee.

3. The transferee has a right enforceable by specific performance to require the transferor comply with subdivision 1 or 2.

B. The creation of a certificate of title identifying the transferee as owner of record satisfies subsection A.

C. A failure to comply with subsection A or to apply for a new certificate of title does not render a transfer of ownership of a watercraft ineffective between the parties. Except as otherwise provided in § 29.1-733.18, 29.1-733.19, 29.1-733.23, or 29.1-733.24, a transfer of ownership without compliance with subsection A is not effective against another person claiming an interest in the watercraft.

D. A transferor that complies with subsection A is not liable as owner of the watercraft for an event occurring after the transfer, regardless of whether the transferee applies for a new certificate of title.

**§ 29.1-733.18. Effect of missing or incorrect information.**

Except as otherwise provided in § 8.9A-337, a certificate of title or other record required or authorized by this article is effective even if it contains incorrect information or does not contain required information.

**§ 29.1-733.19. Transfer of ownership by secured party's transfer statement.**

A. For the purpose of this section, "secured party's transfer statement" means a record signed by the secured party of record stating that:

1. A default on an obligation secured by the watercraft has occurred;

2. The secured party of record is exercising or has exercised post-default remedies with respect to the watercraft;

3. By reason of the exercise, the secured party of record has the right to transfer the ownership interest of an owner, and the name of the owner;

4. The name and last-known mailing address of the owner of record and the secured party of record;

5. The name of the transferee;

6. All other information required by subsection B of § 29.1-733.7; and

7. One of the following:

a. The certificate of title is an electronic certificate;

b. The secured party does not have possession of the written certificate of title created in the name of the owner of record; or

c. The secured party is delivering the written certificate of title to the Department with the secured party's transfer statement.

B. Unless the Department rejects a secured party's transfer statement for a reason stated in

subsection C of § 29.1-733.8, not later than 20 days after delivery to the Department of the statement and payment of fees and taxes payable under the law of the Commonwealth other than this article in connection with the statement or the acquisition or use of the watercraft, the Department shall:

1. Accept the statement;
  2. Amend the files of the Department to reflect the transfer; and
  3. If the name of the owner whose ownership interest is being transferred is indicated on the certificate of title:
    - a. Cancel the certificate even if the certificate has not been delivered to the Department;
    - b. Create a new certificate indicating the transferee as owner; and
    - c. Deliver the new certificate or a record evidencing an electronic certificate.
- C. An application under subsection A or the creation of a certificate of title under subsection B is not by itself a disposition of the watercraft and does not by itself relieve the secured party of its duties under Title 8.9A.

