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SENATE BILL NO. 1612

Offered January 9, 2019

Prefiled January 9, 2019

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.

Patron—Ebbin

Referred to Committee for Courts of Justice

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

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59 penalties are satisfied. The Director of the Department of Corrections and any sheriff or other  
60 administrative head of any local correctional facility shall withhold such ordered payments from any  
61 amounts due to such person. Distribution of the money collected shall be made in the following order of  
62 priority to:

- 63 1. Meet the obligation of any judicial or administrative order to provide support and such funds shall
- 64 be disbursed according to the terms of such order;
- 65 2. Pay any restitution as ordered by the court;
- 66 3. Pay any fines or costs as ordered by the court;
- 67 4. Pay travel and other such expenses made necessary by his work release employment or
- 68 participation in an education or rehabilitative program, including the sums specified in § 53.1-150; and
- 69 5. Defray the offender's keep.

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

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

75 C. The court shall establish a program and may provide an option to any person upon whom a fine  
76 and costs have been imposed to discharge all or part of the fine or costs by earning credits for the  
77 performance of community service work before or after imprisonment. The program shall specify the  
78 rate at which credits are earned and provide for the manner of applying earned credits against the fine  
79 or costs. The court assessing the fine or costs against a person shall inform such person of the  
80 availability of earning credit toward discharge of the fine or costs through the performance of  
81 community service work under this program and provide such person with written notice of terms and  
82 conditions of this program. The court shall have such other authority as is reasonably necessary for or  
83 incidental to carrying out this program.

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

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

91 **§ 19.2-354.1. Deferred or installment payment agreements.**

92 A. For purposes of this section:

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

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

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

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

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

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

116 D. In determining the length of time to pay under a deferred, modified deferred, or installment  
117 payment agreement and the amount of the payments, a court shall take into account the defendant's  
118 financial resources and obligations, including any fines and costs owed by the defendant in other courts.  
119 In assessing the defendant's ability to pay, the court shall use a written financial statement, on a form  
120 developed by the Executive Secretary of the Supreme Court, setting forth the defendant's financial

121 resources and obligations or conduct an oral examination of the defendant to determine his financial  
 122 resources and obligations. ~~The court may require the defendant to present a summary prepared by the~~  
 123 ~~Department of Motor Vehicles of the other courts in which the defendant also owes fines and costs.~~ The  
 124 length of a payment agreement and the amount of the payments shall be reasonable in light of the  
 125 defendant's financial resources and obligations and shall not be based solely on the amount of fines and  
 126 costs. The court may offer a payment agreement combining an initial period during which no payment  
 127 of fines and costs is required followed by a period of installment payments.

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

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

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

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

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

152 **§ 33.2-503. HOT lanes enforcement.**

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

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

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

165 b. A summons for a violation of this section may be executed when such violation is evidenced by  
 166 information obtained from a photo-enforcement system as defined in this chapter. A certificate, sworn to  
 167 or affirmed by a technician employed or authorized by the HOT lanes operator, or a facsimile of such a  
 168 certificate, based on inspection of photographs, microphotographs, videotapes, or other recorded images  
 169 produced by a photo-enforcement system, shall be prima facie evidence of the facts contained therein.  
 170 Any photographs, microphotographs, videotape, or other recorded images evidencing such a violation  
 171 shall be available for inspection in any proceeding to adjudicate the liability for such violation under this  
 172 subdivision 2. Any vehicle rental or vehicle leasing company, if named in a summons, shall be released  
 173 as a party to the action if it provides to the HOT lanes operator a copy of the vehicle rental agreement  
 174 or lease or an affidavit identifying the renter or lessee prior to the date of hearing set forth in the  
 175 summons. Upon receipt of such rental agreement, lease, or affidavit, a summons shall be issued for the  
 176 renter or lessee identified therein. Release of this information shall not be deemed a violation of any  
 177 provision of the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.) or the  
 178 Insurance Information and Privacy Protection Act (§ 38.2-600 et seq.).

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

182 section may set forth multiple violations occurring within one jurisdiction. Notwithstanding the  
183 provisions of § 19.2-76, a summons for a violation of this section may be executed by mailing by  
184 first-class mail a copy thereof to the address of the owner or, if the owner has named and provided a  
185 valid address for the operator of the vehicle at the time of the violation in an affidavit executed pursuant  
186 to subdivision e, such named operator of the vehicle. Such summons shall be signed either originally or  
187 by electronic signature. If the summoned person fails to appear on the date of return set out in the  
188 summons mailed pursuant to this section, the summons shall be executed in the manner set out in  
189 § 19.2-76.3.

190 d. No summons may be issued by a HOT lanes operator for a violation of this section unless the  
191 HOT lanes operator can demonstrate that (i) there was an attempt to collect the unpaid tolls and  
192 applicable administrative fees through debt collection not less than 30 days prior to issuance of the  
193 summons and (ii) 120 days have elapsed since the unpaid toll or, in a summons for multiple violations,  
194 120 days have elapsed since the most recent unpaid toll noticed on the summons. For purposes of this  
195 subdivision, "debt collection" means the collection of unpaid tolls and applicable administrative fees by  
196 (a) retention of a third-party debt collector or (b) collection practices undertaken by employees of a  
197 HOT lanes operator that are materially similar to a third-party debt collector.

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

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

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

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

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

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

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

243 d. Upon a finding by a court that a resident of the Commonwealth has violated this section, in the

244 event such person fails to pay the required penalties, fees, and costs, the court shall notify the  
 245 Commissioner of the Department of Motor Vehicles, who shall suspend all of the registration certificates  
 246 and license plates issued for any motor vehicles registered solely in the name of such person and shall  
 247 not issue any registration certificate or license plate for any other vehicle that such person seeks to  
 248 register solely in his name until the court has notified the Commissioner of the Department of Motor  
 249 Vehicles that such penalties, fees, and costs have been paid. Upon a finding by a court that a  
 250 nonresident of the Commonwealth has violated this section, in the event that such person fails to pay the  
 251 required penalties, fees, and costs, the court shall notify the Commissioner of the Department of Motor  
 252 Vehicles, who shall, when the vehicle is registered in a state with which the Commonwealth has entered  
 253 into an agreement to enforce tolling violations pursuant to § 46.2-819.9, provide to the entity authorized  
 254 to issue vehicle registration certificates or license plates in the state in which the vehicle is registered  
 255 sufficient evidence of the court's finding to take action against the vehicle registration certificate or  
 256 license plates in accordance with the terms of the agreement, until the court has notified the  
 257 Commissioner of the Department of Motor Vehicles that such penalties, fees, and costs have been paid.  
 258 Upon receipt of such notification from the court, the Commissioner of the Department of Motor  
 259 Vehicles shall notify the state where the vehicle is registered of such payment. The HOT lanes operator  
 260 and the Commissioner of the Department of Motor Vehicles may enter into an agreement whereby the  
 261 HOT lanes operator may reimburse the Department of Motor Vehicles for its reasonable costs to  
 262 develop, implement, and maintain this enforcement mechanism, and that specifies that the Commissioner  
 263 of the Department of Motor Vehicles shall have an obligation to suspend such registration certificates or  
 264 to provide notice to such entities in other states so long as the HOT lanes operator makes the required  
 265 reimbursements in a timely manner in accordance with the agreement.

