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HOUSE BILL NO. 1082

Offered January 13, 2016

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A *BILL to amend and reenact §§ 18.2-268.1, 46.2-203.2, 46.2-328.1, and 46.2-330 of the Code of Virginia, relating to Department of Motor Vehicles; issue driving privilege card to applicants granted a period of stay authorized by the Attorney General of the United States.*

Patrons—Boysko, Kory, Carr and Krizek

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-268.1, 46.2-203.2, 46.2-328.1, and 46.2-330 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-268.1. Chemical testing to determine alcohol or drug content of blood; definitions.

As used in §§ 18.2-268.2 through 18.2-268.12, unless the context clearly indicates otherwise:

The phrase "alcohol or drug" means alcohol, a drug or drugs, or any combination of alcohol and a drug or drugs.

The phrase "blood or breath" means either or both.

"Chief police officer" means the sheriff in any county not having a chief of police, the chief of police of any county having a chief of police, the chief of police of the city, or the sergeant or chief of police of the town in which the charge will be heard, or their authorized representatives.

"Department" means the Department of Forensic Science.

"Director" means the Director of the Department of Forensic Science.

"License" means any driver's license, temporary driver's license, *driving privilege card*, or instruction permit authorizing the operation of a motor vehicle upon the highways.

"Ordinance" means a county, city or town ordinance.

§ 46.2-203.2. Emergency contact information program.

A. As used in this section, "emergency contact" means a person 18 years of age or older whom the customer may designate to be contacted by a law-enforcement officer in an emergency situation.

B. The Department may establish an emergency contact information program to assist law-enforcement personnel in emergency situations. To establish such a program, a person who currently holds a learner's permit, temporary driver's license, driver's license, *driving privilege card*, commercial driver's license, or special identification card issued by the Department or completes an application for the same may voluntarily submit emergency contact information for inclusion in his customer record with the Department. Such emergency contact information may include the name, relationship to the customer, address, and telephone number for an individual the customer designates as a contact in the event of an emergency situation.

C. Any person voluntarily submitting emergency contact information to the Department for inclusion in the applicant's customer record is responsible for maintaining current emergency contact information with the Department. Each applicant submitting emergency contact information to the Department shall certify in his application that he has notified the person he has designated as an emergency contact that such information will be supplied to the Department. The Department shall provide a method by which applicants submitting emergency contact information to the Department may submit such information electronically pursuant to § 46.2-216.1. Customers may add, modify, or delete information at any time. Such modifications or deletions will overwrite all previously provided information.

D. In the event of an emergency situation, the Department shall make emergency contact information in customer records electronically available to a law-enforcement officer who in the exercise of his official duties requires assistance in reaching a customer's emergency contact. Emergency contact information provided to the Department by the customer shall only be disclosed as permitted in this section and shall not be considered a public record subject to disclosure under the Freedom of Information Act and shall not be subject to disclosure by court order or other means of discovery.

E. In the absence of gross negligence or willful misconduct, the Department, its employees, and law-enforcement officers shall be immune from any civil or criminal liability in connection with the maintenance and use of emergency contact information voluntarily provided by customers for use in an emergency situation.

§ 46.2-328.1. Licenses, permits, and special identification cards to be issued only to United States citizens, legal permanent resident aliens, holders of valid unexpired nonimmigrant visas, or those having been granted a period of stay; exceptions; renewal, duplication, or reissuance.

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59 A. Notwithstanding any other provision of this title, except as provided in subsection G of
 60 § 46.2-345, the Department shall not issue an original license, permit, or special identification card to
 61 any applicant who has not presented to the Department, with the application, valid documentary
 62 evidence that the applicant is either (i) a citizen of the United States, (ii) a legal permanent resident of
 63 the United States, or (iii) a conditional resident alien of the United States.

