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## SENATE BILL NO. 181

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice  
on January 24, 2018)

(Patron Prior to Substitute—Senators Stanley and Edwards [SB 148])

A *BILL to amend and reenact §§ 19.2-258.1, 19.2-354, 19.2-354.1, 33.2-503, 46.2-301, 46.2-361, 46.2-391.1, 46.2-416, 46.2-819.1, 46.2-819.3, 46.2-819.3:1, 46.2-819.5, and 46.2-1200.1 of the Code of Virginia and to repeal § 46.2-395 of the Code of Virginia, relating to suspension of driver's license for nonpayment of fines or costs.*

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

**1. That §§ 19.2-258.1, 19.2-354, 19.2-354.1, 33.2-503, 46.2-301, 46.2-361, 46.2-391.1, 46.2-416, 46.2-819.1, 46.2-819.3, 46.2-819.3:1, 46.2-819.5, and 46.2-1200.1 of the Code of Virginia are amended and reenacted as follows:**

**§ 19.2-258.1. Trial of traffic infractions; measure of proof; failure to appear.**

For any traffic infraction cases tried in a district court, the court shall hear and determine the case without the intervention of a jury. For any traffic infraction case appealed to a circuit court, the defendant shall have the right to trial by jury. The defendant shall be presumed innocent until proven guilty beyond a reasonable doubt.

When a person charged with a traffic infraction fails to enter a written or court appearance, he shall be deemed to have waived court hearing and the case may be heard in his absence, after which he shall be notified of the court's finding. ~~He shall be advised that if he fails to comply with any order of the court therein, the court may order suspension of his driver's license as provided in § 46.2-395 but; however,~~ the court shall not issue a warrant for his failure to appear pursuant to § 46.2-938.

**§ 19.2-354. Authority of court to order payment of fine, costs, forfeitures, penalties or restitution in installments or upon other terms and conditions; community work in lieu of payment.**

A. Whenever (i) a defendant, convicted of a traffic infraction or a violation of any criminal law of the Commonwealth or of any political subdivision thereof, or found not innocent in the case of a juvenile, is sentenced to pay a fine, restitution, forfeiture or penalty and (ii) the defendant is unable to make payment of the fine, restitution, forfeiture, or penalty and costs within 30 days of sentencing, the court shall order the defendant to pay such fine, restitution, forfeiture or penalty and any costs which the defendant may be required to pay in deferred payments or installments. The court assessing the fine, restitution, forfeiture, or penalty and costs may authorize the clerk to establish and approve individual deferred or installment payment agreements. If the defendant owes court-ordered restitution and enters into a deferred or installment payment agreement, any money collected pursuant to such agreement shall be used first to satisfy such restitution order and any collection costs associated with restitution prior to being used to satisfy any other fine, forfeiture, penalty, or cost owed. Any payment agreement authorized under this section shall be consistent with the provisions of § 19.2-354.1, including any required minimum payments or other required conditions. The requirements set forth in § 19.2-354.1 shall be posted in the clerk's office and on the court's website, if a website is available. As a condition of every such agreement, a defendant who enters into an installment or deferred payment agreement shall promptly inform the court of any change of mailing address during the term of the agreement. If the defendant is unable to make payment within 90 days of sentencing, the court may assess a one-time fee not to exceed \$10 to cover the costs of management of the defendant's account until such account is paid in full. This one-time fee shall not apply to cases in which costs are assessed pursuant to § 17.1-275.1, 17.1-275.2, 17.1-275.3, 17.1-275.4, 17.1-275.7, 17.1-275.8, or 17.1-275.9. Installment or deferred payment agreements shall include terms for payment if the defendant participates in a program as provided in subsection B or C. The court, if such sum or sums are not paid in full by the date ordered, shall proceed in accordance with § 19.2-358.

B. When a person sentenced to the Department of Corrections or a local correctional facility owes any fines, costs, forfeitures, restitution or penalties, he shall be required as a condition of participating in any work release, home/electronic incarceration or nonconsecutive days program as set forth in § 53.1-60, 53.1-131, 53.1-131.1, or 53.1-131.2 to either make full payment or make payments in accordance with his installment or deferred payment agreement while participating in such program. If, after the person has an installment or deferred payment agreement, the person fails to pay as ordered, his participation in the program may be terminated until all fines, costs, forfeitures, restitution and penalties are satisfied. The Director of the Department of Corrections and any sheriff or other administrative head of any local correctional facility shall withhold such ordered payments from any amounts due to such person. Distribution of the money collected shall be made in the following order of

SENATE SUBSTITUTE

SB181S1

60 priority to:

61 1. Meet the obligation of any judicial or administrative order to provide support and such funds shall  
62 be disbursed according to the terms of such order;

63 2. Pay any restitution as ordered by the court;

64 3. Pay any fines or costs as ordered by the court;

65 4. Pay travel and other such expenses made necessary by his work release employment or  
66 participation in an education or rehabilitative program, including the sums specified in § 53.1-150; and

67 5. Defray the offender's keep.

68 The balance shall be credited to the offender's account or sent to his family in an amount the  
69 offender so chooses.

70 The Board of Corrections shall promulgate regulations governing the receipt of wages paid to  
71 persons participating in such programs, the withholding of payments and the disbursement of appropriate  
72 funds.

73 C. The court shall establish a program and may provide an option to any person upon whom a fine  
74 and costs have been imposed to discharge all or part of the fine or costs by earning credits for the  
75 performance of community service work before or after imprisonment. The program shall specify the  
76 rate at which credits are earned and provide for the manner of applying earned credits against the fine  
77 or costs. The court shall have such other authority as is reasonably necessary for or incidental to  
78 carrying out this program.

79 D. When the court has authorized deferred payment or installment payments, the clerk shall give  
80 notice to the defendant that upon his failure to pay as ordered he may be fined or imprisoned pursuant  
81 to § 19.2-358 and his privilege to operate a motor vehicle will be suspended pursuant to § 46.2-395.

82 E. The failure of the defendant to enter into a deferred payment or installment payment agreement  
83 with the court or the failure of the defendant to make payments as ordered by the agreement shall allow  
84 the Tax Commissioner to act in accordance with § 19.2-349 to collect all fines, costs, forfeitures and  
85 penalties.

86 **§ 19.2-354.1. Deferred or installment payment agreements.**

87 A. For purposes of this section:

88 "Deferred payment agreement" means an agreement in which no installment payments are required  
89 and the defendant agrees to pay the full amount of the fines and costs at the end of the agreement's  
90 stated term.

91 "Fines and costs" means all fines, court costs, forfeitures, and penalties assessed in any case by a  
92 single court against a defendant for the commission of any crime or traffic infraction. "Fines and costs"  
93 includes restitution unless the court orders a separate payment schedule for restitution.

94 "Installment payment agreement" means an agreement in which the defendant agrees to make  
95 monthly or other periodic payments until the fines and costs are paid in full.