266 e. An action brought under subdivision 1 or 2 shall be commenced within two years of the  
 267 commission of the offense and shall be considered a traffic infraction. Except as provided in  
 268 subdivisions 4 and 5, imposition of a civil penalty pursuant to this section shall not be deemed a  
 269 conviction as an operator of a motor vehicle under Title 46.2 and shall not be made part of the driving  
 270 record of the person upon whom such civil penalty is imposed, nor shall it be used for insurance  
 271 purposes in the provision of motor vehicle insurance coverage. ~~The provisions of § 46.2-395 shall not be~~  
 272 ~~applicable to any civil penalty, fee, unpaid toll, fine, or cost imposed or ordered paid under this section~~  
 273 ~~for a violation of subdivision 1 or 2.~~

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

278 b. Any person driving an unauthorized vehicle on the designated HOT lanes is guilty of a traffic  
 279 infraction, which shall not be a moving violation, and shall be punishable as follows: for a first offense,  
 280 by a fine of \$125; for a second offense within a period of five years from a first offense, by a fine of  
 281 \$250; for a third offense within a period of five years from a first offense, by a fine of \$500; and for a  
 282 fourth and subsequent offense within a period of five years from a first offense, by a fine of \$1,000. No  
 283 person shall be subject to prosecution under both this subdivision and subdivision 1 or 2 for actions  
 284 arising out of the same transaction or occurrence.

285 Upon a conviction under this subdivision, the court shall furnish to the Commissioner of the  
 286 Department of Motor Vehicles, in accordance with § 46.2-383, an abstract of the record of such  
 287 conviction, which shall become a part of the person's driving record. Notwithstanding the provisions of  
 288 § 46.2-492, no driver demerit points shall be assessed for any violation of this subdivision, except that  
 289 persons convicted of a second, third, fourth, or subsequent violation within five years of a first offense  
 290 shall be assessed three demerit points for each such violation.

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

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

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

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

304 **§ 46.2-301. Driving while license, permit, or privilege to drive suspended or revoked.**

305 A. In addition to any other penalty provided by this section, any motor vehicle administratively  
306 impounded or immobilized under the provisions of § 46.2-301.1 may, in the discretion of the court, be  
307 impounded or immobilized for an additional period of up to 90 days upon conviction of an offender for  
308 driving while his driver's license, learner's permit, or privilege to drive a motor vehicle has been  
309 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  
310 or a substantially similar ordinance or law in any other jurisdiction or (ii) driving after adjudication as  
311 an habitual offender, where such adjudication was based in whole or in part on an alcohol-related  
312 offense, or where such person's license has been administratively suspended under the provisions of  
313 § 46.2-391.2. However, if, at the time of the violation, the offender was driving a motor vehicle owned  
314 by another person, the court shall have no jurisdiction over such motor vehicle but may order the  
315 impoundment or immobilization of a motor vehicle owned solely by the offender at the time of arrest.  
316 All costs of impoundment or immobilization, including removal or storage expenses, shall be paid by  
317 the offender prior to the release of his motor vehicle.

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

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

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

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

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

366 **§ 46.2-361. Restoration of privilege after driving while license revoked or suspended for failure**

367 **to furnish proof of financial responsibility or pay uninsured motorist fee.**

368 A. Any person who has been found to be an habitual offender, where the determination or  
 369 adjudication was based in part and dependent on a conviction as set out in subdivision 1 c of former  
 370 § 46.2-351, may, after three years from the date of the final order of a court entered under this article,  
 371 or if no such order was entered then the notice of the determination or adjudication by the  
 372 Commissioner, petition the court in which he was found to be an habitual offender, or the circuit court  
 373 in the political subdivision in which he then resides, for restoration of his privilege to drive a motor  
 374 vehicle in the Commonwealth. In no event, however, shall the provisions of this subsection apply when  
 375 such person's determination or adjudication was also based in part and dependent on a conviction as set  
 376 out in subdivision 1 b of former § 46.2-351. In such case license restoration shall be in compliance with  
 377 the provisions of § 46.2-360.

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

386 C. This section shall apply only where the conviction or convictions as set out in subdivision 1 c of  
 387 former § 46.2-351 resulted from a suspension or revocation ordered pursuant to (i) ~~§ 46.2-395 for failure~~  
 388 ~~to pay fines and costs, (ii) § 46.2-459 for failure to furnish proof of financial responsibility, or (iii) (ii)~~  
 389 § 46.2-417 for failure to satisfy a judgment, provided *that* the judgment has been paid in full prior to the  
 390 time of filing the petition or was a conviction under § 46.2-302 or former § 46.1-351.

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

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

407 **§ 46.2-391.1. Suspension of registration certificates and plates upon suspension or revocation of**  
 408 **driver's license.**

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

421 **§ 46.2-416. Notice of suspension or revocation of license.**

422 A. Whenever it is provided in this title that a driver's license may or shall be suspended or revoked  
 423 either by the Commissioner or by a court, notice of the suspension or revocation or any certified copy  
 424 of the decision or order of the Commissioner may be sent by the Department by certified mail to the  
 425 driver at the most recent address of the driver on file at the Department. ~~If the driver has previously~~  
 426 ~~been notified by mail or in person of the suspension or revocation or of an impending suspension for~~  
 427 ~~failure to pay fines and costs pursuant to § 46.2-395, whether notice is given by the court or~~

428 law-enforcement officials as provided by law, and the Department has been notified by the court that  
429 notice was so given and the fines and costs were not paid within 30 days, no notice of suspension shall  
430 be sent by the Department to the driver. If the certificate of the Commissioner or someone designated  
431 by him for that purpose shows that the notice or copy has been so sent or provided, it shall be deemed  
432 prima facie evidence that the notice or copy has been sent and delivered or otherwise provided to the  
433 driver for all purposes involving the application of the provisions of this title. In the discretion of the  
434 Commissioner, service may be made as provided in § 8.01-296, which service on the driver shall be  
435 made by delivery in writing to the driver in person in accordance with subdivision 1 of § 8.01-296 by a  
436 sheriff or deputy sheriff in the county or city in which the address is located, who shall, as directed by  
437 the Commissioner, take possession of any suspended or revoked license, registration card, or set of  
438 license plates or decals and return them to the office of the Commissioner. No such service shall be  
439 made if, prior to service, the driver has complied with the requirement which caused the issuance of the  
440 decision or order. In any such case, return shall be made to the Commissioner.