64 B. Notwithstanding the provisions of subsection A and the provisions of §§ 46.2-330 and 46.2-345,
 65 an applicant who presents in person valid documentary evidence of (i) a valid, unexpired nonimmigrant
 66 visa or nonimmigrant visa status for entry into the United States, (ii) a pending or approved application
 67 for asylum in the United States, (iii) entry into the United States in refugee status, (iv) a pending or
 68 approved application for temporary protected status in the United States, (v) approved deferred action
 69 status, or (vi) a pending application for adjustment of status to legal permanent residence status or
 70 conditional resident status, may be issued a temporary license, permit, or special identification card.
 71 Such temporary license, permit, or special identification card shall be valid only during the period of
 72 time of the applicant's authorized stay in the United States or if there is no definite end to the period of
 73 authorized stay a period of one year. No license, permit, or special identification card shall be issued if
 74 an applicant's authorized stay in the United States is less than 30 days from the date of application. Any
 75 temporary license, permit, or special identification card issued pursuant to this subsection shall clearly
 76 indicate that it is temporary and shall state the date that it expires. Such a temporary license, permit, or
 77 identification card may be renewed only upon presentation of valid documentary evidence that the status
 78 by which the applicant qualified for the temporary license, permit, or special identification has been
 79 extended by the United States *Citizenship and Immigration and Naturalization Service* or the Bureau of
 80 *Citizenship and Immigration Services* of the Department of Homeland Security.

81 C. *An applicant who does not meet the requirements for a driver's license under subsection A or B,*
 82 *but who presents in person valid documentary evidence of having been granted a period of stay*
 83 *authorized by the Attorney General of the United States, may be issued a driving privilege card. Such*
 84 *driving privilege card shall be subject to the same requirements and conditions and shall confer the*
 85 *same rights, privileges, and obligations with respect to the operation of a motor vehicle as a temporary*
 86 *license issued under subsection B. The fee for a driving privilege card shall be the same as the fee for a*
 87 *temporary license issued under subsection B.*

88 ~~C.~~ D. Any license or special identification card for which an application has been made for renewal,
 89 duplication or reissuance shall be presumed to have been issued in accordance with the provisions of
 90 subsection A, provided that, at the time the application is made, (i) the license or special identification
 91 card has not expired or been cancelled, suspended or revoked or (ii) the license or special identification
 92 card has been canceled or suspended as a result of the applicant having been placed under medical
 93 review by the Department pursuant to § 46.2-322. The requirements of subsection A shall apply,
 94 however, to a renewal, duplication or reissuance if the Department is notified by a local, state or federal
 95 government agency that the individual seeking such renewal, duplication or reissuance is neither a
 96 citizen of the United States nor legally in the United States.

97 ~~D.~~ E. The Department shall cancel any license, permit, or special identification card that it has issued
 98 to an individual if it is notified by a federal government agency that the individual is neither a citizen of
 99 the United States nor legally present in the United States.

100 ~~E.~~ F. For any applicant who presents a document pursuant to this section proving legal presence
 101 other than citizenship, the Department shall record and provide to the State Board of Elections monthly
 102 the applicant's document number, if any, issued by an agency or court of the United States government.

103 **§ 46.2-330. Expiration and renewal of licenses; examinations required.**

104 A. Every driver's license shall expire on the applicant's birthday at the end of the period of years for
 105 which a driver's license has been issued. At no time shall any driver's license be issued for more than
 106 eight years. Thereafter the driver's license shall be renewed on or before the birthday of the licensee and
 107 shall be valid for a period not to exceed eight years except as otherwise provided by law. Any driver's
 108 license issued to a person age 75 or older shall be issued for a period not to exceed five years.
 109 Notwithstanding these limitations, the Commissioner may extend the validity period of an expiring
 110 license if (i) the Department is unable to process an application for renewal due to circumstances
 111 beyond its control, (ii) the extension has been authorized under a directive from the Governor, and (iii)
 112 the license was not issued as a temporary driver's license *or a driving privilege card* under the
 113 provisions of subsection B *or C* of § 46.2-328.1. However, in no event shall the validity period be
 114 extended more than 90 days per occurrence of such conditions. In determining the number of years for
 115 which a driver's license shall be renewed, the Commissioner shall take into consideration the
 116 examinations, conditions, requirements, and other criteria provided under this title that relate to the
 117 issuance of a license to operate a vehicle. Any driver's license issued to a person required to register
 118 pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 shall expire on the applicant's birthday in years
 119 which the applicant attains an age equally divisible by five.