96 "Modified deferred payment agreement" means a deferred payment agreement in which the defendant  
97 also agrees to use best efforts to make monthly or other periodic payments.

98 B. The court shall give a defendant ordered to pay fines and costs written notice of the availability  
99 of deferred, modified deferred, and installment payment agreements and, if a community service  
100 program has been established, the availability of earning credit toward discharge of fines and costs  
101 through the performance of community service work. The court shall offer any defendant who is unable  
102 to pay in full the fines and costs within 30 days of sentencing the opportunity to enter into a deferred  
103 payment agreement, modified deferred payment agreement, or installment payment agreement.

104 C. The court shall not deny a defendant the opportunity to enter into a deferred, modified deferred,  
105 or installment payment agreement solely (i) because of the category of offense for which the defendant  
106 was convicted or found not innocent, (ii) because of the total amount of all fines and costs, (iii) because  
107 the defendant previously defaulted under the terms of a payment agreement, (iv) because the fines and  
108 costs have been referred for collections pursuant to § 19.2-349, or (v) because the defendant has not  
109 established a payment history; or (vi) because the defendant is eligible for a restricted driver's license  
110 under subsection E of § 46.2-395.

111 D. In determining the length of time to pay under a deferred, modified deferred, or installment  
112 payment agreement and the amount of the payments, a court shall take into account the defendant's  
113 financial resources and obligations, including any fines and costs owed by the defendant in other courts.  
114 In assessing the defendant's ability to pay, the court shall use a written financial statement, on a form  
115 developed by the Executive Secretary of the Supreme Court, setting forth the defendant's financial  
116 resources and obligations or conduct an oral examination of the defendant to determine his financial  
117 resources and obligations. The court may require the defendant to present a summary prepared by the  
118 Department of Motor Vehicles of the other courts in which the defendant also owes fines and costs. The  
119 length of a payment agreement and the amount of the payments shall be reasonable in light of the  
120 defendant's financial resources and obligations and shall not be based solely on the amount of fines and  
121 costs. The court may offer a payment agreement combining an initial period during which no payment

of fines and costs is required followed by a period of installment payments.

E. A court may require a down payment as a condition of a defendant entering a deferred, modified deferred, or installment payment agreement. Any down payment shall be a minimal amount to demonstrate the defendant's commitment to paying the fines and costs. In the case of an installment payment agreement, the required down payment may not exceed (i) if the fines and costs owed are \$500 or less, 10 percent of such amount or (ii) if the fines and costs owed are more than \$500, five percent of such amount or \$50, whichever is greater. A defendant may make a larger down payment than what is provided by this subsection.

F. All fines and costs that a defendant owes for all cases in any single court may be incorporated into one payment agreement, unless otherwise ordered by the court in specific cases. A payment agreement shall include only those outstanding fines and costs for which the limitations period set forth in § 19.2-341 has not run.

G. Any payment received within 10 days of its due date shall be considered to be timely made.

H. At any time during the duration of a payment agreement, the defendant may request a modification of the agreement in writing on a form provided by the Executive Secretary of the Supreme Court, and the court may grant such modification based on a good faith showing of need.

I. A court shall consider a request by a defendant who has defaulted on a payment agreement to enter into a subsequent payment agreement. In determining whether to approve the request for a subsequent payment agreement, the court shall consider any change in the defendant's circumstances. A court shall require a down payment to enter into a subsequent payment agreement, provided that the down payment required to enter into a subsequent payment agreement shall not exceed (i) if the fines and costs owed are \$500 or less, 10 percent of such amount or (ii) if the fines and costs owed are more than \$500, five percent of such amount or \$50, whichever is greater. When a defendant enters into a subsequent payment agreement, a court shall not require a defendant to establish a payment history on the subsequent payment agreement before restoring the defendant's driver's license.

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

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

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

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

b. A summons for a violation of this section may be executed when such violation is evidenced by information obtained from a photo-enforcement system as defined in this chapter. A certificate, sworn to or affirmed by a technician employed or authorized by the HOT lanes operator, or a facsimile of such a certificate, based on inspection of photographs, microphotographs, videotapes, or other recorded images produced by a photo-enforcement system, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape, or other recorded images evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such violation under this subdivision 2. Any vehicle rental or vehicle leasing company, if named in a summons, shall be released as a party to the action if it provides to the HOT lanes operator a copy of the vehicle rental agreement or lease or an affidavit identifying the renter or lessee prior to the date of hearing set forth in the summons. Upon receipt of such rental agreement, lease, or affidavit, a summons shall be issued for 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.).

c. On a form prescribed by the Supreme Court, a summons issued under this subdivision 2 may be executed as provided in § 19.2-76.2. Such form shall contain the option for the owner or operator to prepay the unpaid toll and all penalties, administrative fees, and costs. 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 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 subdivision e, 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

183 summons mailed pursuant to this section, the summons shall be executed in the manner set out in  
184 § 19.2-76.3.

185 d. No summons may be issued by a HOT lanes operator for a violation of this section unless the  
186 HOT lanes operator can demonstrate that (i) there was an attempt to collect the unpaid tolls and  
187 applicable administrative fees through debt collection not less than 30 days prior to issuance of the  
188 summons and (ii) 120 days have elapsed since the unpaid toll or, in a summons for multiple violations,  
189 120 days have elapsed since the most recent unpaid toll noticed on the summons. For purposes of this  
190 subdivision, "debt collection" means the collection of unpaid tolls and applicable administrative fees by  
191 (a) retention of a third-party debt collector or (b) collection practices undertaken by employees of a  
192 HOT lanes operator that are materially similar to a third-party debt collector.

193 e. The owner of such vehicle shall be given reasonable notice by way of a summons as provided in  
194 this subdivision 2 that his vehicle had been used in violation of this section, and such owner shall be  
195 given notice of the time and place of the hearing and notice of the civil penalty and costs for such  
196 offense.

197 It shall be prima facie evidence that the vehicle described in the summons issued pursuant to  
198 subdivision 2 was operated in violation of this section. Records obtained from the Department of Motor  
199 Vehicles pursuant to § 33.2-504 and certified in accordance with § 46.2-215 or from the equivalent  
200 agency in another state and certified as true and correct copies by the head of such agency or his  
201 designee identifying the owner of such vehicle shall give rise to a rebuttable presumption that the owner  
202 of the vehicle is the person named in the summons.

203 Upon the filing of an affidavit with the court at least 14 days prior to the hearing date by the owner  
204 of the vehicle stating that he was not the operator of the vehicle on the date of the violation and  
205 providing the legal name and address of the operator of the vehicle at the time of the violation, a  
206 summons will also be issued to the alleged operator of the vehicle at the time of the offense. The  
207 affidavit shall constitute prima facie evidence that the person named in the affidavit was driving the  
208 vehicle at all the relevant times relating to the matter named in the affidavit.

