

## VIRGINIA ACTS OF ASSEMBLY — CHAPTER

*An Act to amend and reenact §§ 19.2-310.2 and 58.1-3 of the Code of Virginia and to repeal § 55-112 of the Code of Virginia, relating to clerks of court; collection of DNA sample for certain offenses; disclosure of tax information; Torrens system.*

[S 1166]

Approved

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

**1. That §§ 19.2-310.2 and 58.1-3 of the Code of Virginia are amended and reenacted as follows:**

**§ 19.2-310.2. Blood, saliva, or tissue sample required for DNA analysis upon conviction of certain crimes; fee.**

A. Every person convicted of a felony on or after July 1, 1990, every person convicted of a felony offense under Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 who was incarcerated on July 1, 1989, and every person convicted of a misdemeanor violation of § 16.1-253.2, 18.2-57, 18.2-60.3, 18.2-60.4, 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-67.5, 18.2-102, 18.2-119, 18.2-121, 18.2-130, 18.2-370.6, 18.2-387, or 18.2-387.1 or subsection E of § 18.2-460 *or of any similar ordinance of any locality* shall have a sample of his blood, saliva, or tissue taken for DNA (deoxyribonucleic acid) analysis to determine identification characteristics specific to the person. If a sample has been previously taken from the person as indicated by the Local Inmate Data System (LIDS), no additional sample shall be taken. The Department of Forensic Science shall provide to LIDS the most current information submitted to the DNA data bank on a weekly basis and shall remove from LIDS and the data bank persons no longer eligible to be in the data bank. A fee of \$53 shall be charged for the withdrawal of this sample. The fee shall be taxed as part of the costs of the criminal case resulting in the conviction and \$15 of the fee shall be paid into the general fund of the locality where the sample was taken and \$38 of the fee shall be paid into the general fund of the state treasury. This fee shall only be taxed one time regardless of the number of samples taken. The assessment provided for herein shall be in addition to any other fees prescribed by law. The analysis shall be performed by the Department of Forensic Science or other entity designated by the Department. The identification characteristics of the profile resulting from the DNA analysis shall be stored and maintained by the Department in a DNA data bank and shall be made available only as provided in § 19.2-310.5.

B. After July 1, 1990, the blood, saliva, or tissue sample shall be taken prior to release from custody. Notwithstanding the provisions of § 53.1-159, any person convicted of an offense listed in subsection A who is in custody after July 1, 1990, shall provide a blood, saliva, or tissue sample prior to his release. Every person so convicted after July 1, 1990, who is not sentenced to a term of confinement shall provide a blood, saliva, or tissue sample as a condition of such sentence. A person required under this section to submit a sample for DNA analysis is not relieved from this requirement regardless of whether no blood, saliva, or tissue sample has been taken from the person or, if a sample has been taken, whether the sample or the results from the analysis of a sample cannot be found in the DNA data bank maintained by the Department of Forensic Science.

C. Nothing in this section shall prevent the Department of Forensic Science from including the identification characteristics of an individual's DNA profile in the DNA data bank as ordered by a circuit court pursuant to a lawful plea agreement.

D. A collection or placement of a sample for DNA analysis that was taken or retained in good faith does not invalidate the sample's use in the data bank pursuant to the provisions of this article. The detention, arrest, or conviction of a person based upon a data bank match or data bank information is not invalidated if it is determined that the sample was obtained, placed, or retained in the data bank in good faith, or if the conviction or juvenile adjudication that resulted in the collection of the DNA sample was subsequently vacated or otherwise altered in any future proceeding, including but not limited to post-trial or post-fact-finding motions, appeals, or collateral attacks.

E. The Virginia Department of Corrections and the Department of Forensic Science shall, on a quarterly basis, compare databases of offenders under the custody or supervision of the Department of Corrections with the DNA data bank of the Department of Forensic Science. The Virginia Department of Corrections shall require a DNA sample of those offenders under its custody or supervision if they are not identified in the DNA data bank.

