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## SENATE BILL NO. 405

Offered January 8, 2020

Prefiled January 7, 2020

A *BILL to amend and reenact §§ 46.2-323.1, 46.2-332, 46.2-345, 46.2-345.2, 46.2-370, 46.2-398, and 53.1-116.1:02 of the Code of Virginia and to amend the Code of Virginia by adding in Article 1 of Chapter 2 of Title 53.1 a section numbered 53.1-31.4, relating to Department of Motor Vehicles; access to documents.*

Patron—Hashmi

Referred to Committee on Transportation

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

1. That §§ 46.2-323.1, 46.2-332, 46.2-345, 46.2-345.2, 46.2-370, 46.2-398, and 53.1-116.1:02 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 1 of Chapter 2 of Title 53.1 a section numbered 53.1-31.4 as follows:

**§ 46.2-323.1. Certification of Virginia residency; nonresidents not to be issued driver's licenses, commercial driver's licenses, learner's permits, or special identification card; penalty.**

No driver's license, commercial driver's license, temporary driver's permit, learner's permit, motorcycle learner's permit, or special identification card shall be issued to any person who is not a Virginia resident. Every person applying for a driver's license, commercial driver's license, temporary driver's permit, learner's permit, motorcycle learner's permit, or special identification card shall execute and furnish to the Commissioner his certificate that he is a resident of Virginia. The Commissioner or his duly authorized agent may require any such applicant to supply, along with his application, such evidence of his Virginia residency as the Commissioner may deem appropriate and adequate, provided that neither an immigration visa nor a signed written statement, whether or not such statement is notarized, wherein the maker of the statement vouches for the Virginia residency of the applicant, shall be acceptable proof of Virginia residency. *The Commissioner shall accept the printed version of an online United States Postal Service change of address confirmation as primary proof of Virginia residency.* If the applicant is less than nineteen years old and cannot otherwise provide proof of Virginia residency, the Commissioner may accept proof of the applicant's parent's or guardian's Virginia residency. Any minor providing proper evidence of the solemnization of his marriage or a certified copy of a court order of emancipation shall not be required to provide the parent's certification of residency. It shall be unlawful for any applicant knowingly to make a false certification of Virginia residency or supply false or fictitious evidence of Virginia residency. Any violation of this section shall be punished as provided in § 46.2-348.

**§ 46.2-332. Fees.**

A. On and after January 1, 1990, the fee for each driver's license other than a commercial driver's license shall be \$2.40 per year. If the license is a commercial driver's license or seasonal restricted commercial driver's license, the fee shall be \$6 per year. Persons 21 years old or older may be issued a scenic driver's license, learner's permit, or commercial driver's license for an additional fee of \$5. For any one or more driver's license endorsements or classifications, except a motorcycle classification, there shall be an additional fee of \$1 per year; for a motorcycle classification, there shall be an additional fee of \$2 per year. For any and all driver's license classifications, there shall be an additional fee of \$1 per year. For any revalidation of a seasonal restricted commercial driver's license, the fee shall be \$5. A fee of \$10 shall be charged to extend the validity period of a driver's license pursuant to subsection B of § 46.2-221.2.

B. In addition to any other fee imposed and collected by the Department, the Department shall impose and collect a service charge of \$5 upon each person who carries out the renewal of a driver's license or special identification card in any of the Department's Customer Service Centers if such renewal can be conducted by mail or telephone or by using an electronic medium in a format prescribed by the Commissioner. Such service charge shall not apply if, concurrently with the renewal of the driver's license or special identification card, the person undertakes another transaction at a Customer Service Center that cannot be conducted by mail or telephone or by using an electronic medium in a format prescribed by the Commissioner. Such service charge shall be paid by the Commissioner into the state treasury and shall be set aside as a special fund to be used to meet the expenses of the Department.

C. A reexamination fee of \$2 shall be charged for each administration of the knowledge portion of the driver's license examination taken by an applicant who is 18 years of age or older if taken more

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59 than once within a 15-day period. The reexamination fee shall be charged each time the examination is  
60 administered until the applicant successfully completes the examination, if taken prior to the fifteenth  
61 day.

62 An applicant who is less than 18 years of age who does not successfully complete the knowledge  
63 portion of the driver's license examination shall not be permitted to take the knowledge portion more  
64 than once in 15 days.

65 D. A fee of \$50 shall be charged each time an applicant for a commercial driver's license fails to  
66 keep a scheduled skills test appointment, unless such applicant cancels his appointment with the assigned  
67 driver's license examiner at least 24 hours in advance of the scheduled appointment. The Commissioner  
68 may, on a case-by-case basis, waive such fee for good cause shown. All such fees shall be paid by the  
69 Commissioner into the state treasury and set aside as a special fund to be used to meet the necessary  
70 expenses incurred by the Department.

71 E. If the applicant for a driver's license is an employee of the Commonwealth, or of any county, city,  
72 or town who drives a motorcycle or a commercial motor vehicle solely in the line of his duty, he shall  
73 be exempt from the additional fee otherwise assessable for a motorcycle classification or a commercial  
74 motor vehicle endorsement. The Commissioner may prescribe the forms as may be requisite for  
75 completion by persons claiming exemption from additional fees imposed by this section.

76 F. No additional fee above \$2.40 per year shall be assessed for the driver's license or commercial  
77 driver's license required for the operation of a school bus.

78 G. Excluding the \$2 reexamination fee, \$1.50 of all fees collected for each original or renewal  
79 driver's license shall be paid into the driver education fund of the state treasury and expended as  
80 provided by law. Unexpended funds from the driver education fund shall be retained in the fund and be  
81 available for expenditure in ensuing years as provided therein.