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

212 3. a. The HOT lanes operator may impose and collect an administrative fee in addition to the unpaid  
213 toll so as to recover the expenses of collecting the unpaid toll, which administrative fee shall be  
214 reasonably related to the actual cost of collecting the unpaid toll and not exceed \$100 per violation. The  
215 operator of the vehicle shall pay the unpaid tolls and any administrative fee detailed in a notice or  
216 invoice issued by a HOT lanes operator. If paid within 60 days of notification, the administrative fee  
217 shall not exceed \$25. The HOT lanes operator shall notify the owner of the vehicle of any unpaid tolls  
218 and administrative fees by mailing an invoice pursuant to § 46.2-819.6.

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

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

238 d. Upon a finding by a court that a resident of the Commonwealth has violated this section, in the  
239 event such person fails to pay the required penalties, fees, and costs, the court shall notify the  
240 Commissioner of the Department of Motor Vehicles, who shall suspend all of the registration certificates  
241 and license plates issued for any motor vehicles registered solely in the name of such person and shall  
242 not issue any registration certificate or license plate for any other vehicle that such person seeks to  
243 register solely in his name until the court has notified the Commissioner of the Department of Motor  
244 Vehicles that such penalties, fees, and costs have been paid. Upon a finding by a court that a

nonresident of the Commonwealth has violated this section, in the event that such person fails to pay the required penalties, fees, and costs, the court shall notify the Commissioner of the Department of Motor Vehicles, who shall, 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, 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 of the Department of Motor Vehicles that such penalties, fees, and costs 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. The HOT lanes operator and the Commissioner of the Department of Motor Vehicles may enter into an agreement whereby the HOT lanes operator may reimburse the Department of Motor Vehicles for its reasonable costs to develop, implement, and maintain this enforcement mechanism, and that specifies that the Commissioner of the Department of Motor Vehicles shall have an obligation to suspend such registration certificates or to provide notice to such entities in other states so long as the HOT lanes operator makes the required reimbursements in a timely manner in accordance with the agreement.

e. An action brought under subdivision 1 or 2 shall be commenced within two years of the commission of the offense and shall be considered a traffic infraction. Except as provided in subdivisions 4 and 5, imposition of a civil penalty pursuant to this section shall not be deemed a conviction as an operator of a motor vehicle under Title 46.2 and shall not be made part of the driving record of the person upon whom such civil penalty is imposed, nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage. ~~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 subdivision 4 or 2.~~

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

b. Any person driving an unauthorized vehicle on the designated HOT lanes is guilty of a traffic infraction, which shall not be a moving violation, and shall be punishable as follows: for a first offense, by a fine of \$125; for a second offense within a period of five years from a first offense, by a fine of \$250; for a third offense within a period of five years from a first offense, by a fine of \$500; and for a fourth and subsequent offense within a period of five years from a first offense, by a fine of \$1,000. No person shall be subject to prosecution under both this subdivision and subdivision 1 or 2 for actions arising out of the same transaction or occurrence.

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

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

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

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

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

**§ 46.2-301. Driving while license, permit, or privilege to drive suspended or revoked.**

A. In addition to any other penalty provided by this section, any motor vehicle administratively impounded or immobilized under the provisions of § 46.2-301.1 may, in the discretion of the court, be impounded or immobilized for an additional period of up to 90 days upon conviction of an offender for driving while his driver's license, learner's permit, or privilege to drive a motor vehicle has been suspended or revoked for (i) a violation of § 18.2-36.1, 18.2-51.4, 18.2-266, 18.2-272, or 46.2-341.24 or a substantially similar ordinance or law in any other jurisdiction or (ii) driving after adjudication as an

306 habitual offender, where such adjudication was based in whole or in part on an alcohol-related offense,  
307 or where such person's license has been administratively suspended under the provisions of § 46.2-391.2.  
308 However, if, at the time of the violation, the offender was driving a motor vehicle owned by another  
309 person, the court shall have no jurisdiction over such motor vehicle but may order the impoundment or  
310 immobilization of a motor vehicle owned solely by the offender at the time of arrest. All costs of  
311 impoundment or immobilization, including removal or storage expenses, shall be paid by the offender  
312 prior to the release of his motor vehicle.

313 B. Except as provided in §§ 46.2-304 and 46.2-357, no resident or nonresident (i) whose driver's  
314 license, learner's permit, or privilege to drive a motor vehicle has been suspended or revoked or (ii) who  
315 has been directed not to drive by any court or by the Commissioner, or (iii) who has been forbidden, as  
316 prescribed by operation of any statute of the Commonwealth or a substantially similar ordinance of any  
317 county, city or town, to operate a motor vehicle in the Commonwealth shall thereafter drive any motor  
318 vehicle or any self-propelled machinery or equipment on any highway in the Commonwealth until the  
319 period of such suspension or revocation has terminated or the privilege has been reinstated or a  
320 restricted license is issued pursuant to subsection E. ~~A clerk's notice of suspension of license for failure~~  
321 ~~to pay fines or costs given in accordance with § 46.2-395 shall be sufficient notice for the purpose of~~  
322 ~~maintaining a conviction under this section.~~ For the purposes of this section, the phrase "motor vehicle  
323 or any self-propelled machinery or equipment" shall not include mopeds.

324 C. A violation of subsection B is a Class 1 misdemeanor. A third or subsequent offense occurring  
325 within a 10-year period shall include a mandatory minimum term of confinement in jail of 10 days.  
326 However, the court shall not be required to impose a mandatory minimum term of confinement in any  
327 case where a motor vehicle is operated in violation of this section in a situation of apparent extreme  
328 emergency which requires such operation to save life or limb.

329 D. Upon a violation of subsection B, the court shall suspend the person's license or privilege to drive  
330 a motor vehicle for the same period for which it had been previously suspended or revoked. In the event  
331 the person violated subsection B by driving during a period of suspension or revocation which was not  
332 for a definite period of time, the court shall suspend the person's license, permit or privilege to drive for  
333 an additional period not to exceed 90 days, to commence upon the expiration of the previous suspension  
334 or revocation or to commence immediately if the previous suspension or revocation has expired;  
335 however, in the event that the person violated subsection B by driving during a period of suspension  
336 imposed pursuant to § 46.2-395, the additional 90-day suspension imposed pursuant to this subsection  
337 shall run concurrently with the suspension imposed pursuant to § 46.2-395 in accordance with subsection  
338 F of § 46.2-395.