F. The Department of State Police shall verify that a DNA sample required to be taken for the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-903 has been received by the Department of Forensic Science. In any instance where a DNA sample has not been received, the

ENROLLED

SB1166ER

57 Department of State Police or its designee shall obtain from the person required to register a sample for  
58 DNA analysis.

59 G. Each community-based probation services agency established pursuant to § 9.1-174 shall  
60 determine by reviewing the Local Inmate Data System upon intake and again prior to discharge whether  
61 a blood, saliva, or tissue sample has been taken for DNA analysis for each offender required to submit a  
62 sample pursuant to this section and, if no sample has been taken, require an offender to submit a sample  
63 for DNA analysis.

64 H. The sheriff or regional jailer shall determine by reviewing the Local Inmate Data System upon  
65 intake and again prior to release whether a blood, saliva, or tissue sample has been taken for DNA  
66 analysis for each offender required to submit a sample pursuant to this section and, if no sample has  
67 been taken, require an offender to submit a sample for DNA analysis.

68 **§ 58.1-3. Secrecy of information; penalties.**

69 A. Except in accordance with a proper judicial order or as otherwise provided by law, the Tax  
70 Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or local tax or  
71 revenue officer or employee, or any person to whom tax information is divulged pursuant to this section  
72 or § 58.1-512 or 58.1-2712.2, or any former officer or employee of any of the aforementioned offices  
73 shall not divulge any information acquired by him in the performance of his duties with respect to the  
74 transactions, property, including personal property, income or business of any person, firm or  
75 corporation. Such prohibition specifically includes any copy of a federal return or federal return  
76 information required by Virginia law to be attached to or included in the Virginia return. This  
77 prohibition shall apply to any reports, returns, financial documents or other information filed with the  
78 Attorney General pursuant to the provisions of Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2.  
79 Any person violating the provisions of this section is guilty of a Class 1 misdemeanor. The provisions  
80 of this subsection shall not be applicable, however, to:

81 1. Matters required by law to be entered on any public assessment roll or book;

82 2. Acts performed or words spoken, published, or shared with another agency or subdivision of the  
83 Commonwealth in the line of duty under state law;

84 3. Inquiries and investigations to obtain information as to the process of real estate assessments by a  
85 duly constituted committee of the General Assembly, or when such inquiry or investigation is relevant to  
86 its study, provided that any such information obtained shall be privileged;

87 4. The sales price, date of construction, physical dimensions or characteristics of real property, or any  
88 information required for building permits;

89 5. Copies of or information contained in an estate's probate tax return, filed with the clerk of court  
90 pursuant to § 58.1-1714, when requested by a beneficiary of the estate or an heir at law of the decedent  
91 *or by the commissioner of accounts making a settlement of accounts filed in such estate*;

92 6. Information regarding nonprofit entities exempt from sales and use tax under § 58.1-609.11, when  
93 requested by the General Assembly or any duly constituted committee of the General Assembly;

94 7. Reports or information filed with the Attorney General by a Stamping Agent pursuant to the  
95 provisions of Article 3 (§ 3.2-4204 et seq.), when such reports or information are provided by the  
96 Attorney General to a tobacco products manufacturer who is required to establish a qualified escrow  
97 fund pursuant to § 3.2-4201 and are limited to the brand families of that manufacturer as listed in the  
98 Tobacco Directory established pursuant to § 3.2-4206 and are limited to the current or previous two  
99 calendar years or in any year in which the Attorney General receives Stamping Agent information that  
100 potentially alters the required escrow deposit of the manufacturer. The information shall only be  
101 provided in the following manner: the manufacturer may make a written request, on a quarterly or  
102 yearly basis or when the manufacturer is notified by the Attorney General of a potential change in the  
103 amount of a required escrow deposit, to the Attorney General for a list of the Stamping Agents who  
104 reported stamping or selling its products and the amount reported. The Attorney General shall provide  
105 the list within 15 days of receipt of the request. If the manufacturer wishes to obtain actual copies of the  
106 reports the Stamping Agents filed with the Attorney General, it must first request them from the  
107 Stamping Agents pursuant to subsection C of § 3.2-4209. If the manufacturer does not receive the  
108 reports pursuant to subsection C of § 3.2-4209, the manufacturer may make a written request to the  
109 Attorney General, including a copy of the prior written request to the Stamping Agent and any response  
110 received, for copies of any reports not received. The Attorney General shall provide copies of the  
111 reports within 45 days of receipt of the request.