82 H. All fees for motorcycle classifications shall be distributed as provided in § 46.2-1191.

83 I. This section shall supersede conflicting provisions of this chapter.

84 J. *No fee shall be charged pursuant to subsection A, B, or C if the applicant or his guardian*  
85 *provides evidence that he or, if he is a minor, his parent is a current recipient of a state or federally*  
86 *funded public assistance program for the indigent.*

87 **§ 46.2-345. Issuance of special identification cards; fee; confidentiality; penalties.**

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

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

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

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

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

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

102 B. The fee for the issuance of an original, duplicate, reissue, or renewal special identification card is  
103 \$2 per year, with a \$10 minimum fee. Persons 21 years old or older may be issued a scenic special  
104 identification card for an additional fee of \$5. *No fee shall be charged for the issuance of such card if*  
105 *the applicant or his guardian provides evidence that he or, if he is a minor, his parent is a current*  
106 *recipient of a state or federally funded public assistance program for the indigent.*

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

subsection C of § 46.2-323.

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

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

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

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

H. Any personal information, as identified in § 2.2-3801, which is retained by the Department from an application for the issuance of a special identification card 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.

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

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

K. 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 special identification card. 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 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.

**§ 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. *No fee shall be charged for the issuance of such card if the applicant or his guardian provides evidence that he or, if he is a minor, his parent is a current recipient of a state or federally funded public assistance program for the indigent.*

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

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

**§ 46.2-370. Revoked driver's licenses, special identification cards, certificates of title, license plates, registration cards to be returned; Commissioner may take possession of them.**

A. Any person whose driver's license, special identification card, certificate of title, registration card, or license plates have been suspended, cancelled, or revoked as provided in this title or in Title 18.2 and have not been reinstated, shall immediately return every such license, unless it has been surrendered to the court as required by law, special identification card, certificate of title, registration card, and set of license plates or decals held by him to the Commissioner.

B. The Commissioner may take possession of any driver's license, special identification card, certificate of title, registration card, or set of license plates or decals on their suspension, cancellation, or revocation under the provisions of this title or in Title 18.2 or may direct any law-enforcement officer to take possession of and return them to the office of the Commissioner. Whenever any person fails or refuses to surrender a driver's license, special identification card, certificate of title, registration card,

license plates, or decals requiring a representative of the Department designated by the Commissioner to serve the order of suspension, cancellation, or revocation, or whenever the Department directs a sheriff to effect service of a decision, order, or notice pursuant to § 46.2-416, the person sought to be served shall, in addition to any other required statutory fees, pay a fee of ten dollars to partially defray the cost of administration incurred by the Department and the Commissioner. No such revoked, cancelled, or suspended license, special identification card, certificate of title, or registration items shall be reinstated before the ten-dollar fee is paid. All fees collected under the provisions of this section shall be paid by the Commissioner into the state treasury and shall be set aside as a special fund to be used to meet the expenses of the Department.

*C. The Commissioner shall, upon request, issue a special identification card to any person whose driver's license is suspended, canceled, or revoked and returned to the Commissioner pursuant to this section. No fee shall be charged for the issuance of such special identification card.*

**§ 46.2-398. Disposition of surrendered licenses on revocation or suspension and issuance of special identification card.**

A. In any case in which the accused is convicted of an offense, on the conviction of which the law requires or permits revocation or suspension of the driver's license of the person so convicted, the court shall order the surrender of such license, which shall remain in the custody of the court during the period of revocation or suspension if the period does not exceed 30 days.

B. If the revocation or suspension period exceeds 30 days, and the conviction was obtained in a court not of record, the license shall remain in the custody of that court (i) until the time allowed by law for an appeal to the circuit court has elapsed, when it shall be forwarded to the Commissioner, or (ii) until an appeal to the circuit court is noted, at which time it shall be returned to the accused.

C. If the revocation or suspension period exceeds 30 days, and the conviction was obtained in the circuit court, the circuit court shall forward the license to the Commissioner forthwith upon the conviction.

D. For any revocation or suspension of a privilege to drive in Virginia of a person who does not have a Virginia driver's license but who does have a valid driver's license from another jurisdiction, the court shall not order the physical surrender of such license.

*E. Upon the surrender of an individual's driver's license to the court pursuant to this section, the court shall issue an order authorizing such individual to receive a special identification card from the Department with no fee charged for the issuance of such special identification card.*

**§ 53.1-31.4. Department of Corrections-issued identification.**

Prior to the release or discharge of any prisoner, if the prisoner does not already possess a government-issued identification card, the Department of Corrections shall, upon request, issue to that prisoner a special identification card to be given to the prisoner upon his release. The Department of Corrections shall establish a procedure for securing such identification through the Department of Motor Vehicles. Such procedure shall include providing or assisting the prisoner to provide all paperwork necessary for such prisoner to be issued a special identification card. No costs or fees shall be charged to the prisoner for the issuance of such card.

**§ 53.1-116.1:02. Jailer-issued identification.**

Prior to the release or discharge of any prisoner, if the prisoner does not already possess a government-issued identification card, the sheriff, jail superintendent, or other jail administrator ~~may~~ shall, upon request, issue that prisoner a special identification card to be given to the prisoner upon his release. The sheriff, jail superintendent, or other jail administrator ~~may~~ shall establish a procedure for securing such identification through the Department of Motor Vehicles. ~~All~~ Such procedure shall include providing or assisting the prisoner to provide all paperwork necessary for such prisoner to be issued a special identification card. No costs and or fees associated with obtaining such special identification card shall be paid by charged to the prisoner for the issuance of such card.