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HOUSE BILL NO. 1069

Offered January 13, 2016

Prefiled January 13, 2016

A *BILL to amend and reenact §§ 33.2-500, 33.2-503, 46.2-208, 46.2-819.1, 46.2-819.3, 46.2-819.3:1, and 46.2-819.6 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 1 of Title 33.2 a section numbered 33.2-118, by adding in Article 3 of Chapter 2 of Title 33.2 a section numbered 33.2-255.1, and by adding in Article 1 of Chapter 8 of Title 46.2 a section numbered 46.2-819.8; and to repeal § 46.2-819.7 of the Code of Virginia, relating to limitations on tolling; toll collection fees and penalties; period of nonpayment; notice of nonpayment.*

Patrons—Jones, Villanueva, Heretick, Hester, James and Morris; Senator: Ebbin

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 33.2-500, 33.2-503, 46.2-208, 46.2-819.1, 46.2-819.3, 46.2-819.3:1, and 46.2-819.6 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 1 of Title 33.2 a section numbered 33.2-118, by adding in Article 3 of Chapter 2 of Title 33.2 a section numbered 33.2-255.1, and by adding in Article 1 of Chapter 8 of Title 46.2 a section numbered 46.2-819.8 as follows:

§ 33.2-118. Limitation on tolling.

Notwithstanding any other provisions of this title, no toll may be imposed or collected on un-tolled lanes or components of a highway, bridge, or tunnel without approval from the General Assembly. However, such prohibition shall not apply to (i) new construction that is opened to the public as a tolled facility, (ii) high-occupancy vehicle lanes, (iii) auxiliary lanes, or (iv) an existing lane of traffic on a segment of facility between an interchange and an interchange or an interchange and a bridge where the facility has or will have toll lanes on the portions of the facility adjacent to such segment, provided that (a) the number of general purpose lanes after such conversion on the segment is equal to the number of general purpose lanes on the facility adjacent to such segment and (b) the length of such segment does not exceed 10 miles.

§ 33.2-255.1. Electronic notification of toll violations.

The Department shall provide the opportunity to all holders of an account for an electronic toll collection device that is property of the Commonwealth to provide an email address or cell phone number for the purpose of electronic notification of a toll violation.

The Department shall electronically notify all holders of an account for an electronic toll collection device that is property of the Commonwealth of each toll violation and potential toll violation within 60 hours of such violation. The Department shall provide a second electronic notification on the sixth day after the toll violation. Such notification requirements shall only apply to accounts where the account holder has provided the Department with an email address or cell phone number.

Any toll operator shall notify the Department of a toll violation or potential toll violation on a facility it operates on an account for an electronic device that is the property of the Commonwealth within 48 hours of such violation.

§ 33.2-500. Definitions.

As used in this chapter, unless the context requires a different meaning:

"High-occupancy requirement" means the number of persons required to be traveling in a vehicle for the vehicle to use HOT lanes without the payment of a toll. Emergency vehicles, law-enforcement vehicles being used in HOT lanes in the performance of law-enforcement duties, which shall not include the use of such vehicles for commuting to and from the workplace or for any purpose other than responding to an emergency incident, patrolling HOT lanes pursuant to an agreement by a state agency with the HOT lanes operator, or the time-sensitive investigation, active surveillance, or actual pursuit of persons known or suspected to be engaged in or with knowledge of criminal activity, and mass transit vehicles and commuter buses shall meet the high-occupancy requirement for HOT lanes, regardless of the number of occupants in the vehicle.

"High-occupancy toll lanes" or "HOT lanes" means a highway or portion of a highway containing one or more travel lanes separated from other lanes that has an electronic toll collection system, provides for free passage by vehicles that meet the high-occupancy requirement, including mass transit vehicles and commuter buses, and contains a photo-enforcement system for use in such electronic toll collection. HOT lanes shall not be a "toll facility" or "HOV lanes" for the purposes of any other provision of law or regulation.

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59 "High-occupancy vehicle lanes" or "HOV lanes" means a *highway or* portion of a highway
60 containing one or more travel lanes for the travel of high-occupancy vehicles or buses as designated
61 pursuant to § 33.2-501.

62 "HOT lanes operator" means the operator of the facility containing HOT lanes, which may include
63 the Department of Transportation or some other entity.

64 "Mass transit vehicles" and "commuter buses" means vehicles providing a scheduled transportation
65 service to the general public. Such vehicles shall comprise nonprofit, publicly or privately owned or
66 operated transportation services, programs, or systems that may be funded pursuant to § 58.1-638.

67 "Owner" means the registered owner of a vehicle on record with the Department of Motor Vehicles
68 or with the equivalent agency in another state. "Owner" does not mean a vehicle rental or vehicle
69 leasing company.