112 B. 1. Nothing contained in this section shall be construed to prohibit the publication of statistics so  
113 classified as to prevent the identification of particular reports or returns and the items thereof or the  
114 publication of delinquent lists showing the names of taxpayers who are currently delinquent, together  
115 with any relevant information which in the opinion of the Department may assist in the collection of  
116 such delinquent taxes. Notwithstanding any other provision of this section or other law, the Department,  
117 upon request by the General Assembly or any duly constituted committee of the General Assembly,

shall disclose the total aggregate amount of an income tax deduction or credit taken by all taxpayers, regardless of (i) how few taxpayers took the deduction or credit or (ii) any other circumstances. This section shall not be construed to prohibit a local tax official from disclosing whether a person, firm or corporation is licensed to do business in that locality and divulging, upon written request, the name and address of any person, firm or corporation transacting business under a fictitious name. Additionally, notwithstanding any other provision of law, the commissioner of revenue is authorized to provide, upon written request stating the reason for such request, the Tax Commissioner with information obtained from local tax returns and other information pertaining to the income, sales and property of any person, firm or corporation licensed to do business in that locality.

2. This section shall not prohibit the Department from disclosing whether a person, firm, or corporation is registered as a retail sales and use tax dealer pursuant to Chapter 6 (§ 58.1-600 et seq.) or whether a certificate of registration number relating to such tax is valid. Additionally, notwithstanding any other provision of law, the Department is hereby authorized to make available the names and certificate of registration numbers of dealers who are currently registered for retail sales and use tax.

3. This section shall not prohibit the Department from disclosing information to nongovernmental entities with which the Department has entered into a contract to provide services that assist it in the administration of refund processing or other services related to its administration of taxes.

4. This section shall not prohibit the Department from disclosing information to taxpayers regarding whether the taxpayer's employer or another person or entity required to withhold on behalf of such taxpayer submitted withholding records to the Department for a specific taxable year as required pursuant to subdivision C 1 of § 58.1-478.

5. This section shall not prohibit the commissioner of the revenue, treasurer, director of finance, or other similar local official who collects or administers taxes for a county, city, or town from disclosing information to nongovernmental entities with which the locality has entered into a contract to provide services that assist it in the administration of refund processing or other non-audit services related to its administration of taxes. The commissioner of the revenue, treasurer, director of finance, or other similar local official who collects or administers taxes for a county, city, or town shall not disclose information to such entity unless he has obtained a written acknowledgement by such entity that the confidentiality and nondisclosure obligations of and penalties set forth in subsection A apply to such entity and that such entity agrees to abide by such obligations.