339 E. Any person who is otherwise eligible for a restricted license may petition each court that  
340 suspended his license pursuant to subsection D for authorization for a restricted license, provided that  
341 the period of time for which the license was suspended by the court pursuant to subsection D, if  
342 measured from the date of conviction, has expired, even though the suspension itself has not expired. A  
343 court may, for good cause shown, authorize the Department of Motor Vehicles to issue a restricted  
344 license for any of the purposes set forth in subsection E of § 18.2-271.1. No restricted license shall be  
345 issued unless each court that issued a suspension of the person's license pursuant to subsection D  
346 authorizes the Department to issue a restricted license. Any restricted license issued pursuant to this  
347 subsection shall be in effect until the expiration of any and all suspensions issued pursuant to subsection  
348 D, except that it shall automatically terminate upon the expiration, cancellation, suspension, or  
349 revocation of the person's license or privilege to drive for any other cause. No restricted license issued  
350 pursuant to this subsection shall permit a person to operate a commercial motor vehicle as defined in the  
351 Commercial Driver's License Act (§ 46.2-341.1 et seq.). The court shall forward to the Commissioner a  
352 copy of its authorization entered pursuant to this subsection, which shall specifically enumerate the  
353 restrictions imposed and contain such information regarding the person to whom such a license is issued  
354 as is reasonably necessary to identify the person. The court shall also provide a copy of its authorization  
355 to the person, who may not operate a motor vehicle until receipt from the Commissioner of a restricted  
356 license. A copy of the restricted license issued by the Commissioner shall be carried at all times while  
357 operating a motor vehicle.

358 F. Any person who operates a motor vehicle or any self-propelled machinery or equipment in  
359 violation of the terms of a restricted license issued pursuant to subsection E of § 18.2-271.1 is not guilty  
360 of a violation of this section but is guilty of a violation of § 18.2-272.

361 **§ 46.2-361. Restoration of privilege after driving while license revoked or suspended for failure**  
362 **to pay fines or costs, furnish proof of financial responsibility or pay uninsured motorist fee.**

363 A. Any person who has been found to be an habitual offender, where the determination or  
364 adjudication was based in part and dependent on a conviction as set out in subdivision 1 c of former  
365 § 46.2-351, may, after three years from the date of the final order of a court entered under this article,  
366 or if no such order was entered then the notice of the determination or adjudication by the  
367 Commissioner, petition the court in which he was found to be an habitual offender, or the circuit court

in the political subdivision in which he then resides, for restoration of his privilege to drive a motor vehicle in the Commonwealth. In no event, however, shall the provisions of this subsection apply when such person's determination or adjudication was also based in part and dependent on a conviction as set out in subdivision 1 b of former § 46.2-351. In such case license restoration shall be in compliance with the provisions of § 46.2-360.

B. Any person who has been found to be an habitual offender, where the determination or adjudication was based entirely upon a combination of convictions of § 46.2-707 and convictions as set out in subdivision 1 c of former § 46.2-351, may, after payment in full of all outstanding fines, costs and judgments relating to his determination, and furnishing proof of (i) financial responsibility and (ii) compliance with the provisions of Article 8 (§ 46.2-705 et seq.) of Chapter 6 of this title or both, if applicable, petition the court in which he was found to be an habitual offender, or the circuit court in the political subdivision in which he then resides, for restoration of his privilege to drive a motor vehicle in the Commonwealth.

C. This section shall apply only where the conviction or convictions as set out in subdivision 1 c of former § 46.2-351 resulted from a suspension or revocation ordered pursuant to (i) ~~§ 46.2-395 for failure to pay fines and costs~~, (ii) § 46.2-459 for failure to furnish proof of financial responsibility, or (iii) (ii) § 46.2-417 for failure to satisfy a judgment, provided the judgment has been paid in full prior to the time of filing the petition or was a conviction under § 46.2-302 or former § 46.1-351.

D. On any such petition, the court, in its discretion, may restore to the person his privilege to drive a motor vehicle, on whatever conditions the court may prescribe, if the court is satisfied from the evidence presented that the petitioner does not constitute a threat to the safety and welfare of himself or others with respect to the operation of a motor vehicle, and that he has satisfied in full all outstanding court costs, court fines and judgments relating to determination as an habitual offender and furnished proof of financial responsibility, if applicable.

E. A copy of any petition filed hereunder shall be served on the attorney for the Commonwealth for the jurisdiction wherein the petition was filed, and shall also be served on the Commissioner of the Department of Motor Vehicles, who shall provide to the attorney for the Commonwealth a certified copy of the petitioner's driving record. The Commissioner shall also advise the attorney for the Commonwealth whether there is anything in the records maintained by the Department that might make the petitioner ineligible for restoration, and may also provide notice of any potential ineligibility to the Attorney General's Office, which may join in representing the interests of the Commonwealth where it appears that the petitioner is not eligible for restoration. The hearing on a petition filed pursuant to this article shall not be set for a date sooner than ~~thirty~~ 30 days after the petition is filed and served as provided herein.

#### **§ 46.2-391.1. Suspension of registration certificates and plates upon suspension or revocation of driver's license.**

Whenever the Commissioner, under the authority of law of the Commonwealth, suspends or revokes the driver's license of any person upon receiving record of that person's conviction, ~~or whenever the Commissioner is notified that a court has suspended a person's driving privilege pursuant to § 46.2-395,~~ the Commissioner shall also suspend all of the registration certificates and license plates issued for any motor vehicles registered solely in the name of such person and shall not issue any registration certificate or license plate for any other vehicle that such person seeks to register solely in his name. ~~Except for persons whose privileges have been suspended by a court pursuant to § 46.2-395, the~~ The Commissioner shall not suspend such registration certificates or license plates in the event such person has previously given or gives and thereafter maintains proof of his financial responsibility in the future, in the manner specified in this chapter, with respect to each and every motor vehicle owned and registered by such person. In this event it shall be lawful for said vehicle or vehicles to be operated during this period of suspension by any duly licensed driver when so authorized by the owner.

#### **§ 46.2-416. Notice of suspension or revocation of license.**

A. Whenever it is provided in this title that a driver's license may or shall be suspended or revoked either by the Commissioner or by a court, notice of the suspension or revocation or any certified copy of the decision or order of the Commissioner may be sent by the Department by certified mail to the driver at the most recent address of the driver on file at the Department. ~~If the driver has previously been notified by mail or in person of the suspension or revocation or of an impending suspension for failure to pay fines and costs pursuant to § 46.2-395, whether notice is given by the court or law-enforcement officials as provided by law, and the Department has been notified by the court that notice was so given and the fines and costs were not paid within 30 days, no notice of suspension shall be sent by the Department to the driver.~~ If the certificate of the Commissioner or someone designated by him for that purpose shows that the notice or copy has been so sent or provided, it shall be deemed prima facie evidence that the notice or copy has been sent and delivered or otherwise provided to the driver for all purposes involving the application of the provisions of this title. In the discretion of the

Commissioner, service may be made as provided in § 8.01-296, which service on the driver shall be made by delivery in writing to the driver in person in accordance with subdivision 1 of § 8.01-296 by a sheriff or deputy sheriff in the county or city in which the address is located, who shall, as directed by the Commissioner, take possession of any suspended or revoked license, registration card, or set of license plates or decals and return them to the office of the Commissioner. No such service shall be made if, prior to service, the driver has complied with the requirement which caused the issuance of the decision or order. In any such case, return shall be made to the Commissioner.

