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SENATE BILL NO. 954

Offered January 11, 2017

Prefiled January 2, 2017

A *BILL to amend and reenact §§ 46.2-208, 46.2-819, 46.2-819.1, and 46.2-819.3 of the Code of Virginia, to amend the Code of Virginia by adding in Chapter 1 of Title 46.2 sections numbered 46.2-120 and 46.2-121, and to repeal §§ 46.2-819.2, 46.2-819.3:1, and 46.2-819.4 of the Code of Virginia, relating to toll violations and enforcement.*

Patron—DeSteph

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-208, 46.2-819, 46.2-819.1, and 46.2-819.3 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 1 of Title 46.2 sections numbered 46.2-120 and 46.2-121 as follows:

§ 46.2-120. *Driving a motor vehicle from establishment where motor fuel offered for sale; suspension of license; penalty.*

A. *No person shall drive a motor vehicle off the premises of an establishment at which motor fuel offered for retail sale was dispensed into the fuel tank of such motor vehicle unless payment for such fuel has been made.*

B. *Any person who violates this section shall be liable for a civil penalty not to exceed \$250 and applicable court costs if the matter proceeds to court.*

C. *The driver's license of any person found to have violated this section (i) may be suspended for a period of up to 30 days for the first offense and (ii) shall be suspended for a period of 30 days for the second and subsequent offenses.*

D. *Nothing in this section shall preclude a prosecution for larceny.*

§ 46.2-121. *Smoking in proximity to gas pumps; penalty.*

Any person who smokes or uses an open flame within 20 feet of a pump used to fuel motor vehicles or a fueling tanker being used to deliver gasoline to a gasoline station is guilty of a Class 3 misdemeanor if smoking or the use of an open flame is prohibited by a sign at the pump. Any person who causes a fire or explosion as a result of a violation of this section is guilty of a Class 1 misdemeanor.

§ 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

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

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

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

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

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

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

112 11. On the written request of any employer, prospective employer, or authorized agent of either, and
113 with the written consent of the individual concerned, the Commissioner shall (i) compare personal
114 information supplied by the employer, prospective employer, or agent with that contained in the
115 Department's records and, when the information supplied by the employer, prospective employer, or
116 agent is different from that contained in the Department's records, provide the employer, prospective
117 employer, or agent with correct information as contained in the Department's records and (ii) provide the
118 employer, prospective employer, or agent with driver information in the form of an abstract of an
119 individual's record showing all convictions, accidents, driver's license suspensions or revocations, and
120 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 *operator* 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 M of § 46.2-819.1 or~~ subsection H of § 15.2-968.1 ~~or, subsection A of § 33.2-504, subsection M of § 46.2-819.1,~~ or subsection N of § 46.2-819.5. Information released pursuant to this subdivision shall be limited to the name and address of the 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 whatever classes of information the authority may require.

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

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

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

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

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

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

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

§ 46.2-819. Use of toll facility without payment of toll; circumstances to be considered in assessing penalty.

Except for those permitted free use of toll facilities under § 33.2-613, it is unlawful for the operator of a motor vehicle to use a toll facility without payment of the specified toll.

However, in considering the case of anyone accused of violating this ~~section~~ *article* or § 33.2-503, the court shall take into consideration (i) ~~except for lanes equipped for payment of tolls through an automatic vehicle identification system~~, whether the toll booth or collection facility at which the defendant failed to pay the toll was manned at the time, *except for lanes equipped for payment of tolls through an automatic vehicle identification system*; (ii) whether the defendant was required to pay the toll with the exact amount in change; (iii) whether the defendant had the exact change to make the payment; ~~and~~ (iv) whether the defendant had been afforded appropriate advance notice, by signs or other means, that he would be required to pay a toll and pay it with the exact change; (v) *whether the defendant received notification of such violation*; (vi) *whether any technical errors involving an electronic toll collection device or account prohibited the collection of the toll*; and (vii) *in the case of multiple violations, whether subsequent violations occurred prior to receipt of notification of earlier violations*. No person shall be subject to both prosecution under this section and to the provisions of § 46.2-819.1 or 46.2-819.3 for actions arising out of the same transaction or occurrence.

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

A. For purposes of this section:

305 "Automatic vehicle identification device" means an electronic device that communicates by wireless
306 transmission with an automatic vehicle identification system.