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

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

452 **§ 46.2-819.1. Installation and use of photo-monitoring system or automatic vehicle identification**  
453 **system in conjunction with electronic or manual toll facilities; penalty.**

454 A. For purposes of this section:

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

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

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

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

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

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

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

478 C. Information collected by a photo-monitoring system or automatic vehicle identification system  
479 installed and operated pursuant to subsection B shall be limited exclusively to that information that is  
480 necessary for the collection of unpaid tolls. Notwithstanding any other provision of law, all photographs,  
481 microphotographs, electronic images, or other data collected by a photo-monitoring system or automatic  
482 vehicle identification system shall be used exclusively for the collection of unpaid tolls and shall not (i)  
483 be open to the public; (ii) be sold and/or used for sales, solicitation, or marketing purposes; (iii) be  
484 disclosed to any other entity except as may be necessary for the collection of unpaid tolls or to a vehicle  
485 owner or operator as part of a challenge to the imposition of a toll; and (iv) be used in a court in a  
486 pending action or proceeding unless the action or proceeding relates to a violation of this section or  
487 upon order from a court of competent jurisdiction. Information collected under this section shall be  
488 purged and not retained later than 30 days after the collection and reconciliation of any unpaid tolls,  
489 administrative fees, and/or civil penalties. Any entity operating a photo-monitoring system or automatic



490 vehicle identification system shall annually certify compliance with this section and make all records  
 491 pertaining to such system available for inspection and audit by the Commissioner of Highways or the  
 492 Commissioner of the Department of Motor Vehicles or their designee. Any violation of this subsection  
 493 shall constitute a Class 1 misdemeanor. In addition to any fines or other penalties provided for by law,  
 494 any money or other thing of value obtained as a result of a violation of this section shall be forfeited to  
 495 the Commonwealth.

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

503 D. If the matter proceeds to court, the owner or operator of a vehicle shall be liable for a civil  
 504 penalty as follows: for a first offense, \$50; for a second offense within one year from the first offense,  
 505 \$100; for a third offense within two years from the second offense, \$250; and for a fourth and any  
 506 subsequent offense within three years from the second offense, \$500 plus, in each case, the unpaid toll,  
 507 all accrued administrative fees imposed by the toll facility operator, and applicable court costs if the  
 508 vehicle is found, as evidenced by information obtained from a photo-monitoring system or automatic  
 509 vehicle identification system as provided in this section, to have used such a toll facility without  
 510 payment of the required toll.

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

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

520 G. Any action under this section shall be brought in the general district court of the county or city in  
 521 which the toll facility is located and shall be commenced within two years of the commission of the  
 522 offense. Such action shall be considered a traffic infraction. The attorney for the Commonwealth may  
 523 represent the interests of the toll facility operator. Any authorized agent or employee of a toll facility  
 524 operator acting on behalf of a governmental entity shall be allowed the privileges accorded by  
 525 § 16.1-88.03 in such cases.

526 H. Proof of a violation of this section shall be evidenced by information obtained from a  
 527 photo-monitoring system or automatic vehicle identification system as provided in this section. A  
 528 certificate, sworn to or affirmed by a technician employed or authorized by the operator of a toll facility  
 529 or by the locality wherein the toll facility is located, or a facsimile of such a certificate, based on  
 530 inspection of photographs, microphotographs, videotapes, or other recorded images produced by a  
 531 photo-monitoring system, or of electronic data collected by an automatic vehicle identification system,  
 532 shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs,  
 533 videotape, or other recorded images or electronic data evidencing such a violation shall be available for  
 534 inspection in any proceeding to adjudicate the liability for such violation under this section. A record of  
 535 communication by an automatic vehicle identification device with the automatic vehicle identification  
 536 system at the time of a violation of this section shall be prima facie evidence that the automatic vehicle  
 537 identification device was located in the vehicle registered to use such device in the records of the  
 538 Department of Transportation.

539 I. On a form prescribed by the Supreme Court, a summons for a violation of this section may be  
 540 executed as provided in § 19.2-76.2. A summons for a violation of this section may set forth multiple  
 541 violations occurring within one jurisdiction. Notwithstanding the provisions of § 19.2-76, a summons for  
 542 a violation of this section may be executed by mailing by first-class mail a copy thereof to the address  
 543 of the owner or, if the owner has named and provided a valid address for the operator of the vehicle at  
 544 the time of the violation in an affidavit executed pursuant to this subsection, such named operator of the  
 545 vehicle. Such summons shall be signed either originally or by electronic signature. If the summoned  
 546 person fails to appear on the date of return set out in the summons mailed pursuant to this section, the  
 547 summons shall be executed in the manner set out in § 19.2-76.3.

548 Upon a finding by a court of competent jurisdiction that the vehicle described in the summons issued  
 549 pursuant to this subsection was in violation of this section, the court shall impose a civil penalty upon  
 550 the owner or operator of such vehicle in accordance with the amounts specified in subsection D,

551 together with applicable court costs, the operator's administrative fee, and the toll due. Penalties assessed  
552 as the result of action initiated by the Department of Transportation shall be remanded by the clerk of  
553 the court that adjudicated the action to the Department of Transportation's Toll Facilities Revolving  
554 Account. Penalties assessed as the result of action initiated by an operator of a toll facility other than the  
555 Department of Transportation shall be remanded by the clerk of the court that adjudicated the action to  
556 the treasurer or director of finance of the county or city in which the violation occurred for payment to  
557 the toll facility operator.

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

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

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

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

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

590 J. Upon a finding by a court that a person has two or more unpaid tolls and such person fails to pay  
591 the required penalties, fees, and unpaid tolls, the court shall notify the Commissioner of the Department  
592 of Motor Vehicles, who shall refuse to issue or renew any vehicle registration certificate of any  
593 applicant or the license plate issued for the vehicle driven in the commission of the offense or, when the  
594 vehicle is registered in a state with which the Commonwealth has entered into an agreement to enforce  
595 tolling violations pursuant to § 46.2-819.9, who shall provide to the entity authorized to issue vehicle  
596 registration certificates or license plates in the state in which the vehicle is registered sufficient evidence  
597 of the court's finding to take action against the vehicle registration certificate or license plates in  
598 accordance with the terms of the agreement, until the court has notified the Commissioner that such  
599 penalties, fees, and unpaid tolls have been paid. Upon receipt of such notification from the court, the  
600 Commissioner of the Department of Motor Vehicles shall notify the state where the vehicle is registered  
601 of such payment. If it is proven that the vehicle owner was not the operator at the time of the offense  
602 and upon a finding by a court that the person identified in an affidavit pursuant to subsection I as the  
603 operator violated this section and such person fails to pay the required penalties, fees, and unpaid tolls,  
604 the court shall notify the Commissioner, who shall refuse to issue or renew any vehicle registration  
605 certificate of any applicant or the license plate issued for any vehicle owned or co-owned by such  
606 person or, when such vehicle is registered in a state with which the Commonwealth has entered into an  
607 agreement to enforce tolling violations pursuant to § 46.2-819.9, who shall provide to the entity  
608 authorized to issue vehicle registration certificates or license plates in the state in which the vehicle is  
609 registered sufficient evidence of the court's finding to take action against the vehicle registration  
610 certificate or license plates in accordance with the terms of the agreement, until the court has notified  
611 the Commissioner that such penalties, fees, and unpaid tolls have been paid. Upon receipt of such  
612 notification from the court, the Commissioner of the Department of Motor Vehicles shall notify the state