B. In lieu of making a direct payment to sheriffs as a fee for delivery of the Department's processes, the Commissioner shall effect a transfer of funds, on a monthly basis, to the Compensation Board to be used to provide additional support to sheriffs' departments. The amount of funds so transferred shall be as provided in the general appropriation act.

C. The Department may contract with the United States Postal Service or an authorized agent to use the National Change of Address System for the purpose of obtaining current address information for a person whose name appears in customer records maintained by the Department. If the Department receives information from the National Change of Address System indicating that a person whose name appears in a Department record has submitted a permanent change of address to the Postal Service, the Department may then update its records with the mailing address obtained from the National Change of Address System.

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

A. For purposes of this section:

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

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

"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.

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

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

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



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

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 automatic vehicle identification system as provided in this section, to have used such a toll facility without payment of the required toll.

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

552 the toll facility operator.

553 The owner of such vehicle shall be given reasonable notice by way of a summons as provided in this  
554 subsection that his vehicle had been used in violation of this section, and such owner shall be given  
555 notice of the time and place of the hearing as well as the civil penalty and costs for such offense. The  
556 toll facility operator may offer to the owner an option to pay the unpaid toll and fees plus a reduced  
557 civil penalty of \$25 for a first or second offense or \$50 for a third, fourth, or subsequent offense, as  
558 specified on the summons, provided the owner actually pays to the toll facility operator the entire  
559 amount so calculated at least 14 days prior to the hearing date specified on the summons. If the owner  
560 accepts such offer and such amount is actually received by the toll facility operator at least 14 days  
561 prior to the hearing date specified on the summons, the toll facility operator shall move the court at least  
562 five business days prior to the date set for trial to dismiss the summons issued to the owner of the  
563 vehicle, and the court shall dismiss upon such motion.

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

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

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

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

585 J. Upon a finding by a court that a person has two or more unpaid tolls and such person fails to pay  
586 the required penalties, fees, and unpaid tolls, the court shall notify the Commissioner of the Department  
587 of Motor Vehicles, who shall refuse to issue or renew any vehicle registration certificate of any  
588 applicant or the license plate issued for the vehicle driven in the commission of the offense or, when the  
589 vehicle is registered in a state with which the Commonwealth has entered into an agreement to enforce  
590 tolling violations pursuant to § 46.2-819.9, who shall provide to the entity authorized to issue vehicle  
591 registration certificates or license plates in the state in which the vehicle is registered sufficient evidence  
592 of the court's finding to take action against the vehicle registration certificate or license plates in  
593 accordance with the terms of the agreement, until the court has notified the Commissioner that such  
594 penalties, fees, and unpaid tolls have been paid. Upon receipt of such notification from the court, the  
595 Commissioner of the Department of Motor Vehicles shall notify the state where the vehicle is registered  
596 of such payment. If it is proven that the vehicle owner was not the operator at the time of the offense  
597 and upon a finding by a court that the person identified in an affidavit pursuant to subsection I as the  
598 operator violated this section and such person fails to pay the required penalties, fees, and unpaid tolls,  
599 the court shall notify the Commissioner, who shall refuse to issue or renew any vehicle registration  
600 certificate of any applicant or the license plate issued for any vehicle owned or co-owned by such  
601 person or, when such vehicle is registered in a state with which the Commonwealth has entered into an  
602 agreement to enforce tolling violations pursuant to § 46.2-819.9, who shall provide to the entity  
603 authorized to issue vehicle registration certificates or license plates in the state in which the vehicle is  
604 registered sufficient evidence of the court's finding to take action against the vehicle registration  
605 certificate or license plates in accordance with the terms of the agreement, until the court has notified  
606 the Commissioner that such penalties, fees, and unpaid tolls have been paid. Upon receipt of such  
607 notification from the court, the Commissioner of the Department of Motor Vehicles shall notify the state  
608 where the vehicle is registered of such payment. Such funds representing payment of unpaid tolls and all  
609 administrative fees of the toll facility operator shall be transferred from the court to the Department of  
610 Transportation's Toll Facilities Revolving Account or, in the case of an action initiated by an operator of  
611 a toll facility other than the Department of Transportation, to the treasurer or director of finance of the  
612 county or city in which the violation occurred for payment to the toll facility operator. The  
613 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. Any vehicle rental or vehicle leasing company, if it receives an invoice or is named in a summons, shall be released as a party to the action if it provides the operator of the toll facility a copy of the vehicle rental agreement or lease or an affidavit identifying the renter or lessee within 30 days of receipt of the invoice or at least 14 days prior to the date of hearing set forth in the summons. Upon receipt of such rental agreement, lease, or affidavit, a notice shall be mailed to the renter or lessee identified therein. Release of this information shall not be deemed a violation of any provision of the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.) or the Insurance Information and Privacy Protection Act (§ 38.2-600 et seq.). The toll facility operator shall allow at least 30 days from the date of such mailing before pursuing other remedies under this section. In any action against the vehicle operator, a copy of the vehicle rental agreement, lease, or affidavit identifying the renter or lessee of the vehicle at the time of the violation is prima facie evidence that the person named in the rental agreement, lease, or affidavit was operating the vehicle at all the relevant times relating to the matter named in the summons.

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. The operator of a toll facility may enter into an agreement with the Department of Motor Vehicles, in accordance with the provisions of subdivision B 21 of § 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 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. 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.

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

675 administrative fees through debt collection not less than 30 days prior to issuance of the summons and  
676 (ii) 120 days have elapsed since the unpaid toll or, in a summons for multiple violations, 120 days have  
677 elapsed since the most recent unpaid toll noticed on the summons.

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

682 G. The operator of a toll facility shall send an invoice or bill to the owner of a motor vehicle using  
683 a toll facility without payment of the specified toll as part of an electronic or manual toll collection  
684 process pursuant to § 46.2-819.6, prior to seeking remedies under this section. Any action under this  
685 section shall be brought in the general district court of the county or city in which the toll facility is  
686 located and shall be commenced within two years of the commission of the offense. Such an action  
687 shall be considered a traffic infraction. The attorney for the Commonwealth may represent the interests  
688 of the toll facility operator. Any authorized agent or employee of a toll facility operator acting on behalf  
689 of a governmental entity shall be allowed the privileges accorded by § 16.1-88.03 in such cases.

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

700 I. The toll facility operator may offer to the owner an option to pay the unpaid toll and fees plus a  
701 reduced civil penalty of not more than \$25 for a first or second offense or not more than \$50 for a  
702 third, fourth, or subsequent offense, as specified on the summons, provided the owner actually pays to  
703 the toll facility operator the entire amount so calculated at least 14 days prior to the hearing date  
704 specified on the summons. If the owner accepts such offer and such amount is actually received by the  
705 toll facility operator at least 14 days prior to the hearing date specified on the summons, the toll facility  
706 operator shall move the court at least five business days prior to the date set for trial to dismiss the  
707 summons issued to the owner of the vehicle, and the court shall dismiss upon such motion.