70 "Photo-enforcement system" means a sensor installed in conjunction with a toll collection device to
71 detect the presence of a vehicle that automatically produces one or more photographs, one or more
72 microphotographs, a videotape, or other recorded images of each vehicle's license plate at the time it is
73 detected by the toll collection device.

74 "Unauthorized vehicle" means a motor vehicle that is restricted from use of the HOT lanes pursuant
75 to subdivision 4 a of § 33.2-503.

76 **§ 33.2-503. HOT lanes enforcement.**

77 Any person operating a motor vehicle on designated HOT lanes shall make arrangements with the
78 HOT lanes operator for payment of the required toll prior to entering such HOT lanes. The driver of a
79 vehicle who enters the HOT lanes in an unauthorized vehicle, in violation of the conditions for use of
80 such HOT lanes established pursuant to § 33.2-502, without payment of the required toll or without
81 having made arrangements with the HOT lanes operator for payment of the required toll shall have
82 committed a violation of this section, which may be enforced in the following manner:

83 1. On a form prescribed by the Supreme Court, a summons for civil violation of this section may be
84 executed by a law-enforcement officer, when such violation is observed by such officer. The form shall
85 contain the option for the driver of the vehicle to prepay the unpaid toll and all penalties, administrative
86 fees, and costs.

87 2. a. A HOT lanes operator shall install and operate, or cause to be installed or operated, a
88 photo-enforcement system at locations where tolls are collected for the use of such HOT lanes.

89 b. A summons for civil violation of this section may be executed pursuant to this subdivision, when
90 such violation is evidenced by information obtained from a photo-enforcement system as defined in this
91 chapter. A certificate, sworn to or affirmed by a technician employed or authorized by the HOT lanes
92 operator, or a facsimile of such a certificate, based on inspection of photographs, microphotographs,
93 videotapes, or other recorded images produced by a photo-enforcement system, shall be prima facie
94 evidence of the facts contained therein. Any photographs, microphotographs, videotape, or other
95 recorded images evidencing such a violation shall be available for inspection in any proceeding to
96 adjudicate the liability for such violation under this subdivision. Any vehicle rental or vehicle leasing
97 company, if named in a summons, shall be released as a party to the action if it provides to the HOT
98 lanes operator a copy of the vehicle rental agreement or lease or an affidavit identifying the renter or
99 lessee prior to the date of hearing set forth in the summons. Upon receipt of such rental agreement,
100 lease, or affidavit, a summons shall be issued for the renter or lessee identified therein. Release of this
101 information shall not be deemed a violation of any provision of the Government Data Collection and
102 Dissemination Practices Act (§ 2.2-3800 et seq.) or the Insurance Information and Privacy Protection
103 Act (§ 38.2-600 et seq.).

104 c. On a form prescribed by the Supreme Court, a summons issued under this subdivision may be
105 executed pursuant to § 19.2-76.2. Such form shall contain the option for the driver or registered owner
106 to prepay the unpaid toll and all penalties, administrative fees, and costs. HOT lanes operator personnel
107 or their agents mailing such summons shall be considered conservators of the peace for the sole and
108 limited purpose of mailing such summons. Notwithstanding the provisions of § 19.2-76, a summons for
109 a violation of this section may be executed by mailing by first-class mail a copy thereof to the address
110 of the owner of the vehicle as shown on the records of the Department of Motor Vehicles or, if the
111 registered owner has named and provided a valid address for the operator of the vehicle at the time of
112 the violation in an affidavit executed pursuant to this subdivision, such named operator of the vehicle. If
113 the summoned person fails to appear on the date of return set out in the summons mailed pursuant to
114 this section, the summons shall be executed in the manner set out in § 19.2-76.3.

115 d. The registered owner of such vehicle shall be given reasonable notice by way of a summons as
116 provided in this subdivision that his vehicle had been used in violation of this section, and such owner
117 shall be given notice of the time and place of the hearing and notice of the civil penalty and costs for
118 such offense.

119 Upon the filing of an affidavit with the court at least 14 days prior to the hearing date by the
120 registered owner of the vehicle stating that he was not the driver of the vehicle on the date of the

violation and providing the legal name and address of the driver of the vehicle at the time of the violation, a summons will also be issued to the alleged driver of the vehicle at the time of the offense. The affidavit shall constitute prima facie evidence that the person named in the affidavit was driving the vehicle at all the relevant times relating to the matter named in the affidavit.

If the registered owner of the vehicle produces a certified copy of a police report showing that the vehicle had been reported to the police as stolen prior to the time of the alleged offense and remained stolen at the time of the alleged offense, then the court shall dismiss the summons issued to the registered owner of the vehicle.