**§ 29.1-733.20. Transfer by operation of law.**

- A. As used in this section, unless the context requires a different meaning:
- "By operation of law" means pursuant to a law or judicial order affecting ownership of a watercraft:
1. Because of death, such as in the case of a legatee, distributee, or surviving joint owner;
  2. Because of divorce or other family law proceeding;
  3. Because of any written agreement ratified or incorporated in a decree or order of a court of record;
  4. Because of merger, consolidation, dissolution, insolvency, or bankruptcy;
  5. Because of an execution sale;
  6. Through the exercise of the rights of a lien creditor or a person having a lien created by statute or rule of law, including a lien provided for in § 43-34; or
  7. Through other legal process.
- "Transfer-by-law statement" means a record signed by a transferee stating that by operation of law the transferee has acquired or has the right to acquire an ownership interest in a watercraft.
- B. A transfer-by-law statement shall contain:
1. The name and last-known mailing address of the owner of record and the transferee and the other information required by subsection B of § 29.1-733.7;
  2. Documentation sufficient to establish the transferee's ownership interest or right to acquire the ownership interest;
  3. A statement that:
    - a. The certificate of title is an electronic certificate of title;
    - b. The transferee does not have possession of the written certificate of title created in the name of the owner of record; or
    - c. The transferee is delivering the written certificate to the Department with the transfer-by-law statement;
  4. Except for a transfer described in subdivision 1 of the definition of "by operation of law," evidence that notification of the transfer and the intent to file the transfer-by-law statement has been sent to all persons indicated in the files of the Department as having an interest, including a security interest, in the watercraft; and
  5. If the owner is dead and no fiduciary has qualified for his estate, an estate statement to the effect that no qualification for the estate has been made, that no qualification is expected, and that the decedent's debts have been paid or that the proceeds from the sale of the watercraft will be applied against his debts. The estate statement shall contain the name, residence at the time of death, and date of death of the decedent and the names of any other persons having an interest in the watercraft for which the transfer of title is sought. If these persons are of legal age, they shall signify in writing their consent to the transfer.
- C. Unless the Department rejects a transfer-by-law statement for a reason stated in subsection C of § 29.1-733.8 or because the statement does not include documentation or an estate statement satisfactory to the Department as to the transferee's ownership interest or right to acquire the ownership interest, not later than 20 days after delivery to the Department of the transfer-by-law statement and payment of fees and taxes payable under the law of the Commonwealth other than this article in connection with the statement or with the acquisition or use of the watercraft, the Department shall:
1. Accept the statement;
  2. Amend the files of the Department to reflect the transfer; and
  3. If the name of the owner whose ownership interest is being transferred is indicated on the certificate of title:
    - a. Cancel the certificate even if the certificate has not been delivered to the Department;
    - b. Create a new certificate indicating the transferee as owner;

c. Indicate on the new certificate any security interest indicated on the canceled certificate, unless a court order provides otherwise; and

d. Deliver the new certificate or a record evidencing an electronic certificate.

D. This section does not apply to a transfer of an interest in a watercraft by a secured party under Part 6 (§ 8.9A-601 et seq.) of Title 8.9A.

**§ 29.1-733.21. Application for transfer of ownership or termination of security interest without certificate of title.**

A. Except as otherwise provided in § 29.1-733.19 or 29.1-733.20, if the Department receives, unaccompanied by a signed certificate of title, an application for a new certificate that includes an indication of a transfer of ownership or a termination statement, the Department shall create a new certificate under this section only if:

1. All other requirements under §§ 29.1-733.7 and 29.1-733.8 are met;

2. The applicant provides an affidavit stating facts showing the applicant is entitled to a transfer of ownership or termination statement;

3. The applicant provides the Department with satisfactory evidence that notification of the application has been sent to the owner of record and all persons indicated in the files of the Department as having an interest, including a security interest, in the watercraft, at least 45 days have passed since the notification was sent, and the Department has not received an objection from any of those persons; and

4. The applicant submits any other information required by the Department as evidence of the applicant's ownership or right to terminate the security interest, and the Department has no credible information indicating theft, fraud, or an undisclosed or unsatisfied security interest, lien, or other claim to an interest in the watercraft.

B. The Department shall indicate in a certificate of title created under subsection A that the certificate was created without submission of a signed certificate or termination statement. Unless credible information indicating theft, fraud, or an undisclosed or unsatisfied security interest, lien, or other claim to an interest in the watercraft is delivered to the Department not later than one year after creation of the certificate, on request in a form and manner required by the Department, the Department shall remove the indication from the certificate.

C. Unless the Department determines that the value of a watercraft is less than \$5,000, before the Department creates a certificate of title under subsection A, the Department shall require the applicant to post a bond or provide an equivalent source of indemnity or security. The bond, indemnity, or other security shall not exceed twice the value of the watercraft as determined by the Department. The bond, indemnity, or other security shall be in a form required by the Department and provide for indemnification of any owner, purchaser, or other claimant for any expense, loss, delay, or damage, including reasonable attorney fees and costs, but not including incidental or consequential damages, resulting from creation or amendment of the certificate.

D. Unless the Department receives a claim for indemnity not later than one year after creation of a certificate of title under subsection A, on request in a form and manner required by the Department, the Department shall release any bond, indemnity, or other security.