120 B. Within one year prior to the date shown on the driver's license as the date of expiration, the

121 Department shall send notice, to the holder thereof, at the address shown on the records of the
 122 Department in its driver's license file, that his license will expire on a date specified therein, whether he
 123 must be reexamined, and when he may be reexamined. Nonreceipt of the notice shall not extend the
 124 period of validity of the driver's license beyond its expiration date. The license holder may request the
 125 Department to send such renewal notice to an email or other electronic address, upon provision of such
 126 address to the Department.

127 Any driver's license may be renewed by application after the applicant has taken and successfully
 128 completed those parts of the examination provided for in §§ 46.2-311; and 46.2-325; and the Virginia
 129 Commercial Driver's License Act (§ 46.2-341.1 et seq.), including vision and written tests, other than the
 130 parts of the examination requiring the applicant to drive a motor vehicle. All drivers applying in person
 131 for renewal of a license shall take and successfully complete the examination each renewal year. Every
 132 applicant for a renewal shall appear in person before the Department, unless specifically notified by the
 133 Department that renewal may be accomplished in another manner as provided in the notice. Applicants
 134 who are required to appear in person before the Department to apply for a renewal may also be required
 135 to present proof of identity, legal presence, residency, and social security number or non-work
 136 authorized status.

137 C. Notwithstanding any other provision of this section, the Commissioner, in his discretion, may
 138 require any applicant for renewal to be fully examined as provided in §§ 46.2-311; and 46.2-325; and
 139 the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.). Furthermore, if the applicant is less
 140 than 75 years old, the Commissioner may waive the vision examination for any applicant for renewal of
 141 a driver's license which is not a commercial driver's license, and the requirement or the taking of the
 142 written test as provided in subsection B of this section, § 46.2-325 and the Virginia Commercial Driver's
 143 License Act (§ 46.2-341.1 et seq.), for any applicant for renewal who is at least 21 years old. Such
 144 written test shall not be waived for an applicant less than 21 years old if such applicant's driver's license
 145 record on file with the Department contains a record of one or more convictions for any offense
 146 reportable under §§ 46.2-382, 46.2-382.1, and 46.2-383. However, in no case shall there be any waiver
 147 of the vision examination for applicants for renewal of a commercial driver's license or of the
 148 knowledge test required by the Virginia Commercial Driver's License Act for the hazardous materials
 149 endorsement on a commercial driver's license. No driver's license or learner's permit issued to any
 150 person who is 75 years old or older shall be renewed unless the applicant for renewal appears in person
 151 and either (i) passes a vision examination or (ii) presents a report of a vision examination, made within
 152 90 days prior thereto by an ophthalmologist or optometrist, indicating that the applicant's vision meets or
 153 exceeds the standards contained in § 46.2-311.

154 D. Every applicant for renewal of a driver's license, whether renewal shall or shall not be dependent
 155 on any examination of the applicant, shall appear in person before the Department to apply for renewal,
 156 unless specifically notified by the Department that renewal may be accomplished in another manner as
 157 provided in the notice.

158 E. This section shall not modify the provisions of § 46.2-221.2.

159 F. 1. The Department shall electronically transmit application information, including a photograph, to
 160 the Department of State Police, in a format approved by the State Police, for comparison with
 161 information contained in the Virginia Criminal Information Network and National Crime Information
 162 Center Convicted Sexual Offender Registry Files, at the time of the renewal of a driver's license.
 163 Whenever it appears from the records of the State Police that a person has failed to comply with the
 164 duty to register or reregister pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, the State Police shall
 165 promptly investigate and, if there is probable cause to believe a violation has occurred, obtain a warrant
 166 or assist in obtaining an indictment charging a violation of § 18.2-472.1 in the jurisdiction in which the
 167 person last registered or reregistered or in the jurisdiction where the person made application for
 168 licensure. The Department of State Police shall electronically transmit to the Department, in a format
 169 approved by the Department, for each person required to register pursuant to Chapter 9 of Title 9.1,
 170 registry information consisting of the person's name, all aliases that he has used or under which he may
 171 have been known, his date of birth and social security number as set out in § 9.1-903.

172 2. For each person required to register pursuant to Chapter 9 of Title 9.1, the Department may not
 173 waive the requirement that each such person shall appear for each renewal or the requirement to obtain
 174 a photograph in accordance with subsection C of § 46.2-323.