3. a. The HOT lanes operator may impose and collect an administrative fee in addition to the unpaid toll so as to recover the expenses of collecting the unpaid toll, which administrative fee shall be reasonably related to the actual cost of collecting the unpaid toll and not exceed \$100 per violation. The operator of the vehicle shall pay the unpaid tolls and any administrative fee detailed in a notice or invoice issued by a HOT lanes operator. If paid within ~~30~~ 60 days of notification, the administrative fee shall not exceed \$25.

b. Upon a finding by a court of competent jurisdiction that the driver of the vehicle observed by a law-enforcement officer under subdivision 1 or the vehicle described in the summons for civil violation issued pursuant to evidence obtained by a photo-enforcement system under subdivision 2 was in violation of this section, the court shall impose a civil penalty upon the driver of such vehicle issued a summons under subdivision 1, or upon the driver or registered owner of such vehicle issued a summons under subdivision 2, payable to the HOT lanes operator as follows: for a first offense, \$50; for a second offense, ~~\$250~~ \$100; for a third offense within a period of two years of the second offense, ~~\$500~~ \$250; and for a fourth and subsequent offense within a period of three years of the second offense, ~~\$1,000~~ \$500, together with, in each case, the unpaid toll, all accrued administrative fees imposed by the HOT lanes operator as authorized by this section, and applicable court costs. The court shall remand penalties, the unpaid toll, and administrative fees assessed for violation of this section to the treasurer or director of finance of the county or city in which the violation occurred for payment to the HOT lanes operator for expenses associated with operation of the HOT lanes and payments against any bonds or other liens issued as a result of the construction of the HOT lanes. No person shall be subject to prosecution under both subdivisions 1 and 2 for actions arising out of the same transaction or occurrence.

c. *Notwithstanding subdivisions a and b, (i) the HOT lanes operator may offer to the owner an option to pay the unpaid toll and fees plus a reduced civil penalty of \$25 for a first or second offense or \$50 for a third, fourth, or subsequent offense, as specified on the summons, provided that the owner actually pays to the toll facility operator the entire amount so calculated at least 14 days prior to the hearing date specified on the summons and (ii) for a first court appearance by a driver or registered owner of a vehicle under this section there shall be a reduced civil penalty of \$25 for a first or second offense or \$50 for a third, fourth, or subsequent offense and the total amount for the first court appearance shall not exceed \$2,200, including civil penalties and administrative fees.*

d. Upon a finding by a court that a person has violated this section, in the event such person fails to pay the required penalties, fees, and costs, the court shall notify the Commissioner of the Department of Motor Vehicles, who shall suspend all of the registration certificates and license plates issued for any motor vehicles registered solely in the name of such person and shall not issue any registration certificate or license plate for any other vehicle that such person seeks to register solely in his name until the court has notified the Commissioner of the Department of Motor Vehicles that such penalties, fees, and costs have been paid. The HOT lanes operator and the Commissioner of the Department of Motor Vehicles may enter into an agreement whereby the HOT lanes operator may reimburse the Department of Motor Vehicles for its reasonable costs to develop, implement, and maintain this enforcement mechanism, and that specifies that the Commissioner of the Department of Motor Vehicles shall have an obligation to suspend such registration certificates so long as the HOT lanes operator makes the required reimbursements in a timely manner in accordance with the agreement.

~~d. e.~~ Except as provided in subdivisions 4 and 5, imposition of a civil penalty pursuant to this section shall not be deemed a conviction as an operator of a motor vehicle under Title 46.2 and shall not be made part of the driving record of the person upon whom such civil penalty is imposed, nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage.

4. a. The HOT lanes operator may restrict the usage of the HOT lanes to designated vehicle classifications pursuant to an interim or final comprehensive agreement executed pursuant to § 33.2-1808 or 33.2-1809. Notice of any such vehicle classification restrictions shall be provided through the placement of signs or other markers prior to and at all HOT lanes entrances.

b. Any person driving an unauthorized vehicle on the designated HOT lanes is guilty of a traffic infraction, which shall not be a moving violation, and shall be punishable as follows: for a first offense, by a fine of \$125; for a second offense within a period of five years from a first offense, by a fine of \$250; for a third offense within a period of five years from a first offense, by a fine of \$500; and for a

fourth and subsequent offense within a period of five years from a first offense, by a fine of \$1,000.

Upon a conviction under this subdivision, the court shall furnish to the Commissioner of the Department of Motor Vehicles, in accordance with § 46.2-383, an abstract of the record of such conviction, which shall become a part of the person's driving record. Notwithstanding the provisions of § 46.2-492, no driver demerit points shall be assessed for any violation of this subdivision, except that persons convicted of a second, third, fourth, or subsequent violation within five years of a first offense shall be assessed three demerit points for each such violation.

