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HOUSE BILL NO. 2441

Offered January 9, 2019

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A *BILL to amend and reenact § 46.2-345 of the Code of Virginia and to amend the Code of Virginia by adding in Article 7 of Chapter 3 of Title 46.2 a section numbered 46.2-345.2, relating to special identification cards without photographs; fee; confidentiality; penalties.*

Patrons—Wilt, Edmunds and Landes; Senator: Hanger

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-345 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 7 of Chapter 3 of Title 46.2 a section numbered 46.2-345.2 as follows:

§ 46.2-345. Issuance of special identification cards; fee; confidentiality; penalties.

A. On the application of any person who is a resident of the Commonwealth or the parent or legal guardian of any such person who is under the age of 15, the Department shall issue a special identification card to the person, provided *that*:

1. Application is made on a form prescribed by the Department and includes the applicant's full legal name; year, month, and date of birth; social security number; sex; and residence address;

2. The applicant presents, when required by the Department, proof of identity, legal presence, residency, and social security number or non-work authorized status;

3. The Department is satisfied that the applicant needs an identification card or the applicant shows he has a bona fide need for such a card; and

4. The applicant does not hold a driver's license, commercial driver's license, temporary driver's permit, learner's permit, ~~or~~ motorcycle learner's permit, *or special identification card without a photograph.*

Persons 70 years of age or older may exchange a valid Virginia driver's license for a special identification card at no fee. Special identification cards subsequently issued to such persons shall be subject to the regular fees for special identification cards.

B. The fee for the issuance of an original, duplicate, reissue, or renewal special identification card is \$2 per year, with a \$10 minimum fee. Persons 21 years old or older may be issued a scenic special identification card for an additional fee of \$5.

C. Every special identification card shall expire on the applicant's birthday at the end of the period of years for which a special identification card has been issued. At no time shall any special identification card be issued for less than three nor more than eight years, except under the provisions of subsection B of § 46.2-328.1 and except that those cards issued to children under the age of 15 shall expire on the child's sixteenth birthday. Notwithstanding these limitations, the Commissioner may extend the validity period of an expiring card if (i) the Department is unable to process an application for renewal due to circumstances beyond its control, (ii) the extension has been authorized under a directive from the Governor, and (iii) the card was not issued as a temporary special identification card under the provisions of subsection B of § 46.2-328.1. However, in no event shall the validity period be extended more than 90 days per occurrence of such conditions. Any special identification card issued to a person required to register pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 shall expire on the applicant's birthday in years which the applicant attains an age equally divisible by five. For each person required to register pursuant to Chapter 9 of Title 9.1, the Department may not waive the requirement that each such person shall appear for each renewal or the requirement to obtain a photograph in accordance with subsection C of § 46.2-323.

D. A special identification card issued under this section may be similar in size, shape, and design to a driver's license, and include a photograph of its holder, but the card shall be readily distinguishable from a driver's license and shall clearly state that it does not authorize the person to whom it is issued to drive a motor vehicle. Every applicant for a special identification card shall appear in person before the Department to apply for a renewal, duplicate or reissue unless specifically permitted by the Department to apply in another manner.

E. Special identification cards, for persons at least 15 years old but less than 21 years old, shall be immediately and readily distinguishable from those issued to persons 21 years old or older. Distinguishing characteristics shall include unique design elements of the document and descriptors within the photograph area to identify persons who are at least 15 years old but less than 21 years old.

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59 These descriptors shall include the month, day, and year when the person will become 21 years old.

60 F. Special identification cards for persons under age 15 shall bear a full face photograph. The special
61 identification card issued to persons under age 15 shall be readily distinguishable from a driver's license
62 and from other special identification cards issued by the Department. Such cards shall clearly indicate
63 that it does not authorize the person to whom it is issued to drive a motor vehicle.

64 G. Unless otherwise prohibited by law, a valid Virginia driver's license ~~may~~ *shall* be surrendered
65 *upon application* for a special identification card without the applicant's having to present proof of legal
66 presence as required by § 46.2-328.1 if the Virginia driver's license is unexpired and it has not been
67 revoked, suspended, or cancelled. The special identification card shall be considered a reissue and the
68 expiration date shall be the last day of the month of the surrendered driver's license's month of
69 expiration.

70 H. Any personal information, as identified in § 2.2-3801, which is retained by the Department from
71 an application for the issuance of a special identification card is confidential and shall not be divulged to
72 any person, association, corporation, or organization, public or private, except to the legal guardian or
73 the attorney of the applicant or to a person, association, corporation, or organization nominated in
74 writing by the applicant, his legal guardian, or his attorney. This subsection shall not prevent the
75 Department from furnishing the application or any information thereon to any law-enforcement agency.

76 I. Any person who uses a false or fictitious name or gives a false or fictitious address in any
77 application for an identification card or knowingly makes a false statement or conceals a material fact or
78 otherwise commits a fraud in any such application shall be guilty of a Class 2 misdemeanor. However,
79 where the name or address is given, or false statement is made, or fact is concealed, or fraud committed,
80 with the intent to purchase a firearm or where the identification card is obtained for the purpose of
81 committing any offense punishable as a felony, a violation of this section shall constitute a Class 4
82 felony.