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

310 "Debt collection" means the collection of unpaid tolls and applicable administrative fees by (i)
311 retention of a third-party debt collector or (ii) collection practices undertaken by employees of a toll
312 facility operator that are materially similar to a third-party debt collector.

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

315 "Owner" means the registered owner of a vehicle on record with the Department of Motor Vehicles
316 or with the equivalent agency in another state. "Owner" does not include a vehicle rental or vehicle
317 leasing company.

318 "Photo-monitoring system" or "video-monitoring system" means a vehicle sensor installed to work in
319 conjunction with a toll collection device that automatically produces one or more photographs, one or
320 more microphotographs, a videotape, or other recorded images of each vehicle at the time it is used or
321 operated in violation of this section. "Photo-monitoring system" and "video-monitoring system" include
322 electronic systems that monitor and capture images of vehicles using a toll facility to enable toll
323 collection for vehicles that do not pay using a toll collection device.

324 "Toll facility operator" means any agency, political subdivision, authority, or other entity that
325 operates a toll facility.

326 B. The operator of any A toll facility operator or the locality within which such toll facility is
327 located may install and operate or cause to be installed and operated a photo-monitoring system or
328 video-monitoring system in conjunction with an automatic vehicle identification system; ~~or both, at~~
329 ~~locations where on facilities for which tolls are collected for the use of such toll facility. The operator of~~
330 ~~a~~ A toll facility operator shall send an invoice ~~or bill~~ for unpaid tolls to the owner of a vehicle as part
331 of an electronic or manual toll collection process pursuant to § 46.2-819.6 prior to seeking remedies
332 under this section.

333 C. Information collected by a photo-monitoring system or video-monitoring system in conjunction
334 with an automatic vehicle identification system installed and operated pursuant to subsection B shall be
335 limited exclusively to that information that is necessary for the collection of unpaid tolls and
336 establishing when violations occur, including use in any proceeding to determine whether a violation
337 occurred. Notwithstanding any other provision of law, all photographs, microphotographs, ~~electronic~~
338 ~~videotapes, other recorded~~ images, or other data collected by a photo-monitoring system or
339 video-monitoring system in conjunction with an automatic vehicle identification system shall be
340 protected in a database with security comparable to that of the Department of Motor Vehicles' system
341 and used exclusively for the collection of unpaid tolls and for efforts to pursue violators of this section
342 and shall not (i) be open to the public; (ii) be sold and/or used for sales, solicitation, or marketing
343 purposes other than those of the toll facility operator to facilitate toll payment; (iii) be disclosed to any
344 other entity except as may be necessary for the collection of unpaid tolls or to a vehicle owner or
345 operator as part of a challenge to the imposition of a toll; ~~and~~ or (iv) be used in a court in a pending
346 action or proceeding unless the action or proceeding relates to a violation of this section or upon order
347 from a court of competent jurisdiction. Information collected under this section shall be purged and not
348 retained later than 30 days after the collection and reconciliation of any unpaid tolls, administrative fees,
349 and/or civil penalties. Any entity operating a photo-monitoring system or video-monitoring system in
350 conjunction with an automatic vehicle identification system shall annually certify compliance with this
351 section and make all records pertaining to such system available for inspection and audit by the
352 Commissioner of Highways or the Commissioner of the Department of Motor Vehicles or their designee.
353 Any violation of this subsection shall constitute a Class 1 misdemeanor. In addition to any fines or other
354 penalties provided for by law, any money or other thing of value obtained as a result of a violation of
355 this section shall be forfeited to the Commonwealth.

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

363 On toll facilities where a video-monitoring system is installed and operated and no manual toll
364 collection is offered, the owner or operator of a vehicle that uses such toll facility shall be in violation
365 of this section if he refuses to pay the toll within 30 days of notification. Such toll facility operator may
366 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 costs shall be in addition to the administrative fee and 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 operator 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 on a toll facility where a video-monitoring system is installed and operated and no manual toll collection is offered 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 an unpaid toll. Upon receipt of such notice, the toll facility operator may issue a summons pursuant to subsection I and may not seek withholding of registration or renewal thereof under subsection K until a court of competent jurisdiction has found the alleged violator liable for tolls under this section.