**§ 29.1-733.22. Replacement certificate of title.**

A. If a written certificate of title is lost, stolen, mutilated, destroyed, or otherwise becomes unavailable or illegible, the secured party of record or, if no secured party is indicated in the files of the Department, the owner of record may apply for and, by furnishing information satisfactory to the Department, obtain a replacement certificate in the name of the owner of record.

B. An applicant for a replacement certificate of title shall sign the application and, except as otherwise permitted by the Department, the application shall comply with § 29.1-733.7. The application shall include the existing certificate unless the certificate is lost, stolen, mutilated, destroyed, or otherwise unavailable.

C. A replacement certificate of title created by the Department shall comply with § 29.1-733.9 and indicate on the face of the certificate that it is a replacement certificate.

D. If a person receiving a replacement certificate of title subsequently obtains possession of the original written certificate, the person promptly shall destroy the original certificate of title.

**§ 29.1-733.23. Rights of purchaser other than secured party.**

A. A buyer in ordinary course of business has the protections afforded by subsection (2) of § 8.2-403 and subsection (a) of § 8.9A-320 even if an existing certificate of title was not signed and delivered to the buyer or a new certificate listing the buyer as owner of record was not created.

B. Except as otherwise provided in §§ 29.1-733.17 and 29.1-733.24, the rights of a purchaser of a watercraft that is not a buyer in ordinary course of business or a lien creditor are governed by the Uniform Commercial Code.

**§ 29.1-733.24. Rights of secured party.**

A. Subject to subsection B or C, the effect of perfection and nonperfection of a security interest and

the priority of a perfected or unperfected security interest with respect to the rights of a purchaser or creditor, including a lien creditor, is governed by Titles 8.1A through 8.10.

B. A security interest perfected under this article has priority over any statutory lien on the watercraft, except for a mechanics lien for repairs to the extent of \$150 given by § 43-33 if the requirements exist, provided the mechanic furnishes the holder of any such recorded lien who requests it with an itemized sworn statement of the work done and materials supplied for which the lien is claimed.

C. If, while a security interest in a watercraft is perfected by any method under this article, the Department creates a certificate of title that does not indicate that the watercraft is subject to the security interest or contain a statement that it may be subject to security interests not indicated on the certificate:

1. A buyer of the watercraft, other than a person in the business of selling or leasing watercraft of that kind, takes free of the security interest if the buyer, acting in good faith and without knowledge of the security interest, gives value and receives possession of the watercraft; and

2. The security interest is subordinate to a conflicting security interest in the watercraft that is perfected under § 29.1-733.15 after creation of the certificate and without the conflicting secured party's knowledge of the security interest.

**§ 29.1-733.25. Acquiring title to an abandoned watercraft.**

A. Any watercraft abandoned for a period exceeding 60 days is subject to the provisions of this section.

B. A landowner, his lessee, or his agent may acquire title to any watercraft abandoned on his land or the water immediately adjacent to his land. Acquisition of title, under the provisions of this section, divests any other person of any interest in the watercraft.

C. If a watercraft has a registration number assigned by the Commonwealth or any other state, or if there are other means of identifying the owner, the person desiring to acquire title shall make a good faith effort to secure the last-known address of all owners and lien holders. He shall notify each owner and lien holder by registered letter that if ownership is not claimed and the watercraft not removed within 30 days, he will apply for title to the watercraft in his name.

D. The person desiring to acquire title also shall place a notice, to appear for three consecutive issues, in a newspaper of general circulation in the county or city where the watercraft is located. The notice shall describe the watercraft, its location, and any identifying number or numbers. The notice shall state that if the watercraft is not claimed and removed within 30 days after the first day the notice was published, the person who has placed the notice shall apply to the Department for title to the watercraft.

