

13100417D

## SENATE BILL NO. 776

Offered January 9, 2013

Prefiled December 18, 2012

A *BILL to amend and reenact §§ 60.2-114 and 63.2-1946 of the Code of Virginia, relating to reporting information regarding newly hired employees to the Virginia New Hire Reporting Center.*

Patron—Watkins

Referred to Committee on Commerce and Labor

**Be it enacted by the General Assembly of Virginia:****1. That §§ 60.2-114 and 63.2-1946 of the Code of Virginia are amended and reenacted as follows:****§ 60.2-114. Records and reports.**

A. Each employing unit shall keep true and accurate work records, containing such information as the Commission may prescribe. Such records shall be open to inspection and be subject to being copied by the Commission or its authorized representatives at any reasonable time and as often as may be necessary. The Commission may require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, which the Commission deems necessary for the effective administration of this title. Information thus obtained shall not be published or be open to public inspection, other than to public employees in the performance of their public duties, in any manner revealing the employing unit's identity, except as the Commissioner or his delegates deem appropriate, nor shall such information be used in any judicial or administrative proceeding other than one arising out of the provisions of this title; however, the Commission shall make its records about a claimant available to the Workers' Compensation Commission if it requests such records. However, any claimant at a hearing before an appeal tribunal or the Commission shall be supplied with information from such records to the extent necessary for the proper presentation of his claim. Notwithstanding other provisions of this section, the Commissioner, or his delegate, may, in his discretion, reveal information when such communication is not inconsistent with the proper administration of this title.

B. Notwithstanding the provisions of subsection A, the Commission shall, on a reimbursable basis, furnish wage and unemployment compensation information contained in its records to the Secretary of Health and Human Services and the Division of Child Support Enforcement of the Department of Social Services for their use as necessary for the purposes of the National Directory of New Hires established under § 453 (i) of the Social Security Act.

C. Notwithstanding the provisions of subsection A, the Commission shall, upon written request, furnish any agency or political subdivision of the Commonwealth, or its designated agent, such information as it may require for the purpose of collecting fines, penalties, and costs owed to the Commonwealth or its political subdivisions. Such information shall not be published or used in any administrative or judicial proceeding, except in matters arising out of the collection of fines, penalties, and costs owed to the Commonwealth or its political subdivisions.

D. Each employing unit shall report ~~only~~ to the Virginia New Hire Reporting Center the ~~initial~~ employment of any ~~person~~ *newly hired employee*, as defined in ~~§ 60.2-212~~ in compliance with § 63.2-1946.

E. Any member or employee of the Commission and any member, employee, or agent of any agency or political subdivision of the Commonwealth who violates any provision of this section shall be guilty of a Class 2 misdemeanor.

**§ 63.2-1946. Virginia New Hire Reporting Center; State Directory of New Hires; reporting by employers.**

A. ~~Each employing unit shall report to the~~ The Virginia New Hire Reporting Center, ~~shall be operated under the authority of the Division of Child Support Enforcement, the initial employment of any person, as defined in § 60.2-212, within twenty days of such employment.~~ The Center shall operate and maintain the Virginia State Directory of New Hires. The Center is authorized to share information with the Virginia Employment Commission.

B. ~~Each employing unit shall submit information concerning each newly hired employee, as defined in subsection H, to the Center within 20 days of the employment, as defined in § 60.2-212, of the newly hired employee. The information shall include the items required by § 453A of the Social Security Act, 42 U.S.C. § 653a, as amended.~~

B C. Employers who transmit such reports magnetically or electronically shall, if necessary, report by two monthly transmissions not less than ~~twelve~~ 12 days nor more than ~~sixteen~~ 16 days apart. Employers that have employees who are employed in two or more states and that transmit reports magnetically or

INTRODUCED

SB776

59 electronically may comply by designating one state in which such employer has employees to which the  
60 employer will transmit the report, and transmitting such report to such state. Such employers shall notify  
61 the federal Secretary of Health and Human Services in writing as to which state is designated for the  
62 purpose of sending reports and shall provide a copy of that notification to the Virginia New Hire  
63 Reporting Center.

64 *C D.* Employers shall not report an employee of a state agency performing intelligence or  
65 counterintelligence functions, if the head of such agency has determined that such reporting could  
66 endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

67 *D E.* Information to be provided shall include only that information that is required by federal law.  
68 This information may be provided by mailing a copy of the employee's W-4 form, transmitting  
69 information magnetically or electronically in the prescribed format or by any other means determined by  
70 the Virginia New Hire Reporting Center to result in timely reporting. Within three business days after  
71 the date information regarding a newly hired employee is entered into the Virginia State Directory of  
72 New Hires, the Center shall furnish the information to the National Directory of New Hires established  
73 under § 453 (i) of the Social Security Act, as amended.

74 *F. The Division of Child Support Enforcement shall use information received pursuant to this section*  
75 *to locate individuals for purposes of establishing paternity and establishing, modifying, and enforcing*  
76 *child support obligations, and may disclose such information in accordance with existing law to carry*  
77 *out such purposes. The Division shall have access to information reported by employers pursuant to this*  
78 *section.*

79 *E G.* The Board shall have the authority to adopt regulations as necessary, consistent with the federal  
80 law and its implementing regulations, to administer this provision, including any exemptions and waivers  
81 which are needed to reduce unnecessary or burdensome reporting.

82 *H. As used in this section, "newly hired employee" means an individual in employment, as defined in*  
83 *§ 60.2-212, who (i) has not previously been in the employment of the employer or (ii) was previously in*  
84 *the employment of the employer but has been separated from such prior employment for at least 60*  
85 *consecutive days.*