5. The driver of a vehicle who enters the HOT lanes by crossing through any barrier, buffer, or other area separating the HOT lanes from other lanes of travel is guilty of a violation of § 46.2-852, unless the vehicle is a state or local law-enforcement vehicle, firefighting truck, or emergency medical services vehicle used in the performance of its official duties. No person shall be subject to prosecution both under this subdivision and under subdivision 1, 2, or 4 for actions arising out of the same transaction or occurrence.

Upon a conviction under this subdivision, the court shall furnish to the Commissioner of the Department of Motor Vehicles in accordance with § 46.2-383 an abstract of the record of such conviction, which shall become a part of the convicted person's driving record.

6. No person shall be subject to prosecution both under this section and under § 33.2-501, 46.2-819, or 46.2-819.1 for actions arising out of the same transaction or occurrence.

7. Any action under this section shall be brought in the general district court of the county or city in which the violation occurred.

§ 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.

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

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

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

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

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

emergency medical services agency to establish the qualifications of the member, volunteer, or applicant to operate equipment owned by the volunteer fire company or volunteer emergency medical services agency.

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

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

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

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

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

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

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, 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 Compeer.

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

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

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

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

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

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

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

428 whatever classes of information the authority may require.

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

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

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

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

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

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

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

451 **§ 46.2-819.1. Installation and use of photo-monitoring system or automatic vehicle identification**
452 **system in conjunction with electronic or manual toll facilities; penalty.**

453 A. *For purposes of this section:*

454 *"Automatic vehicle identification device" means an electronic device that communicates by wireless*
455 *transmission with an automatic vehicle identification system.*

456 *"Automatic vehicle identification system" means an electronic vehicle identification system installed*
457 *to work in conjunction with a toll collection device that automatically produces an electronic record of*
458 *each vehicle equipped with an automatic vehicle identification device that uses a toll facility.*

459 *"Operator of a toll facility other than the Department of Transportation" means any agency, political*
460 *subdivision, authority, or other entity that operates a toll facility.*

461 *"Owner" means the registered owner of a vehicle on record with the Department of Motor Vehicles.*
462 *For purposes of this section, "owner" does not mean a vehicle rental or vehicle leasing company.*

463 *"Photo-monitoring system" means a vehicle sensor installed to work in conjunction with a toll*
464 *collection device that automatically produces one or more photographs, one or more microphotographs,*
465 *a videotape, or other recorded images of each vehicle at the time it is used or operated in violation of*
466 *this section.*

467 B. The operator of any toll facility or the locality within which such toll facility is located may
468 install and operate or cause to be installed and operated a photo-monitoring system or automatic vehicle
469 identification system, or both, at locations where tolls are collected for the use of such toll facility. The
470 operator of a toll facility shall send an invoice or bill for unpaid tolls to the registered owner of a
471 vehicle as part of an electronic or manual toll collection process, prior to seeking remedies under this
472 section.

473 B. C. Information collected by a photo-monitoring system or automatic vehicle identification system
474 installed and operated pursuant to subsection A B shall be limited exclusively to that information that is
475 necessary for the collection of unpaid tolls. Notwithstanding any other provision of law, all photographs,
476 microphotographs, electronic images, or other data collected by a photo-monitoring system or automatic
477 vehicle identification system shall be used exclusively for the collection of unpaid tolls and shall not (i)
478 be open to the public; (ii) be sold and/or used for sales, solicitation, or marketing purposes; (iii) be
479 disclosed to any other entity except as may be necessary for the collection of unpaid tolls or to a vehicle
480 owner or operator as part of a challenge to the imposition of a toll; and (iv) be used in a court in a
481 pending action or proceeding unless the action or proceeding relates to a violation of this section or
482 upon order from a court of competent jurisdiction. Information collected under this section shall be
483 purged and not retained later than 30 days after the collection and reconciliation of any unpaid tolls,
484 administrative fees, and/or civil penalties. Any entity operating a photo-monitoring system or automatic
485 vehicle identification system shall annually certify compliance with this section and make all records
486 pertaining to such system available for inspection and audit by the Commissioner of Highways or the
487 Commissioner of the Department of Motor Vehicles or their designee. Any violation of this subsection
488 shall constitute a Class 1 misdemeanor. In addition to any fines or other penalties provided for by law,
489 any money or other thing of value obtained as a result of a violation of this section shall be forfeited to

the Commonwealth.

The toll facility operator may impose and collect an administrative fee in addition to the unpaid toll so as to recover the expenses of collecting the unpaid toll, which administrative fee shall be reasonably related to the actual cost of collecting the unpaid toll and not exceed \$100 per violation. Such fee may be levied upon the operator of the vehicle after the first unpaid toll has been documented. The operator of the vehicle shall pay the unpaid toll and any administrative fee detailed in an invoice for the unpaid toll issued by a toll facility operator. If paid within ~~30~~ 60 days of notification, the administrative fee shall not exceed \$25.