E. At the end of the 30-day period, the person seeking to acquire the watercraft shall apply to the Department for title. The application shall be accompanied by the following: (i) an affidavit stating that to the best of the applicant's knowledge the watercraft has been abandoned for a period of at least 60 days; (ii) proof that the registered letter required by the Department was mailed at least 30 days prior to application or a detailed explanation of the steps taken to identify the owner and lien holder; and (iii) proof that a notice was printed in a newspaper as required in subsection D.

F. Upon receipt by the Department of all items required by subsection E, and after all fees and taxes due have been paid, the Department shall then issue title to the watercraft to the applicant.

G. All costs incurred in obtaining title to a watercraft under this section shall be borne by the applicant.

**§ 29.1-733.26. Duties and operation of the Department.**

A. The Department shall retain the evidence used to establish the accuracy of the information in its files relating to the current ownership of a watercraft and the information on the certificate of title.

B. The Department shall retain in its files all information regarding a security interest in a watercraft for at least 10 years after the Department receives a termination statement regarding the security interest. The information shall be accessible by the hull identification number for the watercraft and any other methods provided by the Department.

C. If a person submits a record to the Department, or submits information that is accepted by the Department, and requests an acknowledgment of the filing or submission, the Department shall send to the person an acknowledgment showing the hull identification number of the watercraft to which the record or submission relates, the information in the filed record or submission, and the date and time the record was received or the submission accepted. A request under this section shall contain the hull identification number and be delivered by means authorized by the Department.

D. The Department shall send or otherwise make available in a record the following information to any person that requests it and pays the applicable fee:

1. Whether the files of the Department indicate, as of a date and time specified by the Department, but not a date earlier than three days before the Department received the request, any certificate of title, security interest, termination statement, or title brand that relates to a watercraft:

797 a. Identified by a hull identification number designated in the request;  
 798 b. Identified by a registration number designated in the request; or  
 799 c. Owned by a person designated in the request;  
 800 2. With respect to the watercraft:  
 801 a. The name and address of any owner as indicated in the files of the Department or on the  
 802 certificate of title;  
 803 b. The name and address of any secured party as indicated in the files of the Department or on the  
 804 certificate, and the effective date of the information; and  
 805 c. A copy of any termination statement indicated in the files of the Department and the effective date  
 806 of the termination statement; and  
 807 3. With respect to the watercraft, a copy of any certificate of origin, secured party transfer statement,  
 808 transfer by law statement under § 29.1-733.20, and other evidence of previous or current transfers of  
 809 ownership.  
 810 E. In responding to a request under this section, the Department shall provide the requested  
 811 information in any medium. On request, the Department shall send the requested information in a  
 812 record that is self-authenticating.  
 813 F. Employees of the Department are authorized to administer oaths and take acknowledgments and  
 814 affidavits incidental to the administration and enforcement of this article. They shall receive no  
 815 compensation for these services.  
 816 **§ 29.1-733.27. Uniformity of application and construction.**  
 817 In applying and construing this uniform act, consideration shall be given to the need to promote  
 818 uniformity of the law with respect to its subject matter among states that enact it.  
 819 **§ 29.1-733.28. Relationship to Electronic Signatures in Global and National Commerce Act.**  
 820 This article modifies, limits, and supersedes the federal Electronic Signatures in Global and National  
 821 Commerce Act, 15 U.S.C. § 7001, et seq., but does not modify, limit, or supersede § 101(c) of that act,  
 822 15 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices described in § 103(b) of that  
 823 act, 15 U.S.C. § 7003(b).  
 824 **§ 29.1-733.29. Savings clause.**  
 825 A. The rights, duties, and interests flowing from a transaction, certificate of title, or record shall  
 826 remain valid on and after July 1, 2013, if the transaction, certificate of title, or record:  
 827 1. Relates to a watercraft;  
 828 2. Was validly entered into or created before July 1, 2013; and  
 829 3. Would be subject to this article if it had been entered into or created on or after July 1, 2013.  
 830 B. This article does not affect an action or proceeding commenced before July 1, 2013.  
 831 C. Except as otherwise provided in subsection D, a security interest that is enforceable immediately  
 832 before July 1, 2013, and would have priority over the rights of a person that becomes a lien creditor at  
 833 that time is a perfected security interest under this article.  
 834 D. A security interest perfected immediately before July 1, 2013, remains perfected until the earlier  
 835 of:  
 836 1. The time perfection would have ceased under the law under which the security interest was  
 837 perfected; or  
 838 2. Three years after July 1, 2013.  
 839 E. This article does not affect the priority of a security interest in a watercraft if immediately before  
 840 July 1, 2013, the security interest is enforceable and perfected, and that priority is established.  
 841 **§ 29.1-738. Operating boat or manipulating water skis, etc., in reckless manner or while**  
 842 **intoxicated, etc.**  
 843 A. No person shall operate any motorboat or vessel, or manipulate any skis, surfboard, or similar  
 844 device, or engage in any spearfishing while skin diving or scuba diving in a reckless manner so as to  
 845 endanger the life, limb, or property of any person.  
 846 B. No person shall operate any watercraft, as defined in § ~~29.1-712~~ 29.1-733.2, or motorboat which  
 847 is underway (i) while such person has a blood alcohol concentration at or greater than the blood alcohol  
 848 concentration at which it is unlawful to drive or operate a motor vehicle as provided in § 18.2-266 as  
 849 indicated by a chemical test administered in accordance with § 29.1-738.2, (ii) while such person is  
 850 under the influence of alcohol, (iii) while such person is under the influence of any narcotic drug or any  
 851 other self-administered intoxicant or drug of whatsoever nature, or any combination of such drugs, to a  
 852 degree which impairs his ability to operate the watercraft or motorboat safely, (iv) while such person is  
 853 under the combined influence of alcohol and any drug or drugs to a degree which impairs his ability to  
 854 operate the watercraft or motorboat safely, or (v) while such person has a blood concentration of any of  
 855 the following substances at a level that is equal to or greater than: (a) 0.02 milligrams of cocaine per  
 856 liter of blood, (b) 0.1 milligrams of methamphetamine per liter of blood, (c) 0.01 milligrams of  
 857 phencyclidine per liter of blood, or (d) 0.1 milligrams of 3,4-methylenedioxymethamphetamine per liter  
 858 of blood.

C. For purposes of this article, the word "operate" ~~shall include~~ *includes* being in actual physical control of a watercraft or motorboat and "underway" ~~shall mean~~ *means* that a vessel is not at anchor, or made fast to the shore, or aground.

Any person who violates any provision of this section ~~shall be~~ *is* guilty of a Class 1 misdemeanor.

**§ 29.1-801. Definitions.**

Unless the context otherwise requires, the following words and terms for the purpose of this chapter shall have the following meanings:

"Board" means the Board of Game and Inland Fisheries.

"Certificate of origin" means the document provided by the manufacturer of a new watercraft, or its distributor, which is the only valid indication of ownership between the manufacturer, its distributor, its franchised new watercraft dealers, and the original purchaser not for resale.

"Department" means the Department of Game and Inland Fisheries.

"Director" means the Director of the Department.

"Distributor" means a person who sells or distributes new watercraft, pursuant to a written agreement with the manufacturer, to new watercraft dealers in this Commonwealth.

"Distributor branch" means a branch office maintained by a distributor for the sale of watercraft to watercraft dealers or for directing or supervising, in whole or in part, its representatives in this Commonwealth.

"Distributor representative" means a person employed by a distributor or wholesaler, or by a distributor branch, for the purpose of making or promoting the sale of watercraft dealt in by it or for supervising or contacting its dealers, prospective dealers, or representatives in this Commonwealth.

