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HOUSE BILL NO. 2310

Offered January 22, 2015

A BILL to amend and reenact §§ 46.2-208, 46.2-214, and 46.2-819.3:1 of the Code of Virginia, relating to enforcement of toll violations.

Patron—James (By Request)

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-208, 46.2-214, and 46.2-819.3:1 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-208. Records of Department; when open for inspection; release of privileged information.

A. All records in the office of the Department containing the specific classes of information outlined below shall be considered privileged records:

1. Personal information, including all data defined as "personal information" in § 2.2-3801;
2. Driver information, including all data that relates to driver's license status and driver activity; and
3. Vehicle information, including all descriptive vehicle data and title, registration, and vehicle activity data.

B. The Commissioner shall release such information only under the following conditions:

1. Notwithstanding other provisions of this section, medical data included in personal data shall be released only to a physician, physician assistant, or nurse practitioner as provided in § 46.2-322.

2. Insurance data may be released as specified in §§ 46.2-372, 46.2-380, and 46.2-706.

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

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

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

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

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

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

115 13. On the written request of any person who has applied to be a volunteer with a Virginia affiliate
116 of Big Brothers/Big Sisters of America, the Commissioner shall (i) compare personal information
117 supplied by a Virginia affiliate of Big Brothers/Big Sisters of America with that contained in the
118 Department's records and, when the information supplied by a Virginia affiliate of Big Brothers/Big
119 Sisters of America is different from that contained in the Department's records, provide the Virginia
120 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 company or of any not-for-profit entity organized to prevent and detect insurance fraud, or perform rating and underwriting activities, the Commissioner shall provide to such person (i) all vehicle information, including the owner's name and address, descriptive data and title, registration, and vehicle activity data as requested or (ii) all driver information including name, license number and classification, date of birth, and address information for each driver under the age of 22 licensed in the Commonwealth of Virginia meeting the request criteria designated by such person, with such request criteria consisting of driver's license number or address information. No such information shall be used for solicitation of sales, marketing, or other commercial purposes.

19. Upon the request of an officer authorized to issue criminal warrants, for the purpose of issuing a warrant for arrest for unlawful disposal of trash or refuse in violation of § 33.2-802, the Commissioner shall provide vehicle information, including the owner's name and address.

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

21. Upon the request of the operator of a toll facility or traffic light photo-monitoring system acting on behalf of a government entity, or of the Dulles Access Highway, or an authorized agent or employee of a toll facility operator or traffic light photo-monitoring system operator acting on behalf of a government entity or the Dulles Access Highway, for the purpose of obtaining vehicle owner data under subsection L of § 46.2-819.1 or subsection H of § 15.2-968.1 or subsection N of § 46.2-819.5. Information released pursuant to this subdivision shall be limited to the name and address of the registered owner of the vehicle having failed to pay a toll or having failed to comply with a traffic light signal or having improperly used the Dulles Access Highway and the vehicle information, including all descriptive vehicle data and title and registration data of the same vehicle, *except that the social security number of a registered owner shall be released to the operator of a toll facility solely for the purpose of determining active military duty status of the registered owner to ensure compliance with the provisions of the federal Servicemembers Civil Relief Act (50 U.S.C. App § 501 et seq.).*

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

182 accidents, license suspensions or revocations, and any type of driver's license that the individual
183 currently possesses. Such abstract shall be provided at a fee that is one-half the normal charge if the
184 request is accompanied by appropriate written evidence that the person has applied to be a volunteer
185 with a Virginia affiliate of Compeer.

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

189 24. On the written request of any person who has applied to be a volunteer vehicle operator with a
190 Virginia chapter of the American Red Cross, the Commissioner shall (i) compare personal information
191 supplied by a Virginia chapter of the American Red Cross with that contained in the Department's
192 records and, when the information supplied by a Virginia chapter of the American Red Cross is different
193 from that contained in the Department's records, provide the Virginia chapter of the American Red Cross
194 with correct information as contained in the Department's records and (ii) provide driver information in
195 the form of an abstract of the applicant's record showing all convictions, accidents, license suspensions
196 or revocations, and any type of driver's license that the individual currently possesses. Such abstract
197 shall be provided at a fee that is one-half the normal charge if the request is accompanied by
198 appropriate written evidence that the person has applied to be a volunteer vehicle operator with a
199 Virginia chapter of the American Red Cross.