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

E. Notwithstanding subsections C and D, for a first court appearance by a driver or registered owner of a vehicle under this section there shall be a reduced civil penalty of \$25 for a first or second offense or \$50 for a third, fourth, or subsequent offense and the total amount for the first court appearance shall not exceed \$2,200, including civil penalties and administrative fees.

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

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

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

Upon a finding by a court of competent jurisdiction that the vehicle described in the summons issued pursuant to subsection ~~K~~ L was in violation of this section, the court shall impose a civil penalty upon the registered owner or operator of such vehicle in accordance with the amounts specified in subsection *C. D.*, together with applicable court costs, the operator's administrative fee and the toll due. Penalties assessed as the result of action initiated by the ~~Virginia~~ Department of Transportation shall be remanded by the clerk of the court which adjudicated the action to the ~~Virginia~~ Department of Transportation's Toll Facilities Revolving Account. Penalties assessed as the result of action initiated by an operator of a toll facility other than the ~~Virginia~~ Department of Transportation shall be remanded by the clerk of the court which 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~~ L 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. The toll facility operator may offer to the owner an option to pay the unpaid toll and fees plus a reduced civil penalty of \$25 for a first or second offense or \$50 for a third, fourth, or subsequent offense, as specified on the summons, provided the owner actually pays to the toll facility operator the entire amount so calculated at least 14 days prior to the hearing date specified on the summons. If the owner accepts such offer and such amount is actually received by the toll facility operator at least 14 days prior to the hearing date specified on the summons, the toll facility operator shall move the court at least five business days prior to the date set for trial to dismiss the summons issued to the registered

owner of the vehicle, and the court shall dismiss upon such motion.

Upon either (i) the filing of an affidavit with the toll facility operator within 14 days of receipt of an invoice for an unpaid toll from the toll facility operator or (ii) the filing of an affidavit with the court at least 14 days prior to the hearing date by the registered owner of the vehicle stating that he was not the driver operator of the vehicle on the date of the violation and providing the legal name and address of the operator of the vehicle at the time of the violation, an invoice and/or summons, as appropriate, will also be issued to the alleged operator of the vehicle at the time of the offense.

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

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

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

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

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

J. K. Imposition of a civil penalty pursuant to this section shall not be deemed a conviction as an operator and shall not be made part of the driving record of the person upon whom such civil penalty is imposed nor shall it be used for insurance purposes in the provision of motor vehicle insurance

coverage. The provisions of § 46.2-395 shall not be applicable to any civil penalty, fee, unpaid toll, fine or cost imposed or ordered paid under this section for a violation of this section.

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

~~L. M.~~ The operator of a toll facility may enter into an agreement with the Department of Motor Vehicles, in accordance with the provisions of subdivision *B* 21 of subsection ~~B~~ 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 only be used 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~~ *C*.

~~M. 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.

§ 46.2-819.3. Use of toll facility without payment of toll; enforcement; penalty.

A. For purposes of this section, "operator of a toll facility other than the Department of Transportation" means any agency, political subdivision, authority, or other entity that operates a toll facility.

B. The toll facility operator may impose and collect an administrative fee in addition to the unpaid toll so as to recover the expenses of collecting the unpaid toll, which administrative fee shall be reasonably related to the actual cost of collecting the unpaid toll and not exceed \$100 per violation. Such fee shall not be levied on a first unpaid toll unless the written promise to pay executed pursuant to subsection ~~E~~ *E* remains unpaid after ~~30~~ 60 days. The person who executed the written promise to pay pursuant to subsection ~~E~~ *E* shall pay the unpaid toll and any administrative fee detailed in an invoice or bill issued by a toll facility operator. If paid within ~~30~~ 60 days of notification, the administrative fee shall not exceed \$25.

~~B. C.~~ If the matter proceeds to court, the owner or operator of the vehicle shall be liable for a civil penalty as follows: for a first offense, \$50; for a second offense within one year from the first offense, \$100; for a third offense within two years from the second offense, \$250; and for a fourth and any subsequent offense within three years from the second offense, \$500 plus, in each case, the unpaid toll, all accrued administrative fees imposed by the toll facility operator and applicable court costs if the vehicle operator is found, as evidenced by information obtained from the toll facility operator, to have used such a toll facility without payment of the required toll.

D. Notwithstanding subsections B and C, for a first court appearance by a driver or registered owner of a vehicle under this section there shall be a reduced civil penalty of \$25 for a first or second offense or \$50 for a third, fourth, or subsequent offense and the total amount for the first court appearance shall not exceed \$2,200, including civil penalties and administrative fees.