"Established place of business" means a salesroom in a permanent enclosed building or structure, either owned in fee or leased, at which a permanent business of bartering, trading and selling of watercraft will be carried on as such in good faith and at which place of business shall be kept and maintained the books, records, and files necessary to conduct the business at such place. ~~It shall~~ *"Established place of business" does not mean* residences, tents, temporary stands, or other temporary quarters, nor permanent quarters occupied pursuant to any temporary arrangement, devoted principally to the business of a watercraft dealer, as ~~herein~~ *defined in this section*.

"Factory branch" means a branch office, maintained by a person for the sale of watercraft to distributors or for the sale of watercraft to watercraft dealers, or for directing or supervising, in whole or in part, its representatives in this Commonwealth.

"Factory representative" means a person employed by a person who manufactures or assembles watercraft or by a factory branch for the purpose of making or promoting the sale of its watercraft or for supervising or contacting its dealers, prospective dealers, or representatives in this Commonwealth.

"Franchise" means a written contract or agreement between two or more persons whereby one person, the franchisee, is granted the right to engage in the business of offering, selling and servicing new watercraft manufactured or distributed by the grantor of the right, the franchisor, and where the operation of the franchisee's business is substantially associated with the franchisor's trademark, trade name, advertising, or other commercial symbol designating the franchisor, the watercraft or its manufacturer or distributor.

"Manufacturer" means a person engaged in the business of constructing or assembling new watercraft.

"New watercraft" means any watercraft ~~which~~ *that* (i) has not been previously sold except in good faith for the purpose of resale; (ii) has not been used as a rental or demonstration watercraft, or for the personal and business transportation of the manufacturer or dealer or any of their employees, for any use other than the limited use necessary in testing the watercraft prior to delivery to a customer; (iii) is transferred by a certificate of origin; and (iv) has the manufacturer's certification that it conforms to all applicable federal watercraft safety standards.

"New watercraft dealer" means a dealer in new watercraft or new and used watercraft.

"Person" means any natural person or individual, partnership, firm, association, corporation, or other entity.

"Retail installment sale" means and includes every sale of one or more watercraft to a buyer for his use and not for resale, in which the price thereof is payable in one or more installments over a period of time and in which the seller has either retained title to the goods or has taken or retained a security interest in the goods under form of contract designated either as a conditional sale, bailment lease, chattel mortgage or otherwise.

"Sale at retail" or "retail sale" means the act or attempted act of selling, bartering, exchanging, or otherwise disposing of a watercraft to a buyer for his personal use and not for resale.

"Sale at wholesale" or "wholesale" means a sale to watercraft dealers or wholesalers other than to consumers or a sale to one who intends to resell.

"Used watercraft" means any watercraft other than a new watercraft as defined ~~herein~~ *in this section*.

920 "Used watercraft dealer" means a dealer in used watercraft that does not deal in new watercraft.

921 "Watercraft" means *the same as* that *as term is* defined in § ~~29.1-712~~ 29.1-733.2 except that (i)  
922 United States naval watercraft; (ii) watercraft ~~which that~~ have a valid marine document issued by the  
923 United States Coast Guard; other than recreational watercraft under ~~seventy~~ 70 feet in length; and (iii)  
924 watercraft documented outside the United States ~~shall are~~ not be included in such definition for purposes  
925 of this chapter.

926 "Watercraft dealer" means any person ~~which that~~:

927 1. For commission, money, or other thing of value, buys, sells, exchanges, either outright or on  
928 conditional sale, bailment lease, chattel mortgage, or otherwise howsoever, or arranges or offers or  
929 attempts to solicit or negotiate on behalf of others a sale, purchase, or exchange of an interest in, new  
930 watercraft or new and used watercraft or used watercraft alone whether or not such watercraft are owned  
931 by such person; ~~or~~

932 2. Is engaged, wholly or in part, in the business of selling new watercraft or new and used  
933 watercraft, or used watercraft only, whether or not such watercraft are owned by such person; or

934 3. Sells, offers to sell, displays, or permits the display for sale, of two or more watercraft; within any  
935 ~~twelve~~ 12 consecutive months.

