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HOUSE BILL NO. 638

Offered January 8, 2020

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A BILL to amend and reenact §§ 46.2-323, 46.2-330, 46.2-343, 46.2-345, and 46.2-345.2 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 46.2-342.1, relating to Department of Motor Vehicles; religious exemption; social security number.

Patron—Hurst

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-323, 46.2-330, 46.2-343, 46.2-345, and 46.2-345.2 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 46.2-342.1 as follows:

§ 46.2-323. Application for driver's license; proof of completion of driver education program; penalty.

A. Every application for a driver's license, temporary driver's permit, learner's permit, or motorcycle learner's permit shall be made on a form prescribed by the Department and the applicant shall write his usual signature in ink in the space provided on the form. The form shall include notice to the applicant of the duty to register with the Department of State Police as provided in Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, if the applicant has been convicted of an offense for which registration with the Sex Offender and Crimes Against Minors Registry is required.

B. Every application shall state the full legal name, year, month, and date of birth, social security number, sex, and residence address of the applicant; whether or not the applicant has previously been licensed as a driver and, if so, when and by what state, and whether or not his license has ever been suspended or revoked and, if so, the date of and reason for such suspension or revocation. The Department, as a condition for the issuance of any driver's license, temporary driver's permit, learner's permit, or motorcycle learner's permit shall require the surrender of any driver's license or, in the case of a motorcycle learner's permit, a motorcycle license issued by another state and held by the applicant. The applicant shall also answer any questions on the application form or otherwise propounded by the Department incidental to the examination. The applicant may also be required to present proof of identity, residency, and social security number or non-work authorized status, if required to appear in person before the Department to apply.

The Commissioner shall require that each application include a certification statement to be signed by the applicant under penalty of perjury, certifying that the information presented on the application is true and correct.

If the applicant fails or refuses to sign the certification statement, the Department shall not issue the applicant a driver's license, temporary driver's permit, learner's permit or motorcycle learner's permit.

Any applicant who knowingly makes a false certification or supplies false or fictitious evidence shall be punished as provided in § 46.2-348.

C. Every application for a driver's license shall include a photograph of the applicant supplied under arrangements made by the Department. The photograph shall be processed by the Department so that the photograph can be made part of the issued license.

D. Notwithstanding the provisions of § 46.2-334, every applicant for a driver's license who is under 18 years of age shall furnish the Department with satisfactory proof of his successful completion of a driver education program approved by the State Department of Education.

E. Every application for a driver's license submitted by a person less than 18 years old and attending a public school in the Commonwealth shall be accompanied by a document, signed by the applicant's parent or legal guardian, authorizing the principal, or his designee, of the school attended by the applicant to notify the juvenile and domestic relations district court within whose jurisdiction the minor resides when the applicant has had 10 or more unexcused absences from school on consecutive school days.

F. The Department shall electronically transmit application information to the Department of State Police, in a format approved by the State Police, for comparison with information contained in the Virginia Criminal Information Network and National Crime Information Center Convicted Sexual Offender Registry Files, at the time of issuance of a driver's license, temporary driver's permit, learner's permit, or motorcycle learner's permit. Whenever it appears from the records of the State Police that a person has failed to comply with the duty to register or reregister pursuant to Chapter 9 (§ 9.1-900 et

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59 seq.) of Title 9.1, the State Police shall promptly investigate and, if there is probable cause to believe a
60 violation has occurred, obtain a warrant or assist in obtaining an indictment charging a violation of §
61 18.2-472.1 in the jurisdiction in which the person made application of licensure.

62 *G. Nothing herein shall require an applicant to provide a social security number if such applicant is*
63 *exempt pursuant to § 46.2-342.1.*

64 **§ 46.2-330. Expiration and renewal of licenses; examinations required.**

65 A. Every driver's license shall expire on the applicant's birthday at the end of the period of years for
66 which a driver's license has been issued. At no time shall any driver's license be issued for more than
67 eight years or less than five years, unless otherwise provided by law. Thereafter the driver's license shall
68 be renewed on or before the birthday of the licensee and shall be valid for a period not to exceed eight
69 years except as otherwise provided by law. Any driver's license issued to a person age 75 or older shall
70 be issued for a period not to exceed five years. Notwithstanding these limitations, the Commissioner
71 may extend the validity period of an expiring license if (i) the Department is unable to process an
72 application for renewal due to circumstances beyond its control, (ii) the extension has been authorized
73 under a directive from the Governor, and (iii) the license was not issued as a temporary driver's license
74 under the provisions of subsection B of § 46.2-328.1. However, in no event shall the validity period be
75 extended more than 90 days per occurrence of such conditions. In determining the number of years for
76 which a driver's license shall be renewed, the Commissioner shall take into consideration the
77 examinations, conditions, requirements, and other criteria provided under this title that relate to the
78 issuance of a license to operate a vehicle. Any driver's license issued to a person required to register
79 pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 shall expire on the applicant's birthday in years
80 which the applicant attains an age equally divisible by five.