D. If the matter proceeds to court, the 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 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 or, for toll facilities where a video-monitoring system is installed and operated and no manual toll collection is offered, within 30 days of receipt of the invoice for the toll.

E. Notwithstanding subsections C and D, for a first conviction of an operator or owner of a vehicle under this section, the total amount for the first conviction shall not exceed \$2,200, including civil penalties and administrative fees regardless of the total number of offenses the operator or owner of a vehicle is convicted of on that date.

F. No summons may be issued by a toll facility operator for a violation of this section unless the toll facility operator can demonstrate that (i) there was an attempt to collect the unpaid tolls and applicable administrative fees through debt collection not less than 30 days prior to issuance of the summons and (ii) 120 days have elapsed since the unpaid toll or, in a summons for multiple violations, 120 days have elapsed since the most recent unpaid toll noticed on the summons.

G. Any action under this section shall be brought in the general district court of the county or city in which the toll facility is located and shall be commenced within two years of the commission of the offense. Such action shall be considered a traffic infraction. 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.

H. Proof of a violation of this section shall be evidenced by information obtained from a photo-monitoring system or video-monitoring system in conjunction with an 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 operator 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 video-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 Department of Transportation.

I. On a form prescribed by the Supreme Court, a summons for a violation of this section may be executed as provided in § 19.2-76.2. A summons for a violation of this section or for unpaid tolls on a toll facility where a video-monitoring system is installed and operated and no manual toll collection is offered may set forth multiple violations occurring within one jurisdiction. 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 or, if the 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 this subsection, such named operator of the vehicle. Such summons shall be signed either originally or by electronic signature. 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.

Upon a finding by a court of competent jurisdiction that the vehicle described in the summons issued pursuant to this subsection was in violation of this section, the court shall impose a civil penalty upon the owner or operator of such vehicle in accordance with the amounts specified in subsection 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 Department of Transportation shall be remanded by the clerk of the court that adjudicated the action to the Department of Transportation's Toll Facilities Revolving Account. Penalties assessed as the result of action initiated by ~~an operator of~~ a toll facility operator other than the Department of Transportation shall be remanded by the clerk of the court that adjudicated the action to the treasurer or director of finance of the county or city in which the violation occurred for payment to the toll facility operator.

The owner of such vehicle shall be given reasonable notice by way of a summons as provided in this subsection 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 owner of the vehicle, and the court shall dismiss upon such motion.

It shall be prima facie evidence that the vehicle described in the summons issued pursuant to this subsection was operated in violation of this section. Records obtained from the Department of Motor Vehicles pursuant to *subsection N or* § 46.2-208 and certified in accordance with § 46.2-215 or from the equivalent agency in another state and certified as true and correct copies by the head of such agency or his designee identifying the owner of such vehicle shall give rise to a rebuttable presumption that the owner of the vehicle is the person named in the summons.

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 *or summons* 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 owner of the vehicle stating that he was not the 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 for unpaid toll or summons~~, as ~~appropriate whichever the case may be~~, will also be issued to the alleged operator of the vehicle at the time of the offense.

In any action against a vehicle operator, an affidavit made by the 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 owner of the vehicle produces for the toll facility operator or the court a certified copy of a police report showing that the vehicle had been reported to the police as stolen prior to the time of the alleged offense and remained stolen at the time of the alleged offense, then the toll facility operator shall not pursue the owner for the unpaid toll *contained in the invoice for unpaid toll* and, if a summons has been issued, the court shall dismiss the summons issued to the owner of the vehicle.