~~C. E.~~ A written promise to pay an unpaid toll within a specified period of time executed by the driver of a motor vehicle, accompanied by a certificate sworn to or affirmed by an authorized agent of the toll facility that the unpaid toll was not paid within such specified period, shall be prima facie evidence of the facts contained therein.

~~D. F.~~ The operator of a toll facility may send an invoice or bill to the driver of a motor vehicle using a toll facility without payment of the specified toll as part of an electronic or manual toll collection process prior to seeking remedies under this section. Any action under this section shall be brought in the general district court of the ~~city or county or city~~ in which the toll facility is located. Such an action shall be considered a traffic infraction but shall be tried as a civil case. The attorney for the Commonwealth may represent the interests of the toll facility operator. Any authorized agent or employee of a toll facility operator acting on behalf of a governmental entity shall be allowed the privileges accorded by § 16.1-88.03 in such cases.

~~E. G.~~ Upon a finding by a court of competent jurisdiction that the driver of a motor vehicle identified in the summons issued pursuant to subsection ~~I~~ *J* was in violation of this section, the court shall impose a civil penalty upon the driver of a motor vehicle in accordance with the amounts specified in subsection ~~B~~ *C*, together with applicable court costs, the operator's administrative fee, and the toll

674 due. Penalties assessed as the result of action initiated by the ~~Virginia~~ Department of Transportation
675 shall be remanded by the clerk of the court which adjudicated the action to the ~~Virginia~~ Department of
676 Transportation's Toll Facilities Revolving Account. Penalties assessed as the result of action initiated by
677 an operator of a toll facility other than the ~~Virginia~~ Department of Transportation shall be remanded by
678 the clerk of the court which adjudicated the action to the treasurer or director of finance of the county
679 or city in which the violation occurred for payment to the toll facility operator.

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

688 ~~G. I.~~ Upon a finding by a court that a person has three or more unpaid tolls and such person fails to
689 pay the required penalties, fees, and unpaid tolls, the court shall notify the Commissioner of the
690 Department of Motor Vehicles, who shall refuse to issue or renew any vehicle registration certificate of
691 any applicant or the license plate issued for any vehicle owned or co-owned by the offender. The
692 Commissioner shall collect a \$40 administrative fee from the owner or operator of the vehicle to defray
693 the cost of processing and removing an order to deny registration or registration renewal.

694 ~~H.~~ For purposes of this section, "operator of a toll facility other than the ~~Virginia~~ Department of
695 Transportation" means any agency, political subdivision, authority, or other entity that operates a toll
696 facility.

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

702 ~~J. K.~~ A summons for a violation of this section may be executed pursuant to § 19.2-76.2. Toll
703 facility personnel or their agents mailing such summons shall be considered conservators of the peace
704 for the sole and limited purpose of mailing such summons. Notwithstanding the provisions of § 19.2-76,
705 a summons for a violation of this section may be executed by mailing by first-class mail a copy thereof
706 to the address of the driver of a motor vehicle as shown on the written promise to pay executed
707 pursuant to subsection ~~E~~ or records of the Department of Motor Vehicles. If the summoned person
708 fails to appear on the date of return set out in the summons mailed pursuant to this section, the
709 summons shall be executed in the manner set out in § 19.2-76.3.

710 ~~K. L.~~ No person shall be subject to both the provisions of this section and to prosecution under
711 § 46.2-819 for actions arising out of the same transaction or occurrence.

712 **§ 46.2-819.3:1. Installation and use of video-monitoring system and automatic vehicle**
713 **identification system in conjunction with all-electronic toll facilities; penalty.**

714 *A. For purposes of this section:*

715 *"Automatic vehicle identification device" means an electronic device that communicates by wireless*
716 *transmission with an automatic vehicle identification system.*

717 *"Automatic vehicle identification system" means an electronic vehicle identification system installed*
718 *to work in conjunction with a toll collection device that automatically produces an electronic record of*
719 *each vehicle equipped with an automatic vehicle identification device that uses a toll facility.*

720 *"Operator" means a person who was driving a vehicle that was the subject of a toll violation but*
721 *who is not the owner of the vehicle.*

722 *"Operator of a toll facility other than the Department of Transportation" means any agency, political*
723 *subdivision, authority, or other entity that operates a toll facility.*

724 *"Owner" means the registered owner of a vehicle on record with the Department or, in the case of a*
725 *vehicle where the owner of the vehicle is a vehicle leasing entity, the lessee. For purposes of this*
726 *section, "owner" does not mean a vehicle rental or vehicle leasing company.*

727 *"Video-monitoring system" means a vehicle sensor installed to work in conjunction with a toll*
728 *collection device that automatically produces one or more photographs, one or more microphotographs,*
729 *a videotape, or other recorded images of each vehicle at the time it is used or operated in violation of*
730 *this section.*

