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HOUSE BILL NO. 1042

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Transportation
on February 11, 2016)

(Patron Prior to Substitute—Delegate Villanueva)

A BILL to amend and reenact §§ 46.2-208, 46.2-214, and 46.2-214.1 of the Code of Virginia, relating to Department of Motor vehicles; charges for information supplied to toll facility operators.

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-208, 46.2-214, and 46.2-214.1 of the Code of Virginia are amended and reenacted as follows:

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

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

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

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

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

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

3. Notwithstanding other provisions of this section, information disclosed or furnished shall be assessed a fee as specified in § 46.2-214.

4. When the person requesting the information is (i) the subject of the information, (ii) the parent or guardian of the subject of the information, (iii) the authorized representative of the subject of the information, or (iv) the owner of the vehicle that is the subject of the information, the Commissioner shall provide him with the requested information and a complete explanation of it. Requests for such information need not be made in writing or in person and may be made orally or by telephone, provided that the Department is satisfied that there is adequate verification of the requester's identity. When so requested in writing by (a) the subject of the information, (b) the parent or guardian of the subject of the information, (c) the authorized representative of the subject of the information, or (d) the owner of the vehicle that is the subject of the information, the Commissioner shall verify and, if necessary, correct the personal information provided and furnish driver and vehicle information in the form of an abstract of the record.

5. On the written request of any insurance carrier, surety, or representative of an insurance carrier or surety, the Commissioner shall furnish such insurance carrier, surety, or representative an abstract of the record of any person subject to the provisions of this title. The abstract shall include any record of any conviction of a violation of any provision of any statute or ordinance relating to the operation or ownership of a motor vehicle or of any injury or damage in which he was involved and a report of which is required by § 46.2-372. No such report of any conviction or accident shall be made after 60 months from the date of the conviction or accident unless the Commissioner or court used the conviction or accident as a reason for the suspension or revocation of a driver's license or driving privilege, in which case the revocation or suspension and any conviction or accident pertaining thereto shall not be reported after 60 months from the date that the driver's license or driving privilege has been reinstated. This abstract shall not be admissible in evidence in any court proceedings.

6. On the written request of any business organization or its agent, in the conduct of its business, the Commissioner shall compare personal information supplied by the business organization or agent with that contained in the Department's records and, when the information supplied by the business organization or agent is different from that contained in the Department's records, provide the business organization or agent with correct information as contained in the Department's records. Personal information provided under this subdivision shall be used solely for the purpose of pursuing remedies that require locating an individual.

7. The Commissioner shall provide vehicle information to any business organization or agent on such business' or agent's written request. Disclosures made under this subdivision shall not include any personal information and shall not be subject to the limitations contained in subdivision 6.

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

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

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

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

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

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

117 13. On the written request of any person who has applied to be a volunteer with a Virginia affiliate
118 of Big Brothers/Big Sisters of America, the Commissioner shall (i) compare personal information
119 supplied by a Virginia affiliate of Big Brothers/Big Sisters of America with that contained in the
120 Department's records and, when the information supplied by a Virginia affiliate of Big Brothers/Big
121 Sisters of America is different from that contained in the Department's records, provide the Virginia

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

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

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

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

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

150 18. Upon the request, in the course of business, of any authorized representative of an insurance
151 company or of any not-for-profit entity organized to prevent and detect insurance fraud, or perform
152 rating and underwriting activities, the Commissioner shall provide to such person (i) all vehicle
153 information, including the owner's name and address, descriptive data and title, registration, and vehicle
154 activity data as requested or (ii) all driver information including name, license number and classification,
155 date of birth, and address information for each driver under the age of 22 licensed in the
156 Commonwealth of Virginia meeting the request criteria designated by such person, with such request
157 criteria consisting of driver's license number or address information. No such information shall be used
158 for solicitation of sales, marketing, or other commercial purposes.

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

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

166 21. Upon the request of the operator, *authorized agent, or employee* of a toll facility ~~or~~ traffic light
167 photo-monitoring system acting on behalf of a government entity, ~~or of the Dulles Access Highway, or~~
168 ~~an~~ the operator, authorized agent, or employee of a toll facility operator ~~or traffic light photo-monitoring~~
169 ~~system operator acting on behalf of a government entity or the Dulles Access Highway,~~ for the purpose
170 of obtaining vehicle owner data under subsection L of § 46.2-819.1 or subsection H of § 15.2-968.1 or
171 subsection N of § 46.2-819.5. Information released pursuant to this subdivision shall be limited to the
172 name and address of the registered owner of the vehicle having failed to pay a toll, ~~or~~ having failed to
173 comply with a traffic light signal, or having improperly used the Dulles Access Highway and the vehicle
174 information, including all descriptive vehicle data and title and registration data of the same vehicle.

175 22. On the written request of any person who has applied to be a volunteer with a Virginia affiliate
176 of Compeer, the Commissioner shall (i) compare personal information supplied by a Virginia affiliate of
177 Compeer with that contained in the Department's records and, when the information supplied by a
178 Virginia affiliate of Compeer is different from that contained in the Department's records, provide the
179 Virginia affiliate of Compeer with correct information as contained in the Department's records and (ii)
180 provide driver information in the form of an abstract of the applicant's record showing all convictions,
181 accidents, license suspensions or revocations, and any type of driver's license that the individual
182 currently possesses. Such abstract shall be provided at a fee that is one-half the normal charge if the

183 request is accompanied by appropriate written evidence that the person has applied to be a volunteer
184 with a Virginia affiliate of Compeer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

260 **§ 46.2-214. Charges for information supplied by Department.**

261 The Commissioner may make a reasonable charge for furnishing information under this title, but no
262 fee shall be charged to any official of the Commonwealth, including court and police officials; officials
263 of counties, cities, and towns; local government group self-insurance pools; *toll facility operators or*
264 *their employees or agents*; and court, police, and licensing officials of other states and of the federal
265 government, provided that the information requested is for official use. The fees received by the
266 Commissioner under this section shall be paid into the state treasury and shall be set aside as a special
267 fund to be used to meet the expenses of the Department.

268 **§ 46.2-214.1. Additional charge for information supplied by Department.**

269 Beginning July 1, 2002, in addition to the fee charged pursuant to § 46.2-214, the Commissioner
270 shall charge \$2 for furnishing information under this title, but no fee shall be charged to *toll facility*
271 *operators or their employees or agents* or any official, including court and police officials, of the
272 Commonwealth or any county, city, or town of the Commonwealth, or to court, police, and licensing
273 officials of other states or of the federal government, provided that the information requested is for
274 official use.