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SENATE BILL NO. 759

Offered January 8, 2020

Prefiled January 8, 2020

A BILL to amend and reenact §§ 46.2-208 and 46.2-882 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 46.2-882.1, relating to photo speed monitoring devices; civil penalty.

Patron—Marsden

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-208 and 46.2-882 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 46.2-882.1 as follows:

§ 46.2-208. Records of Department; when open for inspection; release of privileged information.

A. All records in the office of the Department containing the specific classes of information outlined below shall be considered privileged records:

1. Personal information, including all data defined as "personal information" in § 2.2-3801;
2. Driver information, including all data that relates to driver's license status and driver activity; and
3. Vehicle information, including all descriptive vehicle data and title, registration, and vehicle activity data.

B. The Commissioner shall release such information only under the following conditions:

1. Notwithstanding other provisions of this section, medical data included in personal data shall be released only to a physician, physician assistant, or nurse practitioner as provided in § 46.2-322.

2. Insurance data may be released as specified in §§ 46.2-372, 46.2-380, and 46.2-706.

3. Notwithstanding other provisions of this section, information disclosed or furnished shall be assessed a fee as specified in § 46.2-214.

4. When the person requesting the information is (i) the subject of the information, (ii) the parent or guardian of the subject of the information, (iii) the authorized representative of the subject of the information, or (iv) the owner of the vehicle that is the subject of the information, the Commissioner shall provide him with the requested information and a complete explanation of it. Requests for such information need not be made in writing or in person and may be made orally or by telephone, provided that the Department is satisfied that there is adequate verification of the requester's identity. When so requested in writing by (a) the subject of the information, (b) the parent or guardian of the subject of the information, (c) the authorized representative of the subject of the information, or (d) the owner of the vehicle that is the subject of the information, the Commissioner shall verify and, if necessary, correct the personal information provided and furnish driver and vehicle information in the form of an abstract of the record.

5. On the written request of any insurance carrier, surety, or representative of an insurance carrier or surety, the Commissioner shall furnish such insurance carrier, surety, or representative an abstract of the record of any person subject to the provisions of this title. The abstract shall include any record of any conviction of a violation of any provision of any statute or ordinance relating to the operation or ownership of a motor vehicle or of any injury or damage in which he was involved and a report of which is required by § 46.2-372. No such report of any conviction or accident shall be made after 60 months from the date of the conviction or accident unless the Commissioner or court used the conviction or accident as a reason for the suspension or revocation of a driver's license or driving privilege, in which case the revocation or suspension and any conviction or accident pertaining thereto shall not be reported after 60 months from the date that the driver's license or driving privilege has been reinstated. This abstract shall not be admissible in evidence in any court proceedings.

6. On the written request of any business organization or its agent, in the conduct of its business, the Commissioner shall compare personal information supplied by the business organization or agent with that contained in the Department's records and, when the information supplied by the business organization or agent is different from that contained in the Department's records, provide the business organization or agent with correct information as contained in the Department's records. Personal information provided under this subdivision shall be used solely for the purpose of pursuing remedies that require locating an individual.

7. The Commissioner shall provide vehicle information to any business organization or agent on such business' or agent's written request. Disclosures made under this subdivision shall not include any personal information and shall not be subject to the limitations contained in subdivision 6.

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59 8. On the written request of any motor vehicle rental or leasing company or its designated agent, the
60 Commissioner shall (i) compare personal information supplied by the company or agent with that
61 contained in the Department's records and, when the information supplied by the company or agent is
62 different from that contained in the Department's records, provide the company or agent with correct
63 information as contained in the Department's records and (ii) provide the company or agent with driver
64 information in the form of an abstract of any person subject to the provisions of this title. Such abstract
65 shall include any record of any conviction of a violation of any provision of any statute or ordinance
66 relating to the operation or ownership of a motor vehicle or of any injury or damage in which the
67 subject of the abstract was involved and a report of which is required by § 46.2-372. No such abstract
68 shall include any record of any conviction or accident more than 60 months after the date of such
69 conviction or accident unless the Commissioner or court used the conviction or accident as a reason for
70 the suspension or revocation of a driver's license or driving privilege, in which case the revocation or
71 suspension and any conviction or accident pertaining thereto shall cease to be included in such abstract
72 after 60 months from the date on which the driver's license or driving privilege was reinstated. No
73 abstract released under this subdivision shall be admissible in evidence in any court proceedings.