731 *B.* The operator of any toll facility or the locality within which such toll facility is located may
732 install and operate or cause to be installed and operated a video-monitoring system in conjunction with
733 an automatic vehicle identification system on facilities for which tolls are collected for the use of such
734 toll facility and that do not offer manual toll collection. A video-monitoring system shall include, but
735 not be limited to, electronic systems that monitor and capture images of vehicles 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.~~ C. Information collected by a video-monitoring system in conjunction with an automatic vehicle identification system installed and operated pursuant to subsection ~~A~~ B 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~~ 60 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 collecting the unpaid toll, which administrative fee shall be reasonably related to the actual cost of collecting the unpaid toll and not exceed \$100 per violation. Such fee shall not be levied upon the owner or operator of the vehicle unless the toll has not been paid by the owner or operator within ~~30~~ 60 days after receipt of the invoice for the unpaid toll, which nonpayment for ~~30~~ 60 days shall constitute the violation of this section. Once such a violation has occurred, the owner or operator of the vehicle shall pay the unpaid tolls and any administrative fee detailed in the invoice for the unpaid toll issued by a toll facility operator. If paid within ~~30~~ 60 days of the toll violation, the administrative fee shall not exceed \$25.

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

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

~~C.~~ D. If the matter proceeds to court, the registered owner or operator of a vehicle shall be liable for a civil penalty as follows: for a first offense, \$50; for a second offense within one year from the first offense, \$100; for a third offense within two years from the second offense, \$250; and for a fourth and any subsequent offense within three years from the second offense, \$500; plus, in each case, the unpaid toll, all accrued administrative fees imposed by the toll facility operator, and applicable court costs if the vehicle is found, as evidenced by information obtained from a video-monitoring system in conjunction with an automatic vehicle identification system as provided in this section, to have used such a toll facility without payment of the required toll within ~~30~~ 60 days of receipt of the invoice for the toll.

897 *E. Notwithstanding subsections C and D, for a first court appearance by a driver or registered*
898 *owner of a vehicle under this section there shall be a reduced civil penalty of \$25 for a first or second*
899 *offense or \$50 for a third, fourth, or subsequent offense and the total amount for the first court*
900 *appearance shall not exceed \$2,200, including civil penalties and administrative fees.*

901 ~~D.~~ *F. Any action under this section shall be brought in the general district court of the city or county*
902 *or city in which the toll facility is located. Such action shall be considered a traffic infraction but shall*
903 *be tried as a civil case. The attorney for the Commonwealth may represent the interests of the toll*
904 *facility operator. Any authorized agent or employee of a toll facility operator acting on behalf of a*
905 *governmental entity shall be allowed the privileges accorded by § 16.1-88.03 in such cases.*

906 *E.* *G. Proof of a violation of this section shall be evidenced by information obtained from a*
907 *video-monitoring system or automatic vehicle identification system as provided in this section. A*
908 *certificate, sworn to or affirmed by a technician employed or authorized by the operator of a toll facility*
909 *or by the locality wherein the toll facility is located, or a facsimile of such a certificate, based on*
910 *inspection of photographs, microphotographs, videotapes, or other recorded images produced by a*
911 *video-monitoring system or of electronic data collected by an automatic vehicle identification system,*
912 *shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs,*
913 *videotape, or other recorded images or electronic data evidencing such a violation shall be available for*
914 *inspection in any proceeding to adjudicate the liability for such violation under this section. A record of*
915 *communication by an automatic vehicle identification device with the automatic vehicle identification*
916 *system at the time of a violation of this section shall be prima facie evidence that the automatic vehicle*
917 *identification device was located in the vehicle registered to use such device in the records of the*
918 *Virginia Department of Transportation.*

919 ~~F.~~ *H. It shall be prima facie evidence that the vehicle described in the summons issued pursuant to*
920 *subsection K L was operated in violation of this section.*

921 Upon a finding by a court of competent jurisdiction that the vehicle described in the summons issued
922 pursuant to subsection ~~K~~ L was in violation of this section, the court shall impose a civil penalty upon
923 the registered owner or operator of such vehicle in accordance with the amounts specified in subsection
924 ~~C~~ D, together with applicable court costs, the operator's administrative fee, and the toll due. Penalties
925 assessed as the result of action initiated by the Virginia Department of Transportation shall be remanded
926 by the clerk of the court that adjudicated the action to the Virginia Department of Transportation's Toll
927 Facilities Revolving Account. Penalties assessed as the result of action initiated by an operator of a toll
928 facility other than the Virginia Department of Transportation shall be remanded by the clerk of the court
929 that adjudicated the action to the treasurer or director of finance of the county or city in which the
930 violation occurred for payment to the toll facility operator.

