

# VIRGINIA ACTS OF ASSEMBLY -- 2017 SESSION

## CHAPTER 697

*An Act to amend the Code of Virginia by adding in Chapter 2 of Title 46.2 an article numbered 3, consisting of sections numbered 46.2-225 through 46.2-230, relating to electronic credentials; report.*

[H 2229]

Approved March 24, 2017

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

**1. That the Code of Virginia is amended by adding in Chapter 2 of Title 46.2 an article numbered 3, consisting of sections numbered 46.2-225 through 46.2-230, as follows:**

*Article 3.*

*Electronic Credentials Act.*

**§ 46.2-225. Definitions.**

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

*"Data field" means a piece of information that appears on a physical credential, electronic credential, or profile.*

*"Display requirement" means a provision within the Code of Virginia, the Virginia Administrative Code, or a local ordinance or regulation that requires the display or possession of a physical credential to do an act, identify a person or piece of personal property, or show entitlement to a right or privilege.*

*"Electronic credential" means an electronic method by which a person may display or transmit to another person information that verifies a person's identity, identifies personal property, or serves as evidence of the right of a person to do, or to use personal property to do, an act.*

*"Electronic credential system" means a computer system accessed by a person using a computer, cellular telephone, or other electronic device and used to display or transmit electronic credentials to other persons or to a verification system.*

*"Physical credential" means a document issued by an agency of the Commonwealth, another state of the United States, the District of Columbia, the United States, a foreign country, or a political subdivision of a foreign country that is issued in a physical format, such as paper or plastic, and that identifies the holder, identifies a piece of personal property, or grants the holder the permission to do, or to use property to do, an act.*

*"Profile" means an electronic credential created by the Department that displays a different set of data fields than are displayed on the physical credential.*

*"Third-party electronic credential system" means an electronic credential system that is not maintained by the Department or by an agent of the Department on its behalf. "Third-party electronic credential system" may include an electronic wallet.*

*"Verification system" means a computer system operated by the Department or its agent on its behalf that is made available to persons who are presented with electronic credentials for the purpose of verifying the authenticity and validity of electronic credentials issued by the Department or by other government agencies or jurisdictions.*

**§ 46.2-226. Electronic credentials.**

*A. The Department may issue electronic credentials to persons who hold a valid physical credential that the Department is authorized to issue.*

*B. If the Department issues electronic credentials, the credentials shall be issued in addition to, and not instead of, the underlying physical credentials for which a person is eligible. No electronic credential shall be issued unless the applicant holds the corresponding physical credential. Such electronic credentials shall be issued to an electronic credential system.*

*C. The Department may issue electronic credentials to third-party electronic credential systems if the Department first enters into an agreement with the owner of the third-party electronic credential system that sets forth the terms on which the electronic credentials may be displayed.*

*D. The Department may enter into agreements with an agency of the Commonwealth, another state of the United States, or the United States to grant access to the use of electronic credentials issued by such agency. The provisions of subsection B shall apply to credentials to which the Department grants such access unless, as part of the agreement permitting the Department to grant access, the other agency agrees that the Department may grant access to electronic credentials to persons not holding a corresponding physical credential.*

**§ 46.2-227. Fees.**

*A. The Department shall assess a fee of \$10 per year for each individual who is issued electronic credentials by the Department or is granted access to an electronic credential issued in accordance with an agreement pursuant to the provisions of subsection C of § 46.2-226.*

*B. The Department shall assess a fee pursuant to § 46.2-214 for searches of the verification system.*

C. Pursuant to § 46.2-214, the fees received by the Department pursuant to this section shall be paid into the state treasury and shall be set aside as a special fund to be used to meet the expenses of the Department.

**§ 46.2-228. Design of electronic credentials.**

A. The Department and other agencies that enter into an agreement with the Department pursuant to subsection C of § 46.2-226 may create and issue profiles to be used in those circumstances where the display of the data fields would satisfy the purpose for which the profile is being presented.

B. Electronic credentials and electronic credential systems shall be designed so that there is no need for the credential holder to relinquish possession of the device in which the electronic credential system is installed in order to present the credential or for the person to whom the credential is presented to search the verification system to confirm the validity of the credential.

C. Electronic credential and verification systems shall be designed to protect the credential holder's privacy, including by use of privacy-enhancing technologies or other appropriate methods. If the Department enters into an agreement with the owner of a third-party electronic credential system, the agreement shall require the owner of that system to take appropriate measures to protect the credential holder's privacy.

**§ 46.2-229. Verification system.**

A. The Department or its agent may create and operate a verification system.

B. The Department may enter into agreements with other government agencies or jurisdictions issuing electronic credentials to allow for the verification of those credentials through the verification system and may also enter into agreements with other government agencies or jurisdictions or their agents operating a similar verification system for the purpose of verifying Virginia electronic credentials used in other states.

C. The Department or its agent may enter into an agreement with a person to access and search the verification system. Any such agreement shall require, at a minimum, that the person to whom the Department is granting access agree to search the system only in compliance with the requirements of this section and to take appropriate measures to protect the credential holder's privacy.

D. A person who has entered into an agreement with the Department to access and search the verification system, and who has been presented with an electronic credential or profile, may search the verification system to verify the validity and accuracy of the electronic credential or profile that has been presented if the electronic credential holder consents to the search.

E. Following a search of the verification system made by a person with whom it has entered into an agreement pursuant to subsection C, the Department may release through the verification system a verification of those data fields that the electronic credential holder has consented to be verified.

**§ 46.2-230. Acceptance of electronic credentials.**

A. The possession or display of an electronic credential shall not relieve a person from the requirements of any provision in the Code of Virginia, the Virginia Administrative Code, or a local ordinance or regulation requiring the possession or display of a physical credential.

B. Any provision of the Code of Virginia, the Virginia Administrative Code, or a local ordinance or regulation with a display requirement, which may be satisfied by the display or possession of a physical credential for which the Department may issue an electronic credential, may be satisfied by displaying or possessing an electronic credential issued pursuant to this article. Acceptance of an electronic credential shall be at the discretion of the person to whom it is presented and subject to the conditions of this section.

C. If a person displays a profile, its display shall satisfy a display requirement if the profile provides sufficient data fields to satisfy the purpose for which it is being displayed.

D. If the Department, or another agency responsible for enforcing a display requirement, requires that an electronic credential or profile be verified through the verification system prior to acceptance in certain circumstances, the display requirement shall be deemed satisfied by presentation of an electronic credential or profile in those circumstances only if the electronic credential or profile is verified by the verification system.

E. The provisions of this section shall apply to the possession or display of similar electronic credentials or profiles issued by the government of another state of the United States, the District of Columbia, the United States, a foreign country, or a political subdivision of a foreign country to the extent that a physical credential from the same jurisdiction would satisfy the relevant display requirement.

**2. That the Department of Motor Vehicles (the Department) shall examine the electronic credential program and determine whether the fees in § 46.2-228 as created by this act adequately cover the Department's costs of administering the additional responsibilities imposed on the Department under this act. The Department shall report the results of its review to the Chairmen of the House and Senate Committees on Transportation no later than December 1, 2019.**