613 where the vehicle is registered of such payment. Such funds representing payment of unpaid tolls and all  
 614 administrative fees of the toll facility operator shall be transferred from the court to the Department of  
 615 Transportation's Toll Facilities Revolving Account or, in the case of an action initiated by an operator of  
 616 a toll facility other than the Department of Transportation, to the treasurer or director of finance of the  
 617 county or city in which the violation occurred for payment to the toll facility operator. The  
 618 Commissioner shall collect a \$40 administrative fee from the owner or operator of the vehicle to defray  
 619 the cost of processing and removing an order to deny registration or registration renewal.

620 K. Any vehicle rental or vehicle leasing company, if it receives an invoice or is named in a  
 621 summons, shall be released as a party to the action if it provides the operator of the toll facility a copy  
 622 of the vehicle rental agreement or lease or an affidavit identifying the renter or lessee within 30 days of  
 623 receipt of the invoice or at least 14 days prior to the date of hearing set forth in the summons. Upon  
 624 receipt of such rental agreement, lease, or affidavit, a notice shall be mailed to the renter or lessee  
 625 identified therein. Release of this information shall not be deemed a violation of any provision of the  
 626 Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.) or the Insurance  
 627 Information and Privacy Protection Act (§ 38.2-600 et seq.). The toll facility operator shall allow at least  
 628 30 days from the date of such mailing before pursuing other remedies under this section. In any action  
 629 against the vehicle operator, a copy of the vehicle rental agreement, lease, or affidavit identifying the  
 630 renter or lessee of the vehicle at the time of the violation is prima facie evidence that the person named  
 631 in the rental agreement, lease, or affidavit was operating the vehicle at all the relevant times relating to  
 632 the matter named in the summons.

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

638 M. The operator of a toll facility may enter into an agreement with the Department of Motor  
 639 Vehicles, in accordance with the provisions of subdivision B 21 of § 46.2-208, to obtain vehicle owner  
 640 information regarding the owners of vehicles that fail to pay tolls required for the use of toll facilities  
 641 and with the Department of Transportation to obtain any information that is necessary to conduct  
 642 electronic toll collection. Such agreement may include any information that may be obtained by the  
 643 Department of Motor Vehicles in accordance with any agreement entered into pursuant to § 46.2-819.9.  
 644 Information provided to the operator of a toll facility shall only be used for the collection of unpaid tolls  
 645 and the operator of the toll facility shall be subject to the same conditions and penalties regarding  
 646 release of the information as contained in subsection C.

647 N. No person shall be subject to both the provisions of this section and to prosecution under  
 648 § 46.2-819 for actions arising out of the same transaction or occurrence.

649 **§ 46.2-819.3. Use of toll facility without payment of toll; enforcement; penalty.**

650 A. For purposes of this section:

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

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

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

659 B. The toll facility operator may impose and collect an administrative fee in addition to the unpaid  
 660 toll so as to recover the expenses of collecting the unpaid toll, which administrative fee shall be  
 661 reasonably related to the actual cost of collecting the unpaid toll and not exceed \$100 per violation.  
 662 Such fee shall not be levied on a first unpaid toll unless the written promise to pay executed pursuant to  
 663 subsection F remains unpaid after 30 days. The person who executed the written promise to pay  
 664 pursuant to subsection F shall pay the unpaid toll and any administrative fee detailed in an invoice or  
 665 bill issued by a toll facility operator. If paid within 60 days of notification, the administrative fee shall  
 666 not exceed \$25.

667 C. If the matter proceeds to court, the owner or operator of the vehicle shall be liable for a civil  
 668 penalty as follows: for a first offense, \$50; for a second offense within one year from the first offense,  
 669 \$100; for a third offense within two years from the second offense, \$250; and for a fourth and any  
 670 subsequent offense within three years from the second offense, \$500 plus, in each case, the unpaid toll,  
 671 all accrued administrative fees imposed by the toll facility operator and applicable court costs if the  
 672 vehicle operator is found, as evidenced by information obtained from the toll facility operator, to have  
 673 used such a toll facility without payment of the required toll.

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

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

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

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

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

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

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

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

734 L. Imposition of a civil penalty pursuant to this section shall not be deemed a conviction as an  
735 operator and shall not be made part of the driving record of the person upon whom such civil penalty is

736 imposed nor shall it be used for insurance purposes in the provision of motor vehicle insurance  
737 coverage. ~~The provisions of § 46.2-395 shall not be applicable to any civil penalty, fee, unpaid toll, fine,~~  
738 ~~or cost imposed or ordered paid under this section for a violation of this section.~~

739 M. No person shall be subject to both the provisions of this section and to prosecution under  
740 § 46.2-819 for actions arising out of the same transaction or occurrence.

741 **§ 46.2-819.3:1. Installation and use of video-monitoring system and automatic vehicle**  
742 **identification system in conjunction with all-electronic toll facilities; penalty.**

743 A. For purposes of this section:

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

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

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

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

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

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

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

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

772 C. Information collected by a video-monitoring system in conjunction with an automatic vehicle  
773 identification system installed and operated pursuant to subsection B shall be limited exclusively to that  
774 information that is necessary for the collection of unpaid tolls and establishing when violations occur,  
775 including use in any proceeding to determine whether a violation occurred. Notwithstanding any other  
776 provision of law, all images or other data collected by a video-monitoring system in conjunction with an  
777 automatic vehicle identification system shall be protected in a database with security comparable to that  
778 of the Department of Motor Vehicles' system and used exclusively for the collection of unpaid tolls and  
779 for efforts to pursue violators of this section and shall not (i) be open to the public; (ii) be sold and/or  
780 used for sales, solicitation, or marketing purposes other than those of the toll facility operator to  
781 facilitate toll payment; (iii) be disclosed to any other entity except as may be necessary for the  
782 collection of unpaid tolls or to a vehicle owner or operator as part of a challenge to the imposition of a  
783 toll; and/or (iv) be used in a court in a pending action or proceeding unless the action or proceeding  
784 relates to a violation of this section or upon order from a court of competent jurisdiction. Except as  
785 provided above, information collected under this section shall be purged and not retained later than 30  
786 days after the collection and reconciliation of any unpaid tolls, administrative fees, and/or civil penalties.  
787 Any entity operating a video-monitoring system in conjunction with an automatic vehicle identification  
788 system shall annually certify compliance with this section and make all records pertaining to such  
789 system available for inspection and audit by the Commissioner of Highways or the Commissioner of the  
790 Department of Motor Vehicles or their designee. Any violation of this subsection shall constitute a Class  
791 1 misdemeanor. In addition to any fines or other penalties provided for by law, any money or other  
792 thing of value obtained as a result of a violation of this section shall be forfeited to the Commonwealth.