74 9. On the request of any federal, state, or local governmental entity, local government group
75 self-insurance pool, law-enforcement officer, attorney for the Commonwealth, court, or the authorized
76 agent of any of the foregoing, the Commissioner shall (i) compare personal information supplied by the
77 governmental entity, local government group self-insurance pool, law-enforcement officer, attorney for
78 the Commonwealth, court, or the authorized agent of any of the foregoing, with that contained in the
79 Department's records and, when the information supplied by the governmental entity, local government
80 group self-insurance pool, law-enforcement officer, attorney for the Commonwealth, court, or the
81 authorized agent of any of the foregoing, is different from that contained in the Department's records,
82 provide the governmental entity, local government group self-insurance pool, law-enforcement officer,
83 attorney for the Commonwealth, court, or the authorized agent of any of the foregoing, with correct
84 information as contained in the Department's records and (ii) provide driver and vehicle information in
85 the form of an abstract of the record showing all convictions, accidents, and driver's license suspensions
86 or revocations. The Commissioner may also release other appropriate information as the governmental
87 entity, local government group self-insurance pool, law-enforcement officer, attorney for the
88 Commonwealth, court, or the authorized agent of any of the foregoing, may require in order to carry out
89 its official functions. The abstract shall be provided free of charge.

90 10. On request of the driver licensing authority in any other state or foreign country, the
91 Commissioner shall provide whatever classes of information the requesting authority shall require in
92 order to carry out its official functions. The information shall be provided free of charge.

93 11. On the written request of any employer, prospective employer, or authorized agent of either, and
94 with the written consent of the individual concerned, the Commissioner shall (i) compare personal
95 information supplied by the employer, prospective employer, or agent with that contained in the
96 Department's records and, when the information supplied by the employer, prospective employer, or
97 agent is different from that contained in the Department's records, provide the employer, prospective
98 employer, or agent with correct information as contained in the Department's records and (ii) provide the
99 employer, prospective employer, or agent with driver information in the form of an abstract of an
100 individual's record showing all convictions, accidents, driver's license suspensions or revocations, and
101 any type of driver's license that the individual currently possesses, provided that the individual's position
102 or the position that the individual is being considered for involves the operation of a motor vehicle.

103 12. On the written request of any member of or applicant for membership in a volunteer fire
104 company or any volunteer emergency medical services personnel, the Commissioner shall (i) compare personal information
105 supplied by the volunteer fire company or volunteer emergency medical services agency with that
106 contained in the Department's records and, when the information supplied by the volunteer fire company
107 or volunteer emergency medical services agency is different from that contained in the Department's
108 records, provide the volunteer fire company or volunteer emergency medical services agency with
109 correct information as contained in the Department's records and (ii) provide driver information in the
110 form of an abstract of the member's, personnel, or applicant's record showing all convictions, accidents,
111 license suspensions or revocations, and any type of driver's license that the individual currently
112 possesses. Such abstract shall be provided free of charge if the request is accompanied by appropriate
113 written evidence that the person is a member of or applicant for membership in a volunteer fire
114 company or a volunteer emergency medical services agency to serve as a member of a volunteer
115 emergency medical services agency and the abstract is needed by a volunteer fire company or volunteer
116 emergency medical services agency to establish the qualifications of the member, volunteer, or applicant
117 to operate equipment owned by the volunteer fire company or volunteer emergency medical services
118 agency.

120 13. On the written request of any person who has applied to be a volunteer with a Virginia affiliate

of Big Brothers/Big Sisters of America, the Commissioner shall (i) compare personal information supplied by a Virginia affiliate of Big Brothers/Big Sisters of America with that contained in the Department's records and, when the information supplied by a Virginia affiliate of Big Brothers/Big Sisters of America is different from that contained in the Department's records, provide the Virginia affiliate of Big Brothers/Big Sisters of America with correct information as contained in the Department's records and (ii) provide driver information in the form of an abstract of the applicant's record showing all convictions, accidents, license suspensions or revocations, and any type of driver's license that the individual currently possesses. Such abstract shall be provided at a fee that is one-half the normal charge if the request is accompanied by appropriate written evidence that the person has applied to be a volunteer with a Virginia affiliate of Big Brothers/Big Sisters of America.