200 25. On the written request of any person who has applied to be a volunteer vehicle operator with a
201 Virginia chapter of the Civil Air Patrol, the Commissioner shall (i) compare personal information
202 supplied by a Virginia chapter of the Civil Air Patrol with that contained in the Department's records
203 and, when the information supplied by a Virginia chapter of the Civil Air Patrol is different from that
204 contained in the Department's records, provide the Virginia chapter of the Civil Air Patrol with correct
205 information as contained in the Department's records and (ii) provide driver information in the form of
206 an abstract of the applicant's record showing all convictions, accidents, license suspensions or
207 revocations, and any type of driver's license that the individual currently possesses. Such abstract shall
208 be provided at a fee that is one-half the normal charge if the request is accompanied by appropriate
209 written evidence that the person has applied to be a volunteer vehicle operator with a Virginia chapter of
210 the Civil Air Patrol.

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

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

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

235 C. Whenever the Commissioner issues an order to suspend or revoke the driver's license or driving
236 privilege of any individual, he may notify the National Driver Register Service operated by the United
237 States Department of Transportation and any similar national driver information system and provide
238 whatever classes of information the authority may require.

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

240 E. Whenever the Commissioner takes any licensing action pursuant to the provisions of the Virginia
241 Commercial Driver's License Act (§ 46.2-341.1 et seq.), he may provide information to the Commercial
242 Driver License Information System, or any similar national commercial driver information system,
243 regarding such action.

F. In addition to the foregoing provisions of this section, vehicle information may also be inspected under the provisions of §§ 46.2-633, 46.2-644.02, 46.2-644.03, and §§ 46.2-1200.1 through 46.2-1237.

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

H. Driving records of any person accused of an offense involving the operation of a motor vehicle shall be provided by the Commissioner upon request to any person acting as counsel for the accused. If such counsel is from the public defender's office or has been appointed by the court, such records shall be provided free of charge.

I. The Department shall maintain the records of persons convicted of violations of § 18.2-36.2, subsection B of § 29.1-738, and §§ 29.1-738.02, 29.1-738.2, and 29.1-738.4 which shall be forwarded by every general district court or circuit court or the clerk thereof, pursuant to § 46.2-383. Such records shall be electronically available to any law-enforcement officer as provided for under clause (ii) of subdivision B 9.

J. Whenever the Commissioner issues a certificate of title for a motor vehicle, he may notify the National Motor Vehicle Title Information System, or any other nationally recognized system providing similar information, or any entity contracted to collect information for such system, and may provide whatever classes of information are required by such system.

§ 46.2-214. Charges for information supplied by Department.

The Commissioner may make a reasonable charge for furnishing information under this title, but no fee shall be charged to any official of the Commonwealth, including court and police officials; officials of counties, cities, and towns; local government group self-insurance pools; and court, police, and licensing officials of other states and of the federal government *and an operator of a toll facility other than the Department of Transportation, as defined by subsection H of § 46.2-819.3:1, related to the collection of unpaid tolls*, provided that the information requested is for official use. The fees received by the Commissioner under this section shall be paid into the state treasury and shall be set aside as a special fund to be used to meet the expenses of the Department.

§ 46.2-819.3:1. Installation and use of video-monitoring system and 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 video-monitoring system in conjunction with an automatic vehicle identification system on facilities for which tolls are collected for the use of such toll facility and that do not offer manual toll collection. A video-monitoring system shall include, but not be limited to, electronic systems that monitor and capture images of vehicles, *with video or photo-monitoring*, using a toll facility to enable toll collection for vehicles that do not pay using a toll collection device. The operator of a toll facility shall send an invoice for unpaid tolls in accordance with the requirements of § 46.2-819.6 to the registered owner of a vehicle as part of a video-monitoring toll collection process, prior to seeking remedies under this section.

B. Information collected by a video-monitoring system in conjunction with an 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 and establishing when violations occur, including use in any proceeding to determine whether a violation occurred. Notwithstanding any other provision of law, all images or other data collected by a video-monitoring system in conjunction with an automatic vehicle identification system shall be protected in a database with security comparable to that of the Department of Motor Vehicles' system and used exclusively for the collection of unpaid tolls and for efforts to pursue violators of this section and shall not (i) be open to the public; (ii) be sold and/or used for sales, solicitation, or marketing purposes other than those of the toll facility operator to facilitate toll payment; (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/or (iv) be used in a court in a pending action or proceeding unless the action or proceeding relates to a violation of this section or upon order from a court of competent jurisdiction. Except as provided above, 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 video-monitoring system in conjunction with an automatic vehicle identification system shall annually certify compliance with this section and make all records pertaining to such system available for inspection and audit by the 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.