793 If a vehicle uses a toll facility without paying the toll, the owner or operator shall be in violation of  
794 this section if he refuses to pay the toll within 30 days of notification. The toll facility operator may  
795 impose and collect an administrative fee in addition to the unpaid toll so as to recover the expenses of  
796 collecting the unpaid toll, which administrative fee shall be reasonably related to the actual cost of

797 collecting the unpaid toll and not exceed \$100 per violation. Such fee shall not be levied upon the  
798 owner or operator of the vehicle unless the toll has not been paid by the owner or operator within 30  
799 days after receipt of the invoice for the unpaid toll, which nonpayment for 30 days shall constitute the  
800 violation of this section. Once such a violation has occurred, the owner or operator of the vehicle shall  
801 pay the unpaid tolls and any administrative fee detailed in the invoice for the unpaid toll issued by a toll  
802 facility operator. If paid within 60 days of the toll violation, the administrative fee shall not exceed \$25.

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

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

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

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

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

837 G. Any action under this section shall be brought in the general district court of the county or city in  
838 which the toll facility is located and shall be commenced within two years of the commission of the  
839 offense. Such action shall be considered a traffic infraction. The attorney for the Commonwealth may  
840 represent the interests of the toll facility operator. Any authorized agent or employee of a toll facility  
841 operator acting on behalf of a governmental entity shall be allowed the privileges accorded by  
842 § 16.1-88.03 in such cases.

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

856 I. On a form prescribed by the Supreme Court, a summons for a violation of this section may be  
857 executed as provided in § 19.2-76.2. A summons for a violation of this section may set forth multiple  
858 violations occurring within one jurisdiction. Notwithstanding the provisions of § 19.2-76, a summons for

859 a violation of unpaid tolls may be executed by mailing by first-class mail a copy thereof to the address  
 860 of the owner or, if the owner has named and provided a valid address for the operator of the vehicle at  
 861 the time of the violation in an affidavit executed pursuant to subsection J, such named operator of the  
 862 vehicle. Such summons shall be signed either originally or by electronic signature. If the summoned  
 863 person fails to appear on the date of return set out in the summons mailed pursuant to this section, the  
 864 summons shall be executed in the manner set out in § 19.2-76.3.

865 J. Upon a finding by a court of competent jurisdiction that the vehicle described in the summons  
 866 issued pursuant to subsection I was in violation of this section, the court shall impose a civil penalty  
 867 upon the owner or operator of such vehicle in accordance with the amounts specified in subsection D,  
 868 together with applicable court costs, the operator's administrative fee, and the toll due. Penalties assessed  
 869 as the result of action initiated by the Department of Transportation shall be remanded by the clerk of  
 870 the court that adjudicated the action to the Department of Transportation's Toll Facilities Revolving  
 871 Account. Penalties assessed as the result of action initiated by an operator of a toll facility other than the  
 872 Department of Transportation shall be remanded by the clerk of the court that adjudicated the action to  
 873 the treasurer or director of finance of the county or city in which the violation occurred for payment to  
 874 the toll facility operator.

875 The owner of such vehicle shall be given reasonable notice by way of a summons as provided in  
 876 subsection I that his vehicle had been used in violation of this section, and such owner shall be given  
 877 notice of the time and place of the hearing as well as the civil penalty and costs for such offense.

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

884 Upon the filing of an affidavit by the owner of the vehicle with the toll facility operator within 14  
 885 days of receipt of an invoice for unpaid toll or a summons stating that such owner was not the operator  
 886 of the vehicle on the date of the violation and providing the legal name and address of the operator of  
 887 the vehicle at the time of the violation, an invoice for unpaid toll or summons, whichever the case may  
 888 be, will also be issued to the alleged operator of the vehicle at the time of the offense.

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

893 If the owner of the vehicle produces for the toll facility operator or the court a certified copy of a  
 894 police report showing that the vehicle had been reported to the police as stolen prior to the time of the  
 895 alleged offense and remained stolen at the time of the alleged offense, then the toll facility operator  
 896 shall not pursue the owner for the unpaid toll contained in the invoice for unpaid toll or the court shall  
 897 dismiss the summons issued to the owner of the vehicle.

898 K. Upon a finding by a court that a person has two or more unpaid tolls and such person fails to pay  
 899 the required penalties, fees, and unpaid tolls, then the court or toll facility operator shall notify the  
 900 Commissioner of the Department of Motor Vehicles, who shall refuse to issue or renew any vehicle  
 901 registration certificate of any applicant or the license plate issued for the vehicle driven in the  
 902 commission of the offense or, when the vehicle is registered in a state with which the Commonwealth  
 903 has entered into an agreement to enforce tolling violations pursuant to § 46.2-819.9, who shall provide  
 904 to the entity authorized to issue vehicle registration certificates or license plates in the state in which the  
 905 vehicle is registered sufficient evidence of the court's finding to take action against the vehicle  
 906 registration certificate or license plates in accordance with the terms of the agreement, until the court has  
 907 notified the Commissioner that such penalties, fees, and unpaid tolls have been paid. Upon receipt of  
 908 such notification from the court, the Commissioner of the Department of Motor Vehicles shall notify the  
 909 state where the vehicle is registered of such payment. If it is proven that the vehicle owner was not the  
 910 operator at the time of the offense and upon a finding by a court that the person identified in an  
 911 affidavit pursuant to subsection J as the operator violated this section and such person fails to pay the  
 912 required penalties, fees, and unpaid tolls, the court shall notify the Commissioner, who shall refuse to  
 913 issue or renew any vehicle registration certificate of any applicant or the license plate issued for any  
 914 vehicle owned or co-owned by such person or, when such vehicle is registered in a state with which the  
 915 Commonwealth has entered into an agreement to enforce tolling violations pursuant to § 46.2-819.9, who  
 916 shall provide to the entity authorized to issue vehicle registration certificates or license plates in the state  
 917 in which the vehicle is registered sufficient evidence of the court's finding to take action against the  
 918 vehicle registration certificate or license plates in accordance with the terms of the agreement, until the  
 919 court has notified the Commissioner that such penalties, fees, and unpaid tolls have been paid. Upon

920 receipt of such notification from the court, the Commissioner of the Department of Motor Vehicles shall  
921 notify the state where the vehicle is registered of such payment. Such funds representing payment of  
922 unpaid tolls and all administrative fees of the toll facility operator shall be transferred from the court to  
923 the Department of Transportation's Toll Facilities Revolving Account or, in the case of an action  
924 initiated by an operator of a toll facility other than the Department of Transportation, to the treasurer or  
925 director of finance of the county or city in which the violation occurred for payment to the toll facility  
926 operator. The Commissioner shall collect a \$40 administrative fee from the owner or operator of the  
927 vehicle to defray the cost of processing and removing an order to deny registration or registration  
928 renewal.