14. On the written request of any person who has applied to be a volunteer with a court-appointed special advocate program pursuant to § 9.1-153, the Commissioner shall provide an abstract of the applicant's record showing all convictions, accidents, license suspensions or revocations, and any type of driver's license that the individual currently possesses. Such abstract shall be provided free of charge if the request is accompanied by appropriate written evidence that the person has applied to be a volunteer with a court-appointed special advocate program pursuant to § 9.1-153.

15. Upon the request of any employer, prospective employer, or authorized representative of either, the Commissioner shall (i) compare personal information supplied by the employer, prospective employer, or agent with that contained in the Department's records and, when the information supplied by the employer, prospective employer, or agent is different from that contained in the Department's records, provide the employer, prospective employer, or agent with correct information as contained in the Department's records and (ii) provide driver information in the form of an abstract of the driving record of any individual who has been issued a commercial driver's license, provided that the individual's position or the position that the individual is being considered for involves the operation of a commercial motor vehicle. Such abstract shall show all convictions, accidents, license suspensions, revocations, or disqualifications, and any type of driver's license that the individual currently possesses.

16. Upon the receipt of a completed application and payment of applicable processing fees, the Commissioner may enter into an agreement with any governmental authority or business to exchange information specified in this section by electronic or other means.

17. Upon the request of an attorney representing a person in a motor vehicle accident, the Commissioner shall provide vehicle information, including the owner's name and address, to the attorney.

18. Upon the request, in the course of business, of any authorized representative of an insurance company or of any not-for-profit entity organized to prevent and detect insurance fraud, or perform rating and underwriting activities, the Commissioner shall provide to such person (i) all vehicle information, including the owner's name and address, descriptive data and title, registration, and vehicle activity data as requested or (ii) all driver information including name, license number and classification, date of birth, and address information for each driver under the age of 22 licensed in the Commonwealth of Virginia meeting the request criteria designated by such person, with such request criteria consisting of driver's license number or address information. No such information shall be used for solicitation of sales, marketing, or other commercial purposes.

19. Upon the request of an officer authorized to issue criminal warrants, for the purpose of issuing a warrant for arrest for unlawful disposal of trash or refuse in violation of § 33.2-802 the Commissioner shall provide vehicle information, including the owner's name and address.

20. Upon written request of the compliance agent of a private security services business, as defined in § 9.1-138, which is licensed by the Department of Criminal Justice Services, the Commissioner shall provide the name and address of the owner of the vehicle under procedures determined by the Commissioner.

21. Upon the request of the operator of a toll facility or traffic light photo-monitoring system acting on behalf of a government entity, or of the Dulles Access Highway, or an authorized agent or employee of a toll facility operator or traffic light photo-monitoring system operator acting on behalf of a government entity or the Dulles Access Highway, for the purpose of obtaining vehicle owner data under subsection M of § 46.2-819.1 or subsection H of § 15.2-968.1 or subsection N of § 46.2-819.5. Information released pursuant to this subdivision shall be limited to the name and address of the owner of the vehicle having failed to pay a toll or having failed to comply with a traffic light signal or having improperly used the Dulles Access Highway and the vehicle information, including all descriptive vehicle data and title and registration data of the same vehicle.

22. On the written request of any person who has applied to be a volunteer with a Virginia affiliate of Compeer, the Commissioner shall (i) compare personal information supplied by a Virginia affiliate of Compeer with that contained in the Department's records and, when the information supplied by a Virginia affiliate of Compeer is different from that contained in the Department's records, provide the

182 Virginia affiliate of Compeer with correct information as contained in the Department's records and (ii)
183 provide driver information in the form of an abstract of the applicant's record showing all convictions,
184 accidents, license suspensions or revocations, and any type of driver's license that the individual
185 currently possesses. Such abstract shall be provided at a fee that is one-half the normal charge if the
186 request is accompanied by appropriate written evidence that the person has applied to be a volunteer
187 with a Virginia affiliate of Compeer.

188 23. Upon the request of the Department of Environmental Quality for the purpose of obtaining
189 vehicle owner data in connection with enforcement actions involving on-road testing of motor vehicles,
190 pursuant to § 46.2-1178.1.