If a vehicle uses a toll facility without paying the toll, the owner or operator shall be in violation of this section if he refuses to pay the toll within 30 days of notification. The toll facility operator may impose and collect an administrative fee in addition to the unpaid toll so as to recover the expenses of

305 collecting the unpaid toll, which administrative fee shall be reasonably related to the actual cost of
306 collecting the unpaid toll and not exceed \$100 per violation. Such fee shall not be levied upon the
307 owner or operator of the vehicle unless the toll has not been paid by the owner or operator within 30
308 days after receipt of the invoice for the unpaid toll, which nonpayment for 30 days shall constitute the
309 violation of this section. Once such a violation has occurred, the owner or operator of the vehicle shall
310 pay the unpaid tolls and any administrative fee detailed in the invoice for the unpaid toll issued by a toll
311 facility operator. If paid within 30 days of the toll violation, the administrative fee shall not exceed \$25.

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

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

329 C. If the matter proceeds to court, the registered owner or operator of a vehicle shall be liable for a
330 civil penalty as follows: for a first offense, \$50; for a second offense within one year from the first
331 offense, ~~\$100~~ \$75; for a third offense within two years from the second offense, ~~\$250~~ \$150; and for a
332 fourth and any subsequent offense within three years from the second offense, \$500; plus, in each case,
333 the unpaid toll, all accrued administrative fees imposed by the toll facility operator, and applicable court
334 costs if the vehicle is found, as evidenced by information obtained from a video-monitoring system in
335 conjunction with an automatic vehicle identification system as provided in this section, to have used
336 such a toll facility without payment of the required toll within 30 days of receipt of the invoice for the
337 toll.

338 D. Any action under this section shall be brought in the general district court of the city or county in
339 which the toll facility is located. Such action shall be considered a traffic infraction but shall be tried as
340 a civil case. The attorney for the Commonwealth may represent the interests of the toll facility operator.
341 Any authorized agent or employee of a toll facility operator acting on behalf of a governmental entity
342 shall be allowed the privileges accorded by § 16.1-88.03 in such cases. *An action may be brought by*
343 *summons as provided for in subsection K or by warrant in debt.*

344 E. Proof of a violation of this section shall be evidenced by information obtained from a
345 video-monitoring system or automatic vehicle identification system as provided in this section. A
346 certificate, sworn to or affirmed by a technician employed or authorized by the operator of a toll facility
347 or by the locality wherein the toll facility is located, or a facsimile of such a certificate, based on
348 inspection of photographs, microphotographs, videotapes, or other recorded images produced by a
349 video-monitoring system or of electronic data collected by an automatic vehicle identification system,
350 shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs,
351 videotape, or other recorded images or electronic data evidencing such a violation shall be available for
352 inspection in any proceeding to adjudicate the liability for such violation under this section. A record of
353 communication by an automatic vehicle identification device with the automatic vehicle identification
354 system at the time of a violation of this section shall be prima facie evidence that the automatic vehicle
355 identification device was located in the vehicle registered to use such device in the records of the
356 Virginia Department of Transportation.

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

359 Upon a finding by a court of competent jurisdiction that the vehicle described in the summons issued
360 pursuant to subsection K *or in the warrant in debt* was in violation of this section, the court shall
361 impose a civil penalty upon the registered owner or operator of such vehicle in accordance with the
362 amounts specified in subsection C, together with applicable court costs, the operator's administrative fee,
363 and the toll due. Penalties assessed as the result of action initiated by the Virginia Department of
364 Transportation shall be remanded by the clerk of the court that adjudicated the action to the Virginia
365 Department of Transportation's Toll Facilities Revolving Account. Penalties assessed as the result of
366 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 provided in subsection K *or by a warrant in debt* that his vehicle had been used in violation of this section, and such owner shall be given notice of the time and place of the hearing as well as the civil penalty and costs for such offense.

Upon the filing of an affidavit by the registered owner of the vehicle with the toll facility operator within 14 days of receipt of an invoice for unpaid toll or a summons stating that such owner 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 for unpaid toll or summons, whichever the case may be, will also be issued to the alleged operator of the vehicle at the time of the offense.

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

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

G. 1. 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, then the court or toll facility operator shall notify the Commissioner of the Department of Motor Vehicles, who shall refuse to issue or renew any vehicle registration certificate of any applicant or the license plate issued for the vehicle driven in the commission of the offense until the court 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.