929 L. If an owner of a vehicle has received at least one invoice for two or more unpaid tolls in  
930 accordance with § 46.2-819.6 by certified mail and has (i) failed to pay the unpaid tolls and  
931 administrative fees and (ii) failed to file a notice to contest liability for a toll violation, then the toll  
932 facility operator may notify the Commissioner, who shall, if no form contesting liability has been timely  
933 filed with the toll facility operator pursuant to this section, refuse to issue or renew the vehicle  
934 registration certificate of any applicant therefor or the license plate issued for any vehicle driven in the  
935 commission of the offense until the toll facility operator has notified the Commissioner that such fees  
936 and unpaid tolls have been paid.

937 If the vehicle owner was not the operator at the time of the offense and the person identified in an  
938 affidavit pursuant to subsection J as the operator has received at least one invoice for two or more  
939 unpaid tolls in accordance with § 46.2-819.6 by certified mail and such person has (a) failed to pay the  
940 unpaid tolls and administrative fees and (b) failed to file a notice to contest liability for a toll violation,  
941 then the toll facility operator may notify the Commissioner, who shall, if no form contesting liability has  
942 been timely filed with the toll facility operator pursuant to this section, refuse to issue or renew any  
943 vehicle registration certificate of any applicant therefor or the license plate issued for any vehicle owned  
944 or co-owned by such person until the toll facility operator has notified the Commissioner that such fees  
945 and unpaid tolls have been paid.

946 The Commissioner may only refuse to issue or renew any vehicle registration pursuant to this  
947 subsection upon the request of a toll facility operator if such toll facility operator has entered into an  
948 agreement with the Commissioner whereby the Commissioner will refuse to issue or renew any vehicle  
949 registration of any applicant therefor who owes unpaid tolls and administrative fees to the toll facility  
950 operator. The toll facility operator seeking to collect unpaid tolls and administrative fees through the  
951 withholding of registration or renewal thereof by the Commissioner as provided for in this subsection  
952 shall notify the Commissioner in the manner provided for in his agreement with the Commissioner and  
953 supply to the Commissioner information necessary to identify the violator whose registration or renewal  
954 is to be denied. The Commissioner shall charge a \$40 fee to defray the cost of processing and  
955 withholding the registration or registration renewal, and the toll facility operator may add this fee to the  
956 amount of the unpaid tolls and administrative fees. Any agreement entered into pursuant to the  
957 provisions of this subsection shall provide for the Department to send the violator notice of the intent to  
958 deny renewal of registration at least 30 days prior to the expiration date of a current vehicle registration  
959 and such notice shall include a form, as required under subsection B of § 46.2-819.6, to contest liability  
960 of the underlying toll violation. The notice provided by the Commissioner shall include instructions for  
961 filing the form to contest liability with the toll facility operator within 21 days after the date of mailing  
962 of the Commissioner's notice. Upon timely receipt of the form, the toll facility operator shall notify the  
963 Commissioner, who shall refrain from withholding the registration or renewal thereof, after which the  
964 toll facility operator may proceed to issue a summons for unpaid toll. For the purposes of this  
965 subsection, notice by first-class mail to the registrant's address as maintained in the records of the  
966 Department shall be deemed sufficient.

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

979 N. Imposition of a civil penalty pursuant to this section shall not be deemed a conviction as an  
980 operator and shall not be made part of the driving record of the person upon whom such civil penalty is  
981 imposed, nor shall it be used for insurance purposes in the provision of motor vehicle insurance



982 coverage. The provisions of § 46.2-395 shall not be applicable to any civil penalty, fee, unpaid toll, fine,  
983 or cost imposed or ordered paid under this section for a violation of this section.

984 O. The toll facility operator may offer to the owner an option to pay the unpaid toll and fees plus a  
985 reduced civil penalty of \$25 for a first or second offense or \$50 for a third, fourth, or subsequent  
986 offense, as specified on the summons, provided the owner actually pays to the toll facility operator the  
987 entire amount so calculated at least 14 days prior to the hearing date specified on the summons. If the  
988 owner accepts such offer and such amount is actually received by the toll facility operator at least 14  
989 days prior to the hearing date specified on the summons, the toll facility operator shall move the court  
990 at least five business days prior to the date set for trial to dismiss the summons issued to the owner of  
991 the vehicle, and the court shall dismiss upon such motion.

992 P. The operator of a toll facility may enter into an agreement with the Department, in accordance  
993 with the provisions of subdivision B 21 of § 46.2-208, to obtain vehicle owner information regarding  
994 the owners of vehicles that fail to pay tolls required for the use of toll facilities and with the Department  
995 of Transportation to obtain any information that is necessary to conduct electronic toll collection. Such  
996 agreement may include any information that may be obtained by the Department of Motor Vehicles in  
997 accordance with any agreement entered into pursuant to § 46.2-819.9. Information provided to the  
998 operator of a toll facility shall be used only for the collection of unpaid tolls, and the operator of the  
999 toll facility shall be subject to the same conditions and penalties regarding release of the information as  
1000 contained in subsection C.

1001 Q. No person shall be subject to both the provisions of this section and to prosecution under  
1002 § 46.2-819 for actions arising out of the same transaction or occurrence.

1003 **§ 46.2-819.5. Enforcement through use of photo-monitoring system or automatic vehicle**  
1004 **identification system in conjunction with usage of Dulles Access Highway.**

1005 A. A photo-monitoring system or automatic vehicle identification system established at locations  
1006 along the Dulles Access Highway, in order to identify vehicles that are using the Dulles Access  
1007 Highway in violation of the Metropolitan Washington Airports Authority (Authority) regulation  
1008 regarding usage, which makes violations of the regulation subject to civil penalties, shall be administered  
1009 in accordance with this section. The civil penalties for violations of such regulation may not exceed the  
1010 following: \$50 for the first violation; \$100 for a second violation within one year from the first  
1011 violation; \$250 for a third violation within two years from the second violation; and \$500 for a fourth  
1012 and any subsequent violation within three years from the second violation. In the event a violation of  
1013 the Authority regulation is identified via the photo-monitoring system or automatic vehicle identification  
1014 system, the operator of the Dulles Access Highway shall send a notice of the violation, of the applicable  
1015 civil penalty and of any administrative fee calculated in accordance with subsection C to the registered  
1016 owner of the vehicle identified by the system prior to seeking further remedies under this section. Upon  
1017 receipt of the notice, the registered owner of the vehicle may elect to avoid any action by the operator  
1018 to enforce the violation in court by waiving his right to a court hearing, pleading guilty to the violation,  
1019 and paying a reduced civil penalty along with any applicable administrative fee to the operator. Should  
1020 the recipient of the notice make such an election, the amount of the reduced civil penalty shall be as  
1021 follows: \$30 for the first violation; \$50 for a second violation within one year from the first violation;  
1022 \$125 for a third violation within two years from the second violation; and \$250 for a fourth and any  
1023 subsequent violations within three years from the second violation.