708 J. A summons for a violation of this section may be executed as provided in § 19.2-76.2. A  
709 summons for a violation of this section may set forth multiple violations occurring within one  
710 jurisdiction. Notwithstanding the provisions of § 19.2-76, a summons for a violation of this section may  
711 be executed by mailing by first-class mail a copy thereof to the address of the operator of a motor  
712 vehicle as shown on the written promise to pay executed pursuant to subsection F or records of the  
713 Department of Motor Vehicles. Such summons shall be signed either originally or by electronic  
714 signature. If the summoned person fails to appear on the date of return set out in the summons mailed  
715 pursuant to this subsection, the summons shall be executed in the manner set out in § 19.2-76.3.

716 K. Upon a finding by a court that a person has three or more unpaid tolls and such person fails to  
717 pay the required penalties, fees, and unpaid tolls, the court shall notify the Commissioner of the  
718 Department of Motor Vehicles, who shall refuse to issue or renew any vehicle registration certificate of  
719 any applicant or the license plate issued for any vehicle owned or co-owned by the offender or, when  
720 the vehicle is registered in a state with which the Commonwealth has entered into an agreement to  
721 enforce tolling violations pursuant to § 46.2-819.9, who shall provide to the entity authorized to issue  
722 vehicle registration certificates or license plates in the state in which the vehicle is registered sufficient  
723 evidence of the court's finding to take action against the vehicle registration certificate or license plates  
724 in accordance with the terms of the agreement. Upon receipt of such notification from the court, the  
725 Commissioner of the Department of Motor Vehicles shall notify the state where the vehicle is registered  
726 of such payment. The Commissioner shall collect a \$40 administrative fee from the owner or operator of  
727 the vehicle to defray the cost of processing and removing an order to deny registration or registration  
728 renewal.

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

734 M. No person shall be subject to both the provisions of this section and to prosecution under  
735 § 46.2-819 for actions arising out of the same transaction or occurrence.

736 **§ 46.2-819.3:1. Installation and use of video-monitoring system and automatic vehicle**

**identification system in conjunction with all-electronic toll facilities; penalty.**

A. For purposes of this section:

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

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

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

"Operator of a toll facility other than the 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 mean a vehicle rental or vehicle leasing company.

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

B. The operator of any toll facility or the locality within which such toll facility is located may install and operate or cause to be installed and operated a video-monitoring system in conjunction with an automatic vehicle identification system on facilities for which tolls are collected for the use of such toll facility and that do not offer manual toll collection. A video-monitoring system shall include, but not be limited to, electronic systems that monitor and capture images of vehicles using a toll facility to enable toll collection for vehicles that do not pay using a toll collection device. The operator of a toll facility shall send an invoice for unpaid tolls in accordance with the requirements of § 46.2-819.6 to the owner of a vehicle as part of a video-monitoring toll collection process, prior to seeking remedies under this section.

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

If a vehicle uses a toll facility without paying the toll, the owner or operator shall be in violation of this section if he refuses to pay the toll within 30 days of notification. The toll facility operator may impose and collect an administrative fee in addition to the unpaid toll so as to recover the expenses of collecting the unpaid toll, which administrative fee shall be reasonably related to the actual cost of collecting the unpaid toll and not exceed \$100 per violation. Such fee shall not be levied upon the owner or operator of the vehicle unless the toll has not been paid by the owner or operator within 30 days after receipt of the invoice for the unpaid toll, which nonpayment for 30 days shall constitute the violation of this section. Once such a violation has occurred, the owner or operator of the vehicle shall pay the unpaid tolls and any administrative fee detailed in the invoice for the unpaid toll issued by a toll facility operator. If paid within 60 days of the toll violation, the administrative fee shall not exceed \$25.

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

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

815 D. If the matter proceeds to court, the owner or operator of a vehicle shall be liable for a civil  
816 penalty as follows: for a first offense, \$50; for a second offense within one year from the first offense,  
817 \$100; for a third offense within two years from the second offense, \$250; and for a fourth and any  
818 subsequent offense within three years from the second offense, \$500; plus, in each case, the unpaid toll,  
819 all accrued administrative fees imposed by the toll facility operator, and applicable court costs if the  
820 vehicle is found, as evidenced by information obtained from a video-monitoring system in conjunction  
821 with an automatic vehicle identification system as provided in this section, to have used such a toll  
822 facility without payment of the required toll within 30 days of receipt of the invoice for the toll.

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

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

832 G. Any action under this section shall be brought in the general district court of the county or city in  
833 which the toll facility is located and shall be commenced within two years of the commission of the  
834 offense. Such action shall be considered a traffic infraction. The attorney for the Commonwealth may  
835 represent the interests of the toll facility operator. Any authorized agent or employee of a toll facility  
836 operator acting on behalf of a governmental entity shall be allowed the privileges accorded by  
837 § 16.1-88.03 in such cases.

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

851 I. On a form prescribed by the Supreme Court, a summons for a violation of this section may be  
852 executed as provided in § 19.2-76.2. A summons for a violation of this section may set forth multiple  
853 violations occurring within one jurisdiction. Notwithstanding the provisions of § 19.2-76, a summons for  
854 a violation of unpaid tolls may be executed by mailing by first-class mail a copy thereof to the address  
855 of the owner or, if the owner has named and provided a valid address for the operator of the vehicle at  
856 the time of the violation in an affidavit executed pursuant to subsection J, such named operator of the  
857 vehicle. Such summons shall be signed either originally or by electronic signature. If the summoned  
858 person fails to appear on the date of return set out in the summons mailed pursuant to this section, the  
859 summons shall be executed in the manner set out in § 19.2-76.3.

J. Upon a finding by a court of competent jurisdiction that the vehicle described in the summons issued pursuant to subsection I 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 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 subsection I 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.

It shall be prima facie evidence that the vehicle described in the summons issued pursuant to subsection I was operated in violation of this section. Records obtained from the Department of Motor Vehicles pursuant to subsection P 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 the filing of an affidavit by the owner of the vehicle with the toll facility operator within 14 days of receipt of an invoice for unpaid toll or a summons stating that such owner 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 for unpaid toll or summons, 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 or the court shall dismiss the summons issued to the owner of the vehicle.

K. 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, then the court or toll facility operator 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 J 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 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.

L. 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 J 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 for in this subsection shall notify the Commissioner in the manner provided for in his agreement with the Commissioner and supply to the Commissioner information necessary to identify the violator whose registration or renewal is to be denied. The Commissioner shall charge a \$40 fee to defray the cost of processing and withholding the registration or registration renewal, and the toll facility operator may add this fee to the amount of the unpaid tolls and administrative fees. Any agreement entered into pursuant to the provisions of this subsection shall provide for the Department to send the violator notice of the intent to deny renewal of registration at least 30 days prior to the expiration date of a current vehicle registration and such notice shall include a form, as required under subsection B of § 46.2-819.6, to contest liability of the underlying toll violation. The notice provided by the Commissioner shall include instructions for filing the form to contest liability with the toll facility operator within 21 days after the date of mailing of the Commissioner's notice. Upon timely receipt of the form, the toll facility operator shall notify the Commissioner, who shall refrain from withholding the registration or renewal thereof, after which the toll facility operator may proceed to issue a summons for unpaid toll. For the purposes of this subsection, notice by first-class mail to the registrant's address as maintained in the records of the Department shall be deemed sufficient.