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

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

The Commissioner may only refuse to issue or renew any vehicle registration pursuant to this subsection upon the request of a toll facility operator if such toll facility operator has entered into an agreement with the Commissioner whereby the Commissioner will refuse to issue or renew any vehicle registration of any applicant therefor who owes unpaid tolls and administrative fees to the toll facility operator. The toll facility operator seeking to collect unpaid tolls and administrative fees through the withholding of registration or renewal thereof by the Commissioner as provided for in this subsection

428 shall notify the Commissioner in the manner provided for in his agreement with the Commissioner and
429 supply to the Commissioner information necessary to identify the violator whose registration or renewal
430 is to be denied. The Commissioner shall charge a \$40 fee to defray the cost of processing and
431 withholding the registration or registration renewal, and the toll facility operator may add this fee to the
432 amount of the unpaid tolls and administrative fees. Any agreement entered into pursuant to the
433 provisions of this subsection shall provide for the Department to send the violator notice of the intent to
434 deny renewal of registration at least 30 days prior to the expiration date of a current vehicle registration
435 and such notice shall include a form, as required under subsection B of § 46.2-819.6, to contest liability
436 of the underlying toll violation. The notice provided by the Commissioner shall include instructions for
437 filing the form to contest liability with the toll facility operator within 21 days after the date of mailing
438 of the Commissioner's notice. Upon timely receipt of the form, the toll facility operator shall notify the
439 Commissioner, who shall refrain from withholding the registration or renewal thereof, after which the
440 toll facility operator may proceed to issue a summons for unpaid toll. For the purposes of this
441 subsection, notice by first-class mail to the registrant's address as maintained in the records of the
442 Department shall be deemed sufficient.

443 H. For purposes of this section, "operator" means a person who was driving a vehicle that was the
444 subject of a toll violation but who is not the owner of the vehicle; "operator of a toll facility other than
445 the Virginia Department of Transportation" means any agency, political subdivision, authority, or other
446 entity that operates a toll facility; "owner" means the registered owner of a vehicle on record with the
447 Department or, in the case of a vehicle where the owner of the vehicle is a vehicle leasing entity, the
448 lessee. For purposes of this section, "owner" does not mean a vehicle rental or vehicle leasing company;
449 "video-monitoring system" means a vehicle sensor installed to work in conjunction with a toll collection
450 device that automatically produces one or more photographs, one or more microphotographs, a
451 videotape, or other recorded images of each vehicle at the time it is used or operated in violation of this
452 section; "automatic vehicle identification system" means an electronic vehicle identification system
453 installed to work in conjunction with a toll collection device that automatically produces an electronic
454 record of each vehicle equipped with an automatic vehicle identification device that uses a toll facility;
455 and "automatic vehicle identification device" means an electronic device that communicates by wireless
456 transmission with an automatic vehicle identification system.

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

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

475 K. On a form prescribed by the Supreme Court, a summons for a violation of this section may be
476 executed pursuant to § 19.2-76.2. Toll facility personnel or their agents mailing such summons shall be
477 considered conservators of the peace for the sole and limited purpose of mailing such summons.
478 Notwithstanding the provisions of § 19.2-76, a summons or summonses for a violation of unpaid tolls
479 may be executed by mailing by first-class mail a copy thereof to the address of the owner of the vehicle
480 as shown on the records of the Department or, if the registered owner has named and provided a valid
481 address for the operator of the vehicle at the time of the violation in an affidavit executed pursuant to
482 subsection F, such named operator of the vehicle. If the summoned person fails to appear on the date of
483 return set out in the summons mailed pursuant to this section, the summons shall be executed in the
484 manner set out in § 19.2-76.3.

485 L. The toll facility operator may offer to the owner an option to pay the unpaid toll and fees plus a
486 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.

M. The operator of a toll facility may enter into an agreement with the Department, in accordance with the provisions of subdivision B 21 of § 46.2-208, to obtain vehicle owner information regarding the registered owners of vehicles that fail to pay tolls required for the use of toll facilities and with the Virginia Department of Transportation to obtain any information that is necessary to conduct electronic toll collection. Information provided to the operator of a toll facility shall be used only for the collection of unpaid tolls, and the operator of the toll facility shall be subject to the same conditions and penalties regarding release of the information as contained in subsection B. *Such agreement shall include the release of the social security number of a registered owner for the sole purpose of determining active military duty status as provided for in subdivision B 21 of § 46.2-208 to ensure compliance with the provisions of the federal Servicemembers Civil Relief Act (50 U.S.C. App. § 501 et seq.).*

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