1024 B. Information collected by the photo-monitoring system or automatic vehicle identification system  
1025 referenced in subsection A shall be limited exclusively to that information that is necessary for  
1026 identifying those drivers who improperly use the Dulles Access Highway in violation of the Authority  
1027 regulation. Notwithstanding any other provision of law, all photographs, microphotographs, electronic  
1028 images, or other data collected by a photo-monitoring system or automatic vehicle identification system  
1029 shall be used exclusively for the identification of violators and shall not (i) be open to the public; (ii) be  
1030 sold or used for sales, solicitation, or marketing purposes; (iii) be disclosed to any other entity except as  
1031 may be necessary for the identification of violators or to a vehicle owner or operator as part of a  
1032 challenge to the imposition of a civil penalty; or (iv) be used in a court in a pending action or  
1033 proceeding unless the action or proceeding relates to a violation of the Authority regulation governing  
1034 usage of the Dulles Access Highway or upon order from a court of competent jurisdiction. Information  
1035 collected by the system shall be protected in a database with security comparable to that of the  
1036 Department of Motor Vehicles' system, and be purged and not retained later than 30 days after the  
1037 collection and reconciliation of any civil penalties and administrative fees. The operator of the Dulles  
1038 Access Highway shall annually certify compliance with this subsection and make all records pertaining  
1039 to such system available for inspection and audit by the Commissioner of Highways or the  
1040 Commissioner of the Department of Motor Vehicles or their designee. Any violation of this subsection  
1041 shall constitute a Class 1 misdemeanor. In addition to any fines or other penalties provided for by law,  
1042 any money or other thing of value obtained as a result of a violation of this subsection shall be forfeited

1043 to the Commonwealth.

1044 C. The operator of the Dulles Access Highway may impose and collect an administrative fee, in  
1045 addition to the civil penalty established by regulation, so as to recover the expenses of collecting the  
1046 civil penalty, which administrative fee shall be reasonably related to the actual cost of collecting the  
1047 civil penalty and shall not exceed \$100 per violation. Such fee shall not be levied upon the operator of  
1048 the vehicle until a second violation has been documented within 12 months of an initial violation, in  
1049 which case the fee shall apply to such second violation and to any additional violation occurring  
1050 thereafter. If the recipient of the notice referenced in subsection A makes the election provided by that  
1051 subsection, the administrative fee shall not exceed \$25.

1052 D. If the election provided for in subsection A is not made, the operator of the Dulles Access  
1053 Highway may proceed to enforce the violation in court. If the matter proceeds to court, the registered  
1054 owner or operator of a vehicle shall be liable for the civil penalty set out in the Authority regulation  
1055 governing usage of the Dulles Access Highway, any applicable administrative fees calculated in  
1056 accordance with subsection C and applicable court costs if the vehicle is found, as evidenced by  
1057 information obtained from a photo-monitoring system or automatic vehicle identification system as  
1058 provided in this section, to have used the Dulles Access Highway in violation of the Authority  
1059 regulation; provided, that the civil penalty may not exceed the amount of the penalty identified in  
1060 subsection A.

1061 E. Any action under this section shall be brought in the General District Court of the county in  
1062 which the violation occurred.

1063 F. Proof of a violation of the Authority regulation governing the use of the Dulles Access Highway  
1064 shall be evidenced by information obtained from the photo-monitoring system or automatic vehicle  
1065 identification system referenced in subsection A. A certificate, sworn to or affirmed by a technician  
1066 employed or authorized by the operator of the Dulles Access Highway, or a facsimile of such a  
1067 certificate, that is based on inspection of photographs, microphotographs, videotapes, or other recorded  
1068 images or electronic data produced by the photo-monitoring system shall be prima facie evidence of the  
1069 facts contained therein. Any photographs, microphotographs, videotape, or other recorded images or  
1070 electronic data evidencing such a violation shall be available for inspection in any proceeding to  
1071 adjudicate the liability for such violation under this section.

1072 G. A summons issued under this section, which describes a vehicle that, on the basis of a certificate  
1073 referenced in subsection F, is alleged to have been operated in violation of the Authority regulation  
1074 governing usage of the Dulles Access Highway, shall be prima facie evidence that such vehicle was  
1075 operated in violation of the Authority regulation.

1076 H. Upon a finding by a court that the vehicle described in the summons issued under this section  
1077 was in violation of the Authority regulation, the court shall impose a civil penalty upon the registered  
1078 owner or operator of such vehicle in accordance with the penalty amounts specified in subsection D,  
1079 together with any applicable court costs and applicable administrative fees calculated in accordance with  
1080 subsection C. Civil penalties and administrative fees assessed as a result of an action initiated under this  
1081 section and collected by the court shall be remanded by the clerk of the court that adjudicated the action  
1082 to the treasurer or director of finance of the county or city in which the violation occurred for payment  
1083 to the operator of the Dulles Access Highway.

1084 The registered owner of a vehicle shall be given reasonable notice of an enforcement action in court  
1085 by way of a summons that informs the owner that his vehicle has been used in violation of the  
1086 Authority regulation governing the use of the Dulles Access Highway and of the time and place of the  
1087 court hearing, as well as of the civil penalty and court costs for the violation. Upon the filing of an  
1088 affidavit with the court at least 14 days prior to the hearing date by the registered owner of the vehicle  
1089 stating that he was not the driver of the vehicle on the date of the violation and providing the legal  
1090 name and address of the operator of the vehicle at the time of the violation, a summons shall be issued  
1091 to such alleged operator of the vehicle.

1092 In any action against such a vehicle operator, an affidavit made by the registered owner providing  
1093 the name and address of the vehicle operator at the time of the violation shall constitute prima facie  
1094 evidence that the person named in the affidavit was operating the vehicle at all the relevant times  
1095 relating to the matter addressed in the affidavit.

1096 If the registered owner of the vehicle produces a certified copy of a police report showing that the  
1097 vehicle had been reported to the police as stolen prior to the time of the alleged offense and remained  
1098 stolen at the time of the alleged offense, then the court shall dismiss the summons issued to the  
1099 registered owner of the vehicle.