C. Notwithstanding the provisions of subsection A or B or any other provision of this title, the Tax Commissioner is authorized to (i) divulge tax information to any commissioner of the revenue, director of finance or other similar collector of county, city or town taxes who, for the performance of his official duties, requests the same in writing setting forth the reasons for such request; (ii) provide to the Commissioner of the Department of Social Services, upon written request, information on the amount of income, filing status, number and type of dependents, and whether a federal earned income tax credit has been claimed as reported by persons on their state income tax returns who have applied for public assistance or social services benefits as defined in § 63.2-100; (iii) provide to the chief executive officer of the designated student loan guarantor for the Commonwealth of Virginia, upon written request, the names and home addresses of those persons identified by the designated guarantor as having delinquent loans guaranteed by the designated guarantor; (iv) provide current address information upon request to state agencies and institutions for their confidential use in facilitating the collection of accounts receivable, and to the clerk of a circuit or district court for their confidential use in facilitating the collection of fines, penalties and costs imposed in a proceeding in that court; (v) provide to the Commissioner of the Virginia Employment Commission, after entering into a written agreement, such tax information as may be necessary to facilitate the collection of unemployment taxes and overpaid benefits; (vi) provide to the Virginia Alcoholic Beverage Control Authority, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of state and local taxes and the administration of the alcoholic beverage control laws; (vii) provide to the Director of the Virginia Lottery such tax information as may be necessary to identify those lottery ticket retailers who owe delinquent taxes; (viii) provide to the Department of the Treasury for its confidential use such tax information as may be necessary to facilitate the location of owners and holders of unclaimed property, as defined in § 55-210.2; (ix) provide to the State Corporation Commission, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of taxes and fees administered by the Commission; (x) provide to the Executive Director of the Potomac and Rappahannock Transportation Commission for his confidential use such tax information as may be necessary to facilitate the collection of the motor vehicle fuel sales tax; (xi) provide to the Commissioner of the Department of Agriculture and Consumer Services such tax information as may be necessary to identify those applicants for registration as a supplier of charitable gaming supplies who have not filed required returns or who owe delinquent taxes; (xii) provide to the Department of Housing and Community Development for its confidential use such tax information as may be necessary to

179 facilitate the administration of the remaining effective provisions of the Enterprise Zone Act (§ 59.1-270  
 180 et seq.), and the Enterprise Zone Grant Program (§ 59.1-538 et seq.); (xiii) provide current name and  
 181 address information to private collectors entering into a written agreement with the Tax Commissioner,  
 182 for their confidential use when acting on behalf of the Commonwealth or any of its political  
 183 subdivisions; however, the Tax Commissioner is not authorized to provide such information to a private  
 184 collector who has used or disseminated in an unauthorized or prohibited manner any such information  
 185 previously provided to such collector; (xiv) provide current name and address information as to the  
 186 identity of the wholesale or retail dealer that affixed a tax stamp to a package of cigarettes to any  
 187 person who manufactures or sells at retail or wholesale cigarettes and who may bring an action for  
 188 injunction or other equitable relief for violation of Chapter 10.1, Enforcement of Illegal Sale or  
 189 Distribution of Cigarettes Act; (xv) provide to the Commissioner of Labor and Industry, upon entering  
 190 into a written agreement, such tax information as may be necessary to facilitate the collection of unpaid  
 191 wages under § 40.1-29; (xvi) provide to the Director of the Department of Human Resource  
 192 Management, upon entering into a written agreement, such tax information as may be necessary to  
 193 identify persons receiving workers' compensation indemnity benefits who have failed to report earnings  
 194 as required by § 65.2-712; (xvii) provide to any commissioner of the revenue, director of finance, or any  
 195 other officer of any county, city, or town performing any or all of the duties of a commissioner of the  
 196 revenue and to any dealer registered for the collection of the Communications Sales and Use Tax, a list  
 197 of the names, business addresses, and dates of registration of all dealers registered for such tax; (xviii)  
 198 provide to the Executive Director of the Northern Virginia Transportation Commission for his  
 199 confidential use such tax information as may be necessary to facilitate the collection of the motor  
 200 vehicle fuel sales tax; (xix) provide to the Commissioner of Agriculture and Consumer Services the  
 201 name and address of the taxpayer businesses licensed by the Commonwealth that identify themselves as  
 202 subject to regulation by the Board of Agriculture and Consumer Services pursuant to § 3.2-5130; (xx)  
 203 provide to the developer or the economic development authority of a tourism project authorized by  
 204 § 58.1-3851.1, upon entering into a written agreement, tax information facilitating the repayment of gap  
 205 financing; and (xxi) provide to the Virginia Retirement System and the Department of Human Resource  
 206 Management, after entering into a written agreement, such tax information as may be necessary to  
 207 facilitate the enforcement of subdivision C 4 of § 9.1-401. The Tax Commissioner is further authorized  
 208 to enter into written agreements with duly constituted tax officials of other states and of the United  
 209 States for the inspection of tax returns, the making of audits, and the exchange of information relating to  
 210 any tax administered by the Department of Taxation. Any person to whom tax information is divulged  
 211 pursuant to this section shall be subject to the prohibitions and penalties prescribed herein as though he  
 212 were a tax official.