81 B. Within one year prior to the date shown on the driver's license as the date of expiration, the
82 Department shall send notice, to the holder thereof, at the address shown on the records of the
83 Department in its driver's license file, that his license will expire on a date specified therein, whether he
84 must be reexamined, and when he may be reexamined. Nonreceipt of the notice shall not extend the
85 period of validity of the driver's license beyond its expiration date. The license holder may request the
86 Department to send such renewal notice to an email or other electronic address, upon provision of such
87 address to the Department.

88 Any driver's license may be renewed by application after the applicant has taken and successfully
89 completed those parts of the examination provided for in §§ 46.2-311, 46.2-325, and the Virginia
90 Commercial Driver's License Act (§ 46.2-341.1 et seq.), including vision and written tests, other than the
91 parts of the examination requiring the applicant to drive a motor vehicle. All drivers applying in person
92 for renewal of a license shall take and successfully complete the examination each renewal year. Every
93 applicant for a renewal shall appear in person before the Department, unless specifically notified by the
94 Department that renewal may be accomplished in another manner as provided in the notice. Applicants
95 who are required to appear in person before the Department to apply for a renewal may also be required
96 to present proof of identity, legal presence, residency, and social security number or non-work
97 authorized status.

98 C. Notwithstanding any other provision of this section, the Commissioner, in his discretion, may
99 require any applicant for renewal to be fully examined as provided in §§ 46.2-311 and 46.2-325 and the
100 Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.). Furthermore, if the applicant is less
101 than 75 years old, the Commissioner may waive the vision examination for any applicant for renewal of
102 a driver's license that is not a commercial driver's license and the requirement for the taking of the
103 written test as provided in subsection B of this section, § 46.2-325, and the Virginia Commercial
104 Driver's License Act (§ 46.2-341.1 et seq.). However, in no case shall there be any waiver of the vision
105 examination for applicants for renewal of a commercial driver's license or of the knowledge test required
106 by the Virginia Commercial Driver's License Act for the hazardous materials endorsement on a
107 commercial driver's license. No driver's license or learner's permit issued to any person who is 75 years
108 old or older shall be renewed unless the applicant for renewal appears in person and either (i) passes a
109 vision examination or (ii) presents a report of a vision examination, made within 90 days prior thereto
110 by an ophthalmologist or optometrist, indicating that the applicant's vision meets or exceeds the
111 standards contained in § 46.2-311.

112 D. Every applicant for renewal of a driver's license, whether renewal shall or shall not be dependent
113 on any examination of the applicant, shall appear in person before the Department to apply for renewal,
114 unless specifically notified by the Department that renewal may be accomplished in another manner as
115 provided in the notice.

116 E. This section shall not modify the provisions of § 46.2-221.2.

117 F. 1. The Department shall electronically transmit application information, including a photograph, to
118 the Department of State Police, in a format approved by the State Police, for comparison with
119 information contained in the Virginia Criminal Information Network and National Crime Information
120 Center Convicted Sexual Offender Registry files, at the time of the renewal of a driver's license.

Whenever it appears from the records of the State Police that a person has failed to comply with the duty to register or reregister pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, the State Police shall promptly investigate and, if there is probable cause to believe a violation has occurred, obtain a warrant or assist in obtaining an indictment charging a violation of § 18.2-472.1 in the jurisdiction in which the person last registered or reregistered or in the jurisdiction where the person made application for licensure. The Department of State Police shall electronically transmit to the Department, in a format approved by the Department, for each person required to register pursuant to Chapter 9 of Title 9.1, registry information consisting of the person's name, all aliases that he has used or under which he may have been known, his date of birth, and his social security number as set out in § 9.1-903.

2. For each person required to register pursuant to Chapter 9 of Title 9.1, the Department may not waive the requirement that each such person shall appear for each renewal or the requirement to obtain a photograph in accordance with subsection C of § 46.2-323.

G. Nothing herein shall require an applicant to provide a social security number if such applicant is exempt pursuant to § 46.2-342.1.

§ 46.2-342.1. Social security number requirement; exception.

Upon application of any person with a sincerely held religious belief prohibiting the use of a social security number who is a resident of the Commonwealth and who is at least 15 years of age, the Department shall issue, reissue, or renew a driver's license, temporary driver's permit, learner's permit, motorcycle learner's permit, or special identification card to such person without receiving such person's social security number, provided that:

1. The applicant meets all requirements for such license, permit, or card other than the requirement to provide his social security number;

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

3. The applicant presents, when required by the Department, proof of identity, legal presence, and residency;

4. The applicant presents a valid, unexpired United States passport; and

5. The applicant does not hold a commercial driver's license, commercial learner's permit, or escort vehicle driver certificate.