191 24. On the written request of any person who has applied to be a volunteer vehicle operator with a
192 Virginia chapter of the American Red Cross, the Commissioner shall (i) compare personal information
193 supplied by a Virginia chapter of the American Red Cross with that contained in the Department's
194 records and, when the information supplied by a Virginia chapter of the American Red Cross is different
195 from that contained in the Department's records, provide the Virginia chapter of the American Red Cross
196 with correct information as contained in the Department's records and (ii) provide driver information in
197 the form of an abstract of the applicant's record showing all convictions, accidents, license suspensions
198 or revocations, and any type of driver's license that the individual currently possesses. Such abstract
199 shall be provided at a fee that is one-half the normal charge if the request is accompanied by
200 appropriate written evidence that the person has applied to be a volunteer vehicle operator with a
201 Virginia chapter of the American Red Cross.

202 25. On the written request of any person who has applied to be a volunteer vehicle operator with a
203 Virginia chapter of the Civil Air Patrol, the Commissioner shall (i) compare personal information
204 supplied by a Virginia chapter of the Civil Air Patrol with that contained in the Department's records
205 and, when the information supplied by a Virginia chapter of the Civil Air Patrol is different from that
206 contained in the Department's records, provide the Virginia chapter of the Civil Air Patrol with correct
207 information as contained in the Department's records and (ii) provide driver information in the form of
208 an abstract of the applicant's record showing all convictions, accidents, license suspensions or
209 revocations, and any type of driver's license that the individual currently possesses. Such abstract shall
210 be provided at a fee that is one-half the normal charge if the request is accompanied by appropriate
211 written evidence that the person has applied to be a volunteer vehicle operator with a Virginia chapter of
212 the Civil Air Patrol.

213 26. On the written request of any person who has applied to be a volunteer vehicle operator with
214 Faith in Action, the Commissioner shall (i) compare personal information supplied by Faith in Action
215 with that contained in the Department's records and, when the information supplied by Faith in Action is
216 different from that contained in the Department's records, provide Faith in Action with correct
217 information as contained in the Department's records and (ii) provide driver information in the form of
218 an abstract of the applicant's record showing all convictions, accidents, license suspensions or
219 revocations, and any type of driver's license that the individual currently possesses. Such abstract shall
220 be provided at a fee that is one-half the normal charge if the request is accompanied by appropriate
221 written evidence that the person has applied to be a volunteer vehicle operator with Faith in Action.

222 27. On the written request of the surviving spouse or child of a deceased person or the executor or
223 administrator of a deceased person's estate, the Department shall, if the deceased person had been issued
224 a driver's license or special identification card by the Department, supply the requestor with a hard copy
225 image of any photograph of the deceased person kept in the Department's records.

226 28. On the written request of any person who has applied to be a volunteer with a Virginia Council
227 of the Girl Scouts of the USA, the Commissioner shall (i) compare personal information supplied by a
228 Virginia Council of the Girl Scouts of the USA with that contained in the Department's records and,
229 when the information supplied by a Virginia Council of the Girl Scouts of the USA is different from
230 that contained in the Department's records, provide a Virginia Council of the Girl Scouts of the USA
231 with correct information as contained in the Department's records and (ii) provide driver information in
232 the form of an abstract of the applicant's record showing all convictions, accidents, license suspensions
233 or revocations, and any type of driver's license that the individual currently possesses. Such abstract
234 shall be provided at a fee that is one-half the normal charge if the request is accompanied by
235 appropriate written evidence that the person has applied to be a volunteer with the Virginia Council of
236 the Girl Scouts of the USA.

237 29. Upon written agreement, the Commissioner may digitally verify the authenticity and validity of a
238 driver's license, learner's permit, or special identification card to the American Association of Motor
239 Vehicle Administrators, a motor vehicle dealer as defined in § 46.2-1500, or other organization approved
240 by the Commissioner.

241 30. Upon the request of the operator of a video-monitoring system as defined in § 46.2-844 acting on
242 behalf of a government entity, the Commissioner shall provide vehicle owner data pursuant to subsection
243 B of § 46.2-844. Information released pursuant to this subdivision shall be limited to the name and

address of the owner of the vehicle having passed a stopped school bus and the vehicle information, including all descriptive vehicle data and title and registration data for such vehicle.