J. 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 or, when the vehicle is registered in a state with which the Commonwealth has entered into an agreement to enforce tolling violations pursuant to § 46.2-819.9, who shall provide to the entity authorized to issue vehicle registration certificates or license plates in the state in which the vehicle is registered sufficient evidence of the court's finding to take action against the vehicle registration certificate or license plates in accordance with the terms of the agreement, until the court has notified the Commissioner that such penalties, fees, and unpaid tolls have been paid. Upon receipt of such notification from the court, the Commissioner of the Department of Motor Vehicles shall notify the state where the vehicle is registered of such payment. 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 I 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 or, when such vehicle is registered in a state with which the Commonwealth has entered into an agreement to enforce tolling violations pursuant to § 46.2-819.9, who shall provide to the entity authorized to issue vehicle registration certificates or license plates in the state in which the vehicle is registered sufficient evidence of the court's finding to take action against the vehicle registration certificate or license plates in accordance with the terms of the agreement, until the court has notified the Commissioner that such penalties, fees, and unpaid tolls have been paid. Upon receipt of such notification from the court, the Commissioner of the Department of Motor Vehicles shall notify the state where the vehicle is registered of such payment. Such funds representing payment of unpaid tolls and all administrative fees of the toll facility operator shall be transferred from the court to the Department of Transportation's Toll Facilities Revolving Account or, in the case of an action initiated by an operator of a toll facility operator other than the 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 owner or operator of the vehicle to defray the cost of processing and removing an order to deny registration or registration renewal.

K. *This subsection shall only apply to unpaid tolls on a toll facility where a video-monitoring system is installed and operated and no manual toll collection is offered.*

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 I 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 (a) failed to pay the unpaid tolls and administrative fees and (b) 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 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.

L. 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 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~~ *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.

~~L. M.~~ 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.

~~M. N.~~ The ~~operator of a toll facility~~ *operator* may enter into an agreement with the Department of Motor Vehicles, in accordance with the provisions of subdivision B 21 of § 46.2-208, to obtain vehicle owner information regarding the owners of vehicles that fail to pay tolls required for the use of toll facilities and with the Department of Transportation to obtain any information that is necessary to conduct electronic toll collection. Such agreement may include any information that may be obtained by the Department of Motor Vehicles in accordance with any agreement entered into pursuant to § 46.2-819.9. Information provided to ~~the operator of a toll facility~~ *operator* 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 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.

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

A. For purposes of this section:

"Debt collection" means the collection of unpaid tolls and applicable administrative fees by (i) retention of a third-party debt collector or (ii) collection practices undertaken by employees of a toll facility operator that are materially similar to a third-party debt collector.

~~"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.~~

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

~~"Toll facility operator" 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 F remains unpaid after 30 days. The person who executed the written promise to pay pursuant to subsection F shall pay the unpaid toll and any administrative fee detailed in an invoice or bill issued by a toll facility operator. If paid within 60 days of notification, the administrative fee shall not exceed \$25.

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 conviction of an operator or owner of a vehicle under this section, the total amount for the first conviction shall not exceed \$2,200, including civil penalties and administrative fees regardless of the total number of offenses the operator or owner of a vehicle is convicted of on that date.

E. No summons may be issued by a toll facility operator for a violation of this section unless the toll facility operator can demonstrate that (i) there was an attempt to collect the unpaid tolls and applicable administrative fees through debt collection not less than 30 days prior to issuance of the summons and (ii) 120 days have elapsed since the unpaid toll or, in a summons for multiple violations, 120 days have elapsed since the most recent unpaid toll noticed on the summons.

F. A written promise to pay an unpaid toll within a specified period of time executed by the operator

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.

G. The ~~operator of a toll facility~~ *operator* shall send an invoice or bill to the owner of a motor vehicle using a toll facility without payment of the specified toll as part of an electronic or manual toll collection process pursuant to § 46.2-819.6, prior to seeking remedies under this section. Any action under this section shall be brought in the general district court of the county or city in which the toll facility is located and shall be commenced within two years of the commission of the offense. Such an action shall be considered a traffic infraction. 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.

H. Upon a finding by a court of competent jurisdiction that the operator of a motor vehicle identified in the summons issued pursuant to subsection J was in violation of this section, the court shall impose a civil penalty upon the operator of a motor vehicle in accordance with the amounts specified in subsection C, together with applicable court costs, the operator's administrative fee, and the toll due. Penalties assessed as the result of action initiated by the Department of Transportation shall be remanded by the clerk of the court that adjudicated the action to the Department of Transportation's Toll Facilities Revolving Account. Penalties assessed as the result of action initiated by ~~an operator of a toll facility~~ *operator* other than the Department of Transportation shall be remanded by the clerk of the court that adjudicated the action to the treasurer or director of finance of the county or city in which the violation occurred for payment to the toll facility operator.