83 J. ~~The Department may promulgate regulations necessary for the effective implementation of the~~
84 ~~provisions of this section.~~

85 ~~K.~~ The Department shall utilize the various communications media throughout the Commonwealth to
86 inform Virginia residents of the provisions of this section and to promote and encourage the public to
87 take advantage of its provisions.

88 ~~L.~~ K. The Department shall electronically transmit application information to the Department of State
89 Police, in a format approved by the State Police, for comparison with information contained in the
90 Virginia Criminal Information Network and National Crime Information Center Convicted Sexual
91 Offender Registry Files, at the time of issuance of a special identification card. Whenever it appears
92 from the records of the State Police that a person has failed to comply with the duty to register or
93 reregister pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, the State Police shall promptly
94 investigate and, if there is probable cause to believe a violation has occurred, obtain a warrant or assist
95 in obtaining an indictment charging a violation of § 18.2-472.1 in the jurisdiction in which the person
96 made application for the special identification card.

97 ~~M.~~ L. When requested by the applicant, the applicant's parent if the applicant is a minor, or the
98 applicant's guardian, and upon presentation of a signed statement by a licensed physician confirming the
99 applicant's condition, the Department shall indicate on the applicant's special identification card that the
100 applicant has any condition listed in subsection K of § 46.2-342.

101 **§ 46.2-345.2. Issuance of special identification cards without photographs; fee; confidentiality;**
102 **penalties.**

103 A. *On the application of any person with a sincerely held religious belief prohibiting the taking of a*
104 *photograph who is a resident of the Commonwealth and who is at least 15 years of age, the Department*
105 *shall issue a special identification card without a photograph to the person, provided that:*

106 1. *Application is made on a form prescribed by the Department and includes the applicant's full*
107 *legal name; year, month, and date of birth; social security number; sex; and residence address;*

108 2. *The applicant presents, when required by the Department, proof of identity, legal presence,*
109 *residency, and social security number or non-work authorized status;*

110 3. *The applicant presents an approved and signed U.S. Department of the Treasury Internal Revenue*
111 *Service (IRS) Form 4029 or if such applicant is a minor, the applicant's parent or legal guardian*
112 *presents an approved and signed IRS Form 4029; and*

113 4. *The applicant does not hold a driver's license, commercial driver's license, temporary driver's*
114 *permit, learner's permit, motorcycle learner's permit, or special identification card.*

115 B. *The fee for the issuance of an original, duplicate, or reissue special identification card without a*
116 *photograph is \$10 per year, with a \$20 minimum fee.*

117 C. *Every special identification card without a photograph shall expire on the applicant's birthday at*
118 *the end of the period of years for which a special identification card without a photograph has been*
119 *issued. At no time shall any special identification card without a photograph be issued for more than*
120 *eight years. Notwithstanding these limitations, the Commissioner may extend the validity period of an*

expiring card if (i) the Department is unable to process an application for re-issue due to circumstances beyond its control or (ii) the extension has been authorized under a directive from the Governor. However, in no event shall the validity period be extended more than 90 days per occurrence of such conditions.

D. A special identification card without a photograph issued under this section may be similar in size, shape, and design to a driver's license and shall not include a photograph of its holder. The card shall be readily distinguishable from a driver's license and shall clearly state that federal limits apply, that the card is not valid identification to vote, and that the card does not authorize the person to whom it is issued to drive a motor vehicle. Every applicant for a special identification card without a photograph shall appear in person before the Department to apply for a duplicate or reissue unless specifically permitted by the Department to apply in another manner.

E. Unless otherwise prohibited by law, a valid Virginia driver's license or special identification card shall be surrendered for a special identification card without a photograph without the applicant's having to present proof of legal presence as required by § 46.2-328.1 if the Virginia driver's license is unexpired and has not been revoked, suspended, or canceled. The special identification card without a photograph shall be considered a reissue, and the expiration date shall be the last day of the month of the surrendered driver's license's or special identification card's month of expiration.

F. Any personal information, as identified in § 2.2-3801, that is retained by the Department from an application for the issuance of a special identification card without a photograph is confidential and shall not be divulged to any person, association, corporation, or organization, public or private, except to the legal guardian or the attorney of the applicant or to a person, association, corporation, or organization nominated in writing by the applicant, his legal guardian, or his attorney. This subsection shall not prevent the Department from furnishing the application or any information thereon to any law-enforcement agency.

G. Any person who uses a false or fictitious name or gives a false or fictitious address in any application for a special identification card without a photograph or knowingly makes a false statement or conceals a material fact or otherwise commits a fraud in any such application is guilty of a Class 2 misdemeanor. However, where the special identification card without a photograph is obtained for the purpose of committing any offense punishable as a felony, a violation of this section shall constitute a Class 4 felony.

H. When requested by the applicant, the applicant's parent if the applicant is a minor, or the applicant's guardian, and upon presentation of a signed statement by a licensed physician confirming the applicant's condition, the Department shall indicate on the applicant's special identification card without a photograph that the applicant has any condition listed in subsection K of § 46.2-342.

I. Unless the Code specifies that a photograph is required, a special identification card without a photograph shall be treated as a special identification card.

2. That until January 1, 2020, when an applicant who is deemed eligible for a special identification card without a photograph surrenders a Virginia driver's license or special identification card, the Department of Motor Vehicles is authorized to remove the applicant's photograph on file with the Department of Motor Vehicles, if the applicant requests such removal.

3. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2018, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.