213 D. Notwithstanding the provisions of subsection A or B or any other provision of this title, the  
 214 commissioner of revenue or other assessing official is authorized to (i) provide, upon written request  
 215 stating the reason for such request, the chief executive officer of any county or city with information  
 216 furnished to the commissioner of revenue by the Tax Commissioner relating to the name and address of  
 217 any dealer located within the county or city who paid sales and use tax, for the purpose of verifying the  
 218 local sales and use tax revenues payable to the county or city; (ii) provide to the Department of  
 219 Professional and Occupational Regulation for its confidential use the name, address, and amount of gross  
 220 receipts of any person, firm or entity subject to a criminal investigation of an unlawful practice of a  
 221 profession or occupation administered by the Department of Professional and Occupational Regulation,  
 222 only after the Department of Professional and Occupational Regulation exhausts all other means of  
 223 obtaining such information; and (iii) provide to any representative of a condominium unit owners'  
 224 association, property owners' association or real estate cooperative association, or to the owner of  
 225 property governed by any such association, the names and addresses of parties having a security interest  
 226 in real property governed by any such association; however, such information shall be released only  
 227 upon written request stating the reason for such request, which reason shall be limited to proposing or  
 228 opposing changes to the governing documents of the association, and any information received by any  
 229 person under this subsection shall be used only for the reason stated in the written request. The treasurer  
 230 or other local assessing official may require any person requesting information pursuant to clause (iii) of  
 231 this subsection to pay the reasonable cost of providing such information. Any person to whom tax  
 232 information is divulged pursuant to this subsection shall be subject to the prohibitions and penalties  
 233 prescribed herein as though he were a tax official.

234 Notwithstanding the provisions of subsection A or B or any other provisions of this title, the  
 235 treasurer or other collector of taxes for a county, city or town is authorized to provide information  
 236 relating to any motor vehicle, trailer or semitrailer obtained by such treasurer or collector in the course  
 237 of performing his duties to the commissioner of the revenue or other assessing official for such  
 238 jurisdiction for use by such commissioner or other official in performing assessments.

239 This section shall not be construed to prohibit a local tax official from imprinting or displaying on a

motor vehicle local license decal the year, make, and model and any other legal identification information about the particular motor vehicle for which that local license decal is assigned.

E. Notwithstanding any other provisions of law, state agencies and any other administrative or regulatory unit of state government shall divulge to the Tax Commissioner or his authorized agent, upon written request, the name, address, and social security number of a taxpayer, necessary for the performance of the Commissioner's official duties regarding the administration and enforcement of laws within the jurisdiction of the Department of Taxation. The receipt of information by the Tax Commissioner or his agent which may be deemed taxpayer information shall not relieve the Commissioner of the obligations under this section.

F. Additionally, it shall be unlawful for any person to disseminate, publish, or cause to be published any confidential tax document which he knows or has reason to know is a confidential tax document. A confidential tax document is any correspondence, document, or tax return that is prohibited from being divulged by subsection A, B, C, or D and includes any document containing information on the transactions, property, income, or business of any person, firm, or corporation that is required to be filed with any state official by § 58.1-512. This prohibition shall not apply if such confidential tax document has been divulged or disseminated pursuant to a provision of law authorizing disclosure. Any person violating the provisions of this subsection is guilty of a Class 1 misdemeanor.

**2. That § 55-112 of the Code of Virginia is repealed.**