I. The toll facility operator may offer to the owner an option to pay the unpaid toll and fees plus a reduced civil penalty of not more than \$25 for a first or second offense or not more than \$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 owner of the vehicle, and the court shall dismiss upon such motion.

J. A summons for a violation of this section may be executed as provided in § 19.2-76.2. A summons for a violation of this section may set forth multiple violations occurring within one jurisdiction. 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 operator of a motor vehicle as shown on the written promise to pay executed pursuant to subsection F or records of the Department of Motor Vehicles. Such summons shall be signed either originally or by electronic signature. If the summoned person fails to appear on the date of return set out in the summons mailed pursuant to this subsection, the summons shall be executed in the manner set out in § 19.2-76.3.

K. Upon a finding by a court that a person has three 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 any vehicle owned or co-owned by the offender or, when the vehicle is registered in a state with which the Commonwealth has entered into an agreement to enforce tolling violations pursuant to § 46.2-819.9, who shall provide to the entity authorized to issue vehicle registration certificates or license plates in the state in which the vehicle is registered sufficient evidence of the court's finding to take action against the vehicle registration certificate or license plates in accordance with the terms of the agreement. Upon receipt of such notification from the court, the Commissioner of the Department of Motor Vehicles shall notify the state where the vehicle is registered of such payment. The Commissioner shall collect a \$40 administrative fee from the owner or operator of the vehicle to defray the cost of processing and removing an order to deny registration or registration renewal.

L. 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.

M. 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~~ *operator* shall send an invoice for the unpaid toll pursuant to subsection C to the registered owner of the vehicle. An invoice for the unpaid toll shall contain the

674 following:

- 675 1. The name and address of the registered owner alleged to be liable under this section;
676 2. The registration number of the motor vehicle involved in such violation or information obtained
677 from an automatic vehicle identification system if the vehicle is identified by an automatic vehicle
678 identification system for the purpose of violation detection;
679 3. The location where such violation took place;
680 4. The date and time of such violation;
681 5. The amount of the toll not paid;
682 6. The amount of the administrative fee;
683 7. The date by which the toll and administrative fee must be paid;
684 8. The statutory defenses available under this chapter, including a notice of (i) the summoned
685 person's ability to provide the name and address of the vehicle operator at the time of the violation
686 through the filing of an affidavit as provided in § 33.2-503, *or* 46.2-819.1, ~~or 46.2-819.3:1~~ and (ii)
687 instructions for filing such affidavit, including the address to which the affidavit is to be sent;
688 9. A warning describing the penalties for nonpayment of the invoice for the unpaid toll or failure to
689 file a notice to contest liability for the unpaid toll; and
690 10. The procedures and time limits for filing a notice to contest liability for an unpaid toll as
691 provided in subsection C of ~~§ 46.2-819.3:1~~ § 46.2-819.1.
692 B. The toll facility operator shall include with the invoice a form to be used by the registered owner
693 or operator of the vehicle to contest liability for an unpaid toll. This form shall include the mailing
694 address to which it should be sent.
695 C. Whenever an invoice for an unpaid toll is to be provided to any person by the toll facility
696 operator, it may be executed by mailing by first-class mail a copy of the invoice to the address of the
697 owner of the vehicle as shown on the records of the Department.
698 **§ 46.2-819.8. Toll grace period.**
699 When a vehicle has been operated in violation of § 33.2-503, 46.2-819.1, *or* 46.2-819.3; ~~or~~
700 ~~46.2-819.3:1~~, no holder of an account for an electronic toll collection device that is property of the
701 Commonwealth when (i) such device is detected by the toll operator or (ii) such device is not detected
702 by the toll operator but such vehicle is associated with such an account shall owe any penalties, fees, or
703 costs in addition to the unpaid toll, unless and until the toll operator or HOT lanes operator has
704 attempted to process the collection of the toll through the Commonwealth's electronic toll account
705 system at least twice and at least 10 days have elapsed since the unpaid toll. A toll operator shall make
706 an attempt to process and collect an unpaid toll on the sixth day after the unpaid toll and shall make an
707 additional attempt on the tenth day after the unpaid toll if earlier attempts to process and collect the
708 unpaid toll were unsuccessful.
709 2. That §§ 46.2-819.2, 46.2-819.3:1, and 46.2-819.4 of the Code of Virginia are repealed.