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

N. 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.~~

O. 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.

P. The operator of a toll facility may enter into an agreement with the Department, in accordance with the provisions of subdivision B 21 of § 46.2-208, to obtain vehicle owner information regarding the 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 shall be used only for the collection of unpaid tolls, and the operator of the toll facility shall be subject to the same conditions and penalties regarding release of the information as contained in subsection C.

Q. 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.

**§ 46.2-819.5. Enforcement through use of photo-monitoring system or automatic vehicle identification system in conjunction with usage of Dulles Access Highway.**

A. A photo-monitoring system or automatic vehicle identification system established at locations along the Dulles Access Highway, in order to identify vehicles that are using the Dulles Access Highway in violation of the Metropolitan Washington Airports Authority (Authority) regulation regarding usage, which makes violations of the regulation subject to civil penalties, shall be administered in accordance with this section. The civil penalties for violations of such regulation may not exceed the following: \$50 for the first violation; \$100 for a second violation within one year from the first violation; \$250 for a third violation within two years from the second violation; and \$500 for a fourth and any subsequent violation within three years from the second violation. In the event a violation of the Authority regulation is identified via the photo-monitoring system or automatic vehicle identification system, the operator of the Dulles Access Highway shall send a notice of the violation, of the applicable civil penalty and of any administrative fee calculated in accordance with subsection C to the registered owner of the vehicle identified by the system prior to seeking further remedies under this section. Upon receipt of the notice, the registered owner of the vehicle may elect to avoid any action by the operator to enforce the violation in court by waiving his right to a court hearing, pleading guilty to the violation, and paying a reduced civil penalty along with any applicable administrative fee to the operator. Should the recipient of the notice make such an election, the amount of the reduced civil penalty shall be as follows: \$30 for the first violation; \$50 for a second violation within one year from the first violation; \$125 for a third violation within two years from the second violation; and \$250 for a fourth and any subsequent violations within three years from the second violation.

B. Information collected by the photo-monitoring system or automatic vehicle identification system referenced in subsection A shall be limited exclusively to that information that is necessary for identifying those drivers who improperly use the Dulles Access Highway in violation of the Authority regulation. Notwithstanding any other provision of law, all photographs, microphotographs, electronic images, or other data collected by a photo-monitoring system or automatic vehicle identification system shall be used exclusively for the identification of violators and shall not (i) be open to the public; (ii) be sold or used for sales, solicitation, or marketing purposes; (iii) be disclosed to any other entity except as may be necessary for the identification of violators or to a vehicle owner or operator as part of a challenge to the imposition of a civil penalty; or (iv) be used in a court in a pending action or proceeding unless the action or proceeding relates to a violation of the Authority regulation governing usage of the Dulles Access Highway or upon order from a court of competent jurisdiction. Information collected by the system shall be protected in a database with security comparable to that of the Department of Motor Vehicles' system, and be purged and not retained later than 30 days after the collection and reconciliation of any civil penalties and administrative fees. The operator of the Dulles Access Highway shall annually certify compliance with this subsection and make all records pertaining to such system available for inspection and audit by the Commissioner of Highways or the Commissioner of the Department of Motor Vehicles or their designee. Any violation of this subsection shall constitute a Class 1 misdemeanor. In addition to any fines or other penalties provided for by law, any money or other thing of value obtained as a result of a violation of this subsection shall be forfeited to the Commonwealth.

C. The operator of the Dulles Access Highway may impose and collect an administrative fee, in addition to the civil penalty established by regulation, so as to recover the expenses of collecting the civil penalty, which administrative fee shall be reasonably related to the actual cost of collecting the civil penalty and shall not exceed \$100 per violation. Such fee shall not be levied upon the operator of the vehicle until a second violation has been documented within 12 months of an initial violation, in

1044 which case the fee shall apply to such second violation and to any additional violation occurring  
1045 thereafter. If the recipient of the notice referenced in subsection A makes the election provided by that  
1046 subsection, the administrative fee shall not exceed \$25.

1047 D. If the election provided for in subsection A is not made, the operator of the Dulles Access  
1048 Highway may proceed to enforce the violation in court. If the matter proceeds to court, the registered  
1049 owner or operator of a vehicle shall be liable for the civil penalty set out in the Authority regulation  
1050 governing usage of the Dulles Access Highway, any applicable administrative fees calculated in  
1051 accordance with subsection C and applicable court costs if the vehicle is found, as evidenced by  
1052 information obtained from a photo-monitoring system or automatic vehicle identification system as  
1053 provided in this section, to have used the Dulles Access Highway in violation of the Authority  
1054 regulation; provided, that the civil penalty may not exceed the amount of the penalty identified in  
1055 subsection A.

1056 E. Any action under this section shall be brought in the General District Court of the county in  
1057 which the violation occurred.

1058 F. Proof of a violation of the Authority regulation governing the use of the Dulles Access Highway  
1059 shall be evidenced by information obtained from the photo-monitoring system or automatic vehicle  
1060 identification system referenced in subsection A. A certificate, sworn to or affirmed by a technician  
1061 employed or authorized by the operator of the Dulles Access Highway, or a facsimile of such a  
1062 certificate, that is based on inspection of photographs, microphotographs, videotapes, or other recorded  
1063 images or electronic data produced by the photo-monitoring system shall be prima facie evidence of the  
1064 facts contained therein. Any photographs, microphotographs, videotape, or other recorded images or  
1065 electronic data evidencing such a violation shall be available for inspection in any proceeding to  
1066 adjudicate the liability for such violation under this section.

1067 G. A summons issued under this section, which describes a vehicle that, on the basis of a certificate  
1068 referenced in subsection F, is alleged to have been operated in violation of the Authority regulation  
1069 governing usage of the Dulles Access Highway, shall be prima facie evidence that such vehicle was  
1070 operated in violation of the Authority regulation.

1071 H. Upon a finding by a court that the vehicle described in the summons issued under this section  
1072 was in violation of the Authority regulation, the court shall impose a civil penalty upon the registered  
1073 owner or operator of such vehicle in accordance with the penalty amounts specified in subsection D,  
1074 together with any applicable court costs and applicable administrative fees calculated in accordance with  
1075 subsection C. Civil penalties and administrative fees assessed as a result of an action initiated under this  
1076 section and collected by the court shall be remanded by the clerk of the court that adjudicated the action  
1077 to the treasurer or director of finance of the county or city in which the violation occurred for payment  
1078 to the operator of the Dulles Access Highway.