931 The registered owner of such vehicle shall be given reasonable notice by way of a summons as
932 provided in subsection ~~K~~ L that his vehicle had been used in violation of this section, and such owner
933 shall be given notice of the time and place of the hearing as well as the civil penalty and costs for such
934 offense.

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

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

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

949 *G. I. 1. Upon a finding by a court that a person has two or more unpaid tolls and such person fails*
950 *to pay the required penalties, fees, and unpaid tolls, then the court or toll facility operator shall notify*
951 *the Commissioner of the Department of Motor Vehicles, who shall refuse to issue or renew any vehicle*
952 *registration certificate of any applicant or the license plate issued for the vehicle driven in the*
953 *commission of the offense until the court has notified the Commissioner that such penalties, fees, and*
954 *unpaid tolls have been paid. If it is proven that the vehicle owner was not the operator at the time of*
955 *the offense and upon a finding by a court that the person identified in an affidavit pursuant to*
956 *subsection F H as the operator violated this section and such person fails to pay the required penalties,*
957 *fees, and unpaid tolls, the court shall notify the Commissioner, who shall refuse to issue or renew any*
958 *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 ~~H~~ 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 shall notify the Commissioner in the manner provided for in his agreement with the Commissioner and supply to the Commissioner information necessary to identify the violator whose registration or renewal is to be denied. The Commissioner shall charge a \$40 fee to defray the cost of processing and withholding the registration or registration renewal, and the toll facility operator may add this fee to the amount of the unpaid tolls and administrative fees. Any agreement entered into pursuant to the provisions of this subsection shall provide for the Department to send the violator notice of the intent to deny renewal of registration at least 30 days prior to the expiration date of a current vehicle registration and such notice shall include a form, as required under subsection B of § 46.2-819.6, to contest liability of the underlying toll violation. The notice provided by the Commissioner shall include instructions for filing the form to contest liability with the toll facility operator within 21 days after the date of mailing of the Commissioner's notice. Upon timely receipt of the form, the toll facility operator shall notify the Commissioner, who shall refrain from withholding the registration or renewal thereof, after which the toll facility operator may proceed to issue a summons for unpaid toll. For the purposes of this subsection, notice by first-class mail to the registrant's address as maintained in the records of the Department shall be deemed sufficient.

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

I. J. Any vehicle rental or vehicle leasing company, if it receives an invoice for unpaid toll or is

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

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

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

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

~~M. N.~~ 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~~ C.

~~N. O.~~ 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.

§ 46.2-819.6. Invoice for unpaid toll.

A. The operator of a toll facility shall send an invoice for the unpaid toll pursuant to ~~§ 46.2-819.7~~ subsection C to the registered owner of the vehicle. An invoice for the unpaid toll shall contain the following:

1. The name and address of the registered owner alleged to be liable under this section;
2. The registration number of the motor vehicle involved in such violation or information obtained from an automatic vehicle identification system if the vehicle is identified by an automatic vehicle identification system for the purpose of violation detection;
3. The location where such violation took place;
4. The date and time of such violation;
5. The amount of the toll not paid;
6. The amount of the administrative fee;
7. The date by which the toll and administrative fee must be paid;
8. The statutory defenses available under this chapter;
9. A warning describing the penalties for nonpayment of the invoice for the unpaid toll or failure to file a notice to contest liability for the toll violation; and
10. The procedures and time limits for filing a notice to contest liability for a toll violation as provided in subsection ~~B~~ C of § 46.2-819.3:1.

B. The toll facility operator shall include with the invoice a form to be used by the registered owner

or operator of the vehicle to contest liability for a toll violation. This form shall include the mailing address to which it should be sent.

C. Whenever an invoice for an unpaid toll is to be provided to any person by the toll facility operator, it may be executed by mailing by first-class mail a copy of the invoice to the address of the owner of the vehicle as shown on the records of the Department.

§ 46.2-819.8. Toll grace period.

No registered owner or operator of a vehicle that has an electronic toll collection device account whose vehicle has been used in violation of § 33.2-503, 46.2-819.1, 46.2-819.3, 46.2-819.3:1, or 46.2-819.5 shall owe any penalties, fees, or costs unless a toll operator or HOT lanes operator has attempted to process the collection of the toll at least twice. A toll operator shall make an attempt to process and collect an unpaid toll on the fifth day after the unpaid toll and shall make an additional attempt on the tenth day after the unpaid toll if earlier attempts to process and collect the unpaid toll were unsuccessful.

2. That the Commissioner of Highways shall work with toll facility operators and HOT lanes operators in the Commonwealth to develop an electronic notification system pursuant to § 33.2-255.1 of the Code of Virginia, as created by this act, by September 1, 2016.

3. That the provisions of § 33.2-255.1 of the Code of Virginia, as created by this act, shall become effective on January 1, 2017.

4. That § 46.2-819.7 of the Code of Virginia is repealed.