936 For the purpose of this chapter, ~~the term~~ "watercraft dealer" does not include:

937 1. Receivers, trustees, administrators, executors, guardians, conservators, or other persons appointed  
938 by or acting under judgment or order of any court or their employees when engaged in the specific  
939 performance of their duties as such employees; ~~or~~

940 2. Public officers, their deputies, assistants, or employees, while performing their official duties; ~~or~~

941 3. Persons, other than corporations or other business entities primarily engaged in the leasing or  
942 renting of watercraft to others, (i) when selling or offering such watercraft for sale at retail; or (ii)  
943 disposing of watercraft acquired for their own use and actually so used, when the same shall have been  
944 so acquired and used in good faith and not for the purpose of avoiding the provisions of this chapter; ~~or~~

945 4. Any corporation duly chartered or authorized to do a banking or trust business under the authority  
946 of the laws of this Commonwealth, or the United States, ~~which that~~ may have received title to a  
947 watercraft in the normal course of its business by reason of a foreclosure, other taking, repossession or  
948 voluntary reconveyance to said corporation arising or occurring as a result of any loan secured by a lien  
949 on said watercraft; ~~or~~

950 5. An employee of an organization arranging for the purchase or lease by the organization of  
951 watercraft for use in the organization's business; ~~or~~

952 6. Any person who permits the operation of a watercraft show or permits the display of watercraft  
953 for sale by any watercraft dealer licensed under this chapter; or

954 7. An insurance company licensed or otherwise authorized to do business in this Commonwealth that  
955 sells or disposes of watercraft under a contract with its insured and in the regular course of its business.

956 "Watercraft demonstrator" means any person who is employed or contracted by a watercraft dealer to  
957 demonstrate watercraft to prospective buyers.

958 "Watercraft salesman" or "salesman" means any person who is employed as a salesman by, or has an  
959 agreement with, a watercraft dealer to sell or exchange watercraft.

960 "Watercraft show" means a display of watercraft to the general public at a location other than a  
961 dealer's location licensed under this chapter where such watercraft may be offered for sale or exchange  
962 during or as part of the display.

963 **§ 58.1-1404. Exemptions.**

964 A. Any watercraft sold to or used by the United States or any of the governmental agencies thereof;  
965 *or* the Commonwealth of Virginia or any political subdivision thereof or sold to an insurance company  
966 for the sole purpose of disposition when such insurance company has paid the registered owner of such  
967 watercraft on a total loss claim; shall be exempt from the tax imposed by this chapter.

968 B. Any person who was the owner of a watercraft ~~which that~~ was not required to be titled prior to  
969 January 1, 1998, shall apply for a title for such watercraft without incurring liability for the tax imposed  
970 under this chapter.

971 C. Any watercraft constructed by a commercial waterman for his own use shall be exempt from the  
972 tax imposed under this chapter.

973 D. Any registered dealer in watercraft shall be exempt from the tax imposed by subdivisions 1 and 2  
974 of § 58.1-1402. Such dealer shall also be exempt from ~~the titling requirement~~ *requirements as provided*  
975 *in § 29.1-713 29.1-733.6.*

976 E. Any watercraft purchased by and for the use of a volunteer sea rescue squad, volunteer fire  
977 department, or a volunteer rescue squad; not conducted for profit shall be exempt from the tax imposed  
978 under this chapter.

979 F. Any watercraft transferred to trustees of a revocable inter vivos trust, when the owners of the  
980 watercraft and the beneficiaries of the trust are the same persons, regardless of whether other  
981 beneficiaries may also be named in the trust instrument, or transferred by trustees of such a trust to



982 beneficiaries of the trust following the death of the grantor, when no consideration has passed between  
983 the grantor and the beneficiaries in either case, shall be exempt from the tax imposed under this chapter.  
984 2. That Article 2 (§§ 29.1-712 through 29.1-733.1) of Chapter 7 of Title 29.1 of the Code of  
985 Virginia is repealed.

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