31. *Upon the request of the operator of a photo speed monitoring device as defined in § 46.2-882.1 acting on behalf of a government entity, the Commissioner shall provide vehicle owner data pursuant to subsection B of § 46.2-882.1. Information released pursuant to this subdivision shall be limited to the name and address of the owner of the vehicle having committed a violation of § 46.2-873 or 46.2-878.1 and the vehicle information, including all descriptive vehicle data and title and registration data for such vehicle.*

C. Whenever the Commissioner issues an order to suspend or revoke the driver's license or driving privilege of any individual, he may notify the National Driver Register Service operated by the United States Department of Transportation and any similar national driver information system and provide whatever classes of information the authority may require.

D. Accident reports may be inspected under the provisions of §§ 46.2-379 and 46.2-380.

E. Whenever the Commissioner takes any licensing action pursuant to the provisions of the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.), he may provide information to the Commercial Driver License Information System, or any similar national commercial driver information system, regarding such action.

F. In addition to the foregoing provisions of this section, vehicle information may also be inspected under the provisions of §§ 46.2-633, 46.2-644.02, 46.2-644.03, and §§ 46.2-1200.1 through 46.2-1237.

G. The Department may promulgate regulations to govern the means by which personal, vehicle, and driver information is requested and disseminated.

H. Driving records of any person accused of an offense involving the operation of a motor vehicle shall be provided by the Commissioner upon request to any person acting as counsel for the accused. If such counsel is from the public defender's office or has been appointed by the court, such records shall be provided free of charge.

I. The Department shall maintain the records of persons convicted of violations of § 18.2-36.2, subsection B of § 29.1-738, and §§ 29.1-738.02, 29.1-738.2, and 29.1-738.4 which shall be forwarded by every general district court or circuit court or the clerk thereof, pursuant to § 46.2-383. Such records shall be electronically available to any law-enforcement officer as provided for under clause (ii) of subdivision B 9.

J. Whenever the Commissioner issues a certificate of title for a motor vehicle, he may notify the National Motor Vehicle Title Information System, or any other nationally recognized system providing similar information, or any entity contracted to collect information for such system, and may provide whatever classes of information are required by such system.

§ 46.2-882. Determining speed with various devices; certificate as to accuracy of device; arrest without warrant.

The speed of any motor vehicle may be determined by the use of (i) a laser speed determination device, (ii) radar, (iii) a microcomputer device that is physically connected to an odometer cable and both measures and records distance traveled and elapsed time to determine the average speed of a motor vehicle, or (iv) a microcomputer device that is located aboard an airplane or helicopter and measures and records distance traveled and elapsed time to determine the average speed of a motor vehicle being operated on highways within the Interstate System of highways as defined in § 33.2-100. *The speed of motor vehicles may be determined by the use of a photo speed monitoring device as authorized in § 46.2-882.1.* The results of such determinations shall be accepted as prima facie evidence of the speed of such motor vehicle in any court or legal proceeding where the speed of the motor vehicle is at issue.

In any court or legal proceeding in which any question arises about the calibration or accuracy of any laser speed determination device, radar, ~~or~~ microcomputer device, *or photo speed monitoring device* as described in this section used to determine the speed of any motor vehicle, a certificate, or a true copy thereof, showing the calibration or accuracy of ~~(i)~~ (a) the speedometer of any vehicle, ~~(ii)~~ (b) any tuning fork employed in calibrating or testing the radar or other speed determination device, or ~~(iii)~~ (c) any other method employed in calibrating or testing any laser speed determination device *or photo speed monitoring device*, and when and by whom the calibration was made, shall be admissible as evidence of the facts therein stated. No calibration or testing of ~~such~~ any device *other than a photo speed monitoring device* shall be valid for longer than six months. *No calibration or testing of a photo speed monitoring device shall be valid for longer than 12 months.*

The driver of any such motor vehicle may be arrested without a warrant under this section if the arresting officer is in uniform and displays his badge of authority and if the officer has observed the registration of the speed of such motor vehicle by the laser speed determination device, radar, or microcomputer device as described in this section, or has received a radio message from the officer who observed the speed of the motor vehicle registered by the laser speed determination device, radar, or microcomputer device as described in this section. However, in case of an arrest based on such a

305 message, such radio message shall have been dispatched immediately after the speed of the motor
306 vehicle was registered and furnished the license number or other positive identification of the vehicle
307 and the registered speed to the arresting officer.

308 Neither State Police officers nor local law-enforcement officers shall use laser speed determination
309 devices or radar, as described herein in airplanes or helicopters for the purpose of determining the speed
310 of motor vehicles.