§ 46.2-343. Duplicate driver's license, reissued driver's licenses, learner's permit; fees.

A. If a driver's license or learner's permit issued under the provisions of this chapter is lost, stolen, or destroyed, the person to whom it was issued may obtain a duplicate or substitute thereof on furnishing proof satisfactory to the Department that his license or permit has been lost, stolen, or destroyed, or that there are good reasons why a duplicate should be issued. Every applicant for a duplicate or reissued driver's license shall appear in person before the Department to apply, unless permitted by the Department to apply for duplicate or reissue in another manner. Applicants who are required to apply in person may be required to present proof of identity, legal presence, residency, and social security number or non-work authorized status.

B. There shall be a fee of ~~five dollars~~ \$5 for each duplicate license and ~~two dollars~~ \$2 for each duplicate learner's permit. An additional fee of ~~five dollars~~ \$5 shall be charged to add or change the scene on a duplicate license or duplicate learner's permit.

C. There shall be a fee of ~~five dollars~~ \$5 for reissuance of any driver's license upon the termination of driving restrictions imposed upon the licensee by the Department or a court. An additional fee of ~~five dollars~~ \$5 shall be charged to add or change the scene on a license upon reissuance.

D. Nothing herein shall require an applicant to provide a social security number if such applicant is exempt pursuant to § 46.2-342.1.

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

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

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

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

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

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

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

182 B. The fee for the issuance of an original, duplicate, reissue, or renewal special identification card is
183 \$2 per year, with a \$10 minimum fee. Persons 21 years old or older may be issued a scenic special
184 identification card for an additional fee of \$5.

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

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

206 E. Special identification cards, for persons at least 15 years old but less than 21 years old, shall be
207 immediately and readily distinguishable from those issued to persons 21 years old or older.
208 Distinguishing characteristics shall include unique design elements of the document and descriptors
209 within the photograph area to identify persons who are at least 15 years old but less than 21 years old.
210 These descriptors shall include the month, day, and year when the person will become 21 years old.

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

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

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

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

234 J. The Department shall utilize the various communications media throughout the Commonwealth to
235 inform Virginia residents of the provisions of this section and to promote and encourage the public to
236 take advantage of its provisions.

237 K. The Department shall electronically transmit application information to the Department of State
238 Police, in a format approved by the State Police, for comparison with information contained in the
239 Virginia Criminal Information Network and National Crime Information Center Convicted Sexual
240 Offender Registry Files, at the time of issuance of a special identification card. Whenever it appears
241 from the records of the State Police that a person has failed to comply with the duty to register or
242 reregister pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, the State Police shall promptly
243 investigate and, if there is probable cause to believe a violation has occurred, obtain a warrant or assist

in obtaining an indictment charging a violation of § 18.2-472.1 in the jurisdiction in which the person made application for the special identification card.

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

M. Nothing herein shall require an applicant to provide a social security number if such applicant is exempt pursuant to § 46.2-342.1.

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

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

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

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

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

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

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

C. Every special identification card without a photograph shall expire on the applicant's birthday at the end of the period of years for which a special identification card without a photograph has been issued. At no time shall any special identification card without a photograph be issued for more than eight years. Notwithstanding these limitations, the Commissioner may extend the validity period of an expiring card if (i) the Department is unable to process an application for re-issue due to circumstances beyond its control or (ii) the extension has been authorized under a directive from the Governor. However, in no event shall the validity period be extended more than 90 days per occurrence of such conditions.

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

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

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

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

H. When requested by the applicant, the applicant's parent if the applicant is a minor, or the

305 applicant's guardian, and upon presentation of a signed statement by a licensed physician confirming the
306 applicant's condition, the Department shall indicate on the applicant's special identification card without
307 a photograph that the applicant has any condition listed in subsection K of § 46.2-342.

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

310 *J. Nothing herein shall require an applicant to provide a social security number if such applicant is*
311 *exempt pursuant to § 46.2-342.1.*

312 **2. That until January 1, 2021, when an applicant who is deemed eligible to obtain a driver's**
313 **license, temporary driver's license, temporary driver's permit, learner's permit, motorcycle**
314 **learner's permit, or special identification card without providing a social security number applies**
315 **for a reissuance of such document, the Department of Motor Vehicles is authorized to remove the**
316 **applicant's social security number on file with the Department of Motor Vehicles, if the applicant**
317 **requests such removal.**