1079 The registered owner of a vehicle shall be given reasonable notice of an enforcement action in court  
1080 by way of a summons that informs the owner that his vehicle has been used in violation of the  
1081 Authority regulation governing the use of the Dulles Access Highway and of the time and place of the  
1082 court hearing, as well as of the civil penalty and court costs for the violation. Upon the filing of an  
1083 affidavit with the court at least 14 days prior to the hearing date by the registered owner of the vehicle  
1084 stating that he was not the driver of the vehicle on the date of the violation and providing the legal  
1085 name and address of the operator of the vehicle at the time of the violation, a summons shall be issued  
1086 to such alleged operator of the vehicle.

1087 In any action against such a vehicle operator, an affidavit made by the registered owner providing  
1088 the name and address of the vehicle operator at the time of the violation shall constitute prima facie  
1089 evidence that the person named in the affidavit was operating the vehicle at all the relevant times  
1090 relating to the matter addressed in the affidavit.

1091 If the registered owner of the vehicle produces a certified copy of a police report showing that the  
1092 vehicle had been reported to the police as stolen prior to the time of the alleged offense and remained  
1093 stolen at the time of the alleged offense, then the court shall dismiss the summons issued to the  
1094 registered owner of the vehicle.

1095 I. Upon a finding by a court that a person has three or more violations of the Authority regulation  
1096 governing the use of the Dulles Access Highway and has failed to pay the required civil penalties,  
1097 administrative fees and court costs into the court, the court shall notify the Commissioner of the  
1098 Department of Motor Vehicles, who shall refuse to issue or renew any vehicle registration certificate to  
1099 or for such person or the license plate for the vehicle owned by such person until the court has notified  
1100 the Commissioner that such civil penalties, fees, and costs have been paid. The Commissioner shall  
1101 collect a \$40 administrative fee from such person to defray the cost of responding to court notices given  
1102 pursuant to this subsection.

1103 J. For purposes of this section, "operator of the Dulles Access Highway" means the Metropolitan  
1104 Washington Airports Authority; "owner" means the registered owner of a vehicle on record with the  
1105 Department of Motor Vehicles; "photo-monitoring system" means equipment that produces one or more

photographs, microphotographs, videotapes, or other recorded images of vehicles at the time they are used or operated in violation of the Authority regulation governing the use of the Dulles Access Highway; "automatic vehicle identification system" means an electronic vehicle identification system that automatically produces an electronic record of each vehicle equipped with an automatic vehicle identification device that uses monitored portions of the Dulles Access Highway; and "automatic vehicle identification device" means an electronic device that communicates by wireless transmission with an automatic vehicle identification system.

K. Any vehicle rental or vehicle leasing company, if named in a summons, shall be released as a party to the action if it provides the operator of the Dulles Access Highway with a copy of the vehicle rental agreement or lease, or an affidavit that identifies the renter or lessee, prior to the date of hearing set forth in the summons. Upon receipt of such rental agreement, lease, or affidavit, a summons shall be issued to such renter or lessee. 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.). In any action against the renter or lessee, a copy of the vehicle rental agreement, lease, or affidavit identifying the renter or lessee of the vehicle at the time of the violation shall be 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. Imposition of a civil penalty pursuant to this section shall not be deemed a conviction as an operator and shall not be made a 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, administrative fee, or cost imposed or ordered paid under this section.~~

M. On a form prescribed by the Supreme Court, a summons for a violation of the Authority regulation governing the use of the Dulles Access Highway may be executed pursuant to § 19.2-76.2. The operator of the Dulles Access Highway or its personnel or agents mailing such summons shall be considered conservators of the peace for the sole and limited purpose of mailing such summons. Pursuant to § 19.2-76.2, the summons for a violation of the Authority regulation governing usage of the Dulles Access Highway may be executed by mailing by first-class mail a copy thereof to the address of the owner of the vehicle as shown on the records of the Department of Motor Vehicles or, if the registered owner or rental or leasing company has named and provided a valid address for the operator of the vehicle at the time of the violation as provided in this section, to the address of such named operator of the vehicle. If the summoned person fails to appear on the date of return set out in the summons mailed pursuant to this section, the summons shall be executed in the manner set out in § 19.2-76.3.

N. The operator of the Dulles Access Highway 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 registered owners of vehicles that improperly use the Dulles Access Highway. Information provided to the operator of the Dulles Access Highway shall only be used in the enforcement of the Authority regulation governing use of the Dulles Access Highway, and the operator shall be subject to the same conditions and penalties regarding release of the information as contained in subsection B.

O. Should other vehicle recognition technology become available that is appropriate to be used for the purpose of monitoring improper usage of the Dulles Access Highway, the operator of the Dulles Access Highway shall be permitted to use any such technology that has been approved for use by the Virginia State Police, the Commonwealth of Virginia, or any of its localities.

P. All civil penalties paid to the operator of the Dulles Access Highway pursuant to this section shall be used by the operator of the Dulles Access Highway only for the operation and improvement of the Dulles Corridor, including the Dulles Toll Road.

**§ 46.2-1200.1. Abandoning motor vehicles prohibited; penalty.**

No person shall cause any motor vehicle to become an abandoned motor vehicle as defined in § 46.2-1200. In any prosecution for a violation of this section, proof that the defendant was, at the time that the vehicle was found abandoned, the owner of the vehicle shall constitute in evidence a rebuttable presumption that the owner was the person who committed the violation. Such presumption, however, shall not arise if the owner of the vehicle provided notice to the Department, as provided in § 46.2-604, that he had sold or otherwise transferred the ownership of the vehicle.

A summons for a violation of this section shall be executed by mailing a copy of the summons by first-class mail to the address of the owner of the vehicle as shown on the records of the Department of Motor Vehicles. If the person fails to appear on the date of return set out in the summons, a new summons shall be issued and delivered to the sheriff of the county, city, or town for service on the accused personally. If the person so served then fails to appear on the date of return set out in the

1167 summons, proceedings for contempt shall be instituted.

1168 Any person convicted of a violation of this section shall be subject to a civil penalty of no more than  
1169 \$500. ~~If any person fails to pay any such penalty, his privilege to drive a motor vehicle on the highways~~  
1170 ~~of the Commonwealth shall be suspended as provided in § 46.2-395.~~

1171 All penalties collected under this section shall be paid into the state treasury to be credited to the  
1172 Literary Fund as provided in § 46.2-114.

1173 **2. That § 46.2-395 of the Code of Virginia is repealed.**

1174 **3. That the Commissioner of the Department of Motor Vehicles shall return or reinstate a person's**  
1175 **driver's license that was suspended prior to July 1, 2018, by the Commissioner solely pursuant to**  
1176 **former § 46.2-395 of the Code of Virginia and no fee shall be charged for such return or**  
1177 **reinstatement of a person's driver's license. Nothing herein shall require the Commissioner to**  
1178 **return or reinstate a person's driver's license if such license has been otherwise lawfully suspended**  
1179 **or revoked.**