1100 I. Upon a finding by a court that a person has three or more violations of the Authority regulation  
1101 governing the use of the Dulles Access Highway and has failed to pay the required civil penalties,  
1102 administrative fees and court costs into the court, the court shall notify the Commissioner of the  
1103 Department of Motor Vehicles, who shall refuse to issue or renew any vehicle registration certificate to  
1104 or for such person or the license plate for the vehicle owned by such person until the court has notified

1105 the Commissioner that such civil penalties, fees, and costs have been paid. The Commissioner shall  
1106 collect a \$40 administrative fee from such person to defray the cost of responding to court notices given  
1107 pursuant to this subsection.

1108 J. For purposes of this section, "operator of the Dulles Access Highway" means the Metropolitan  
1109 Washington Airports Authority; "owner" means the registered owner of a vehicle on record with the  
1110 Department of Motor Vehicles; "photo-monitoring system" means equipment that produces one or more  
1111 photographs, microphotographs, videotapes, or other recorded images of vehicles at the time they are  
1112 used or operated in violation of the Authority regulation governing the use of the Dulles Access  
1113 Highway; "automatic vehicle identification system" means an electronic vehicle identification system that  
1114 automatically produces an electronic record of each vehicle equipped with an automatic vehicle  
1115 identification device that uses monitored portions of the Dulles Access Highway; and "automatic vehicle  
1116 identification device" means an electronic device that communicates by wireless transmission with an  
1117 automatic vehicle identification system.

1118 K. Any vehicle rental or vehicle leasing company, if named in a summons, shall be released as a  
1119 party to the action if it provides the operator of the Dulles Access Highway with a copy of the vehicle  
1120 rental agreement or lease, or an affidavit that identifies the renter or lessee, prior to the date of hearing  
1121 set forth in the summons. Upon receipt of such rental agreement, lease, or affidavit, a summons shall be  
1122 issued to such renter or lessee. Release of this information shall not be deemed a violation of any  
1123 provision of the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.) or  
1124 the Insurance Information and Privacy Protection Act (§ 38.2-600 et seq.). In any action against the  
1125 renter or lessee, a copy of the vehicle rental agreement, lease, or affidavit identifying the renter or lessee  
1126 of the vehicle at the time of the violation shall be prima facie evidence that the person named in the  
1127 rental agreement, lease, or affidavit was operating the vehicle at all the relevant times relating to the  
1128 matter named in the summons.

1129 L. Imposition of a civil penalty pursuant to this section shall not be deemed a conviction as an  
1130 operator and shall not be made a part of the driving record of the person upon whom such civil penalty  
1131 is imposed, nor shall it be used for insurance purposes in the provision of motor vehicle insurance  
1132 coverage. ~~The provisions of § 46.2-395 shall not be applicable to any civil penalty, administrative fee, or~~  
1133 ~~cost imposed or ordered paid under this section.~~

1134 M. On a form prescribed by the Supreme Court, a summons for a violation of the Authority  
1135 regulation governing the use of the Dulles Access Highway may be executed pursuant to § 19.2-76.2.  
1136 The operator of the Dulles Access Highway or its personnel or agents mailing such summons shall be  
1137 considered conservators of the peace for the sole and limited purpose of mailing such summons.  
1138 Pursuant to § 19.2-76.2, the summons for a violation of the Authority regulation governing usage of the  
1139 Dulles Access Highway may be executed by mailing by first-class mail a copy thereof to the address of  
1140 the owner of the vehicle as shown on the records of the Department of Motor Vehicles or, if the  
1141 registered owner or rental or leasing company has named and provided a valid address for the operator  
1142 of the vehicle at the time of the violation as provided in this section, to the address of such named  
1143 operator of the vehicle. If the summoned person fails to appear on the date of return set out in the  
1144 summons mailed pursuant to this section, the summons shall be executed in the manner set out in  
1145 § 19.2-76.3.

1146 N. The operator of the Dulles Access Highway may enter into an agreement with the Department of  
1147 Motor Vehicles, in accordance with the provisions of subdivision B 21 of § 46.2-208, to obtain vehicle  
1148 owner information regarding the registered owners of vehicles that improperly use the Dulles Access  
1149 Highway. Information provided to the operator of the Dulles Access Highway shall only be used in the  
1150 enforcement of the Authority regulation governing use of the Dulles Access Highway, and the operator  
1151 shall be subject to the same conditions and penalties regarding release of the information as contained in  
1152 subsection B.

1153 O. Should other vehicle recognition technology become available that is appropriate to be used for  
1154 the purpose of monitoring improper usage of the Dulles Access Highway, the operator of the Dulles  
1155 Access Highway shall be permitted to use any such technology that has been approved for use by the  
1156 Virginia State Police, the Commonwealth of Virginia, or any of its localities.

1157 P. All civil penalties paid to the operator of the Dulles Access Highway pursuant to this section shall  
1158 be used by the operator of the Dulles Access Highway only for the operation and improvement of the  
1159 Dulles Corridor, including the Dulles Toll Road.

1160 **§ 46.2-1200.1. Abandoning motor vehicles prohibited; penalty.**

1161 No person shall cause any motor vehicle to become an abandoned motor vehicle as defined in  
1162 § 46.2-1200. In any prosecution for a violation of this section, proof that the defendant was, at the time  
1163 that the vehicle was found abandoned, the owner of the vehicle shall constitute in evidence a rebuttable  
1164 presumption that the owner was the person who committed the violation. Such presumption, however,  
1165 shall not arise if the owner of the vehicle provided notice to the Department, as provided in § 46.2-604,

1166 that he had sold or otherwise transferred the ownership of the vehicle.

1167 A summons for a violation of this section shall be executed by mailing a copy of the summons by  
1168 first-class mail to the address of the owner of the vehicle as shown on the records of the Department of  
1169 Motor Vehicles. If the person fails to appear on the date of return set out in the summons, a new  
1170 summons shall be issued and delivered to the sheriff of the county, city, or town for service on the  
1171 accused personally. If the person so served then fails to appear on the date of return set out in the  
1172 summons, proceedings for contempt shall be instituted.

1173 Any person convicted of a violation of this section shall be subject to a civil penalty of no more than  
1174 \$500. ~~If any person fails to pay any such penalty, his privilege to drive a motor vehicle on the highways~~  
1175 ~~of the Commonwealth shall be suspended as provided in §- 46.2-395.~~

1176 All penalties collected under this section shall be paid into the state treasury to be credited to the  
1177 Literary Fund as provided in § 46.2-114.

1178 **2. That § 46.2-395 of the Code of Virginia is repealed.**

1179 **3. That the Commissioner of the Department of Motor Vehicles shall reinstate a person's privilege**  
1180 **to drive a motor vehicle that was suspended prior to July 1, 2019, solely pursuant to former**  
1181 **§ 46.2-395 of the Code of Virginia and shall waive all fees related to reinstating such person's**  
1182 **driving privileges. Nothing herein shall require the Commissioner to reinstate a person's driving**  
1183 **privileges if such privileges have been otherwise lawfully suspended or revoked or if such person is**  
1184 **otherwise ineligible for a driver's license.**