311 State Police officers may use laser speed determination devices, radar, and/or microcomputer devices
312 as described in this section. All localities may use radar and laser speed determination devices to
313 measure speed. *State Police officers and any locality may use photo speed monitoring devices to*
314 *measure speed as authorized in §46.2-882.1.* The Cities of Alexandria, Fairfax, Falls Church, Manassas,
315 and Manassas Park and the Counties of Arlington, Fairfax, Loudoun, and Prince William and towns
316 within such counties may use microcomputer devices as described in this section.

317 The Division of Purchases and Supply, pursuant to § 2.2-1112, shall determine the proper equipment
318 used to determine the speed of motor vehicles and shall advise the respective law-enforcement officials
319 of the same. Police chiefs and sheriffs shall ensure that all such equipment and devices purchased on or
320 after July 1, 1986, meet or exceed the standards established by the Division.

321 **§ 46.2-882.1. Use of photo speed monitoring devices in highway work zones and school crossing**
322 **zones; civil penalty.**

323 A. For the purposes of this section:

324 "Photo speed monitoring device" means equipment that uses LIDAR-based speed detection and, when
325 activated by a person, produces one or more photographs, microphotographs, videotapes, or other
326 recorded images of vehicles.

327 "Highway work zone" has the same meaning ascribed to it in § 46.2-878.1.

328 "School crossing zone" has the same meaning ascribed to it in § 46.2-873.

329 B. A law-enforcement officer may operate a photo speed monitoring device in school crossing zones
330 from the purposes of recording violations of § 46.2-873 and in highway work zones for the purposes of
331 recording violations of § 46.2-878.1.

332 1. A photo speed monitoring device may only be used:

333 a. By a law-enforcement officer who is physically present in or around the school crossing zone to
334 record images of vehicles that are traveling at speeds of at least 10 miles per hour above the posted
335 speed limit within such school crossing zone; or

336 b. By a law-enforcement officer who is physically present in or around the highway work zone where
337 a law-enforcement vehicle is present and displaying lighted blue or blue combination lights to record
338 images of vehicles that are traveling at speeds of at least 10 miles per hour above the posted highway
339 work zone speed limit within such highway work zone.

340 2. The operator of a vehicle shall be liable for a monetary civil penalty imposed pursuant to this
341 section if such vehicle is found, as evidenced by information obtained from a photo speed monitoring
342 device, to be traveling at speeds of at least 10 miles per hour above the posted school crossing zone or
343 highway work zone speed limit within such school crossing zone or highway work zone. Such civil
344 penalty shall not exceed \$125, and any prosecution shall be instituted and conducted in the same
345 manner as prosecution for traffic infractions. Civil penalties collected under this section by a locality
346 shall be paid to the locality in which such violation occurred.

347 3. If a photo speed monitoring device is used, proof of a violation of § 46.2-873 or 46.2-878.1 shall
348 be evidenced by information obtained from such device. A certificate, or a facsimile thereof, sworn to or
349 affirmed by a law-enforcement officer, based upon inspection of photographs, microphotographs,
350 videotapes, or other recorded images produced by a photo speed monitoring device, shall be prima facie
351 evidence of the facts contained therein. Any photographs, microphotographs, videotapes, or other
352 recorded images evidencing such a violation shall be available for inspection in any proceeding to
353 adjudicate the liability for such violation of § 46.2-873 or 46.2-878.1.

354 4. In the prosecution for a violation of § 46.2-873 or 46.2-878.1 in which a summons was issued by
355 mail, prima facie evidence that the vehicle described in the summons issued pursuant to this section was
356 operated in violation of § 46.2-873 or 46.2-878.1, together with proof that the defendant was at the
357 time of such violation the owner, lessee, or renter of the vehicle, shall constitute in evidence a
358 rebuttable presumption that such owner, lessee, or renter of the vehicle was the person who committed
359 the violation. Such presumption shall be rebutted if the owner, lessee, or renter of the vehicle (i) files an
360 affidavit by regular mail with the clerk of the general district court that he was not the operator of the
361 vehicle at the time of the alleged violation and provides the name and address of the person who was
362 operating the vehicle at the time of the alleged violation or (ii) testifies in open court under oath that he
363 was not the operator of the vehicle at the time of the alleged violation and provides the name and
364 address of the person who was operating the vehicle at the time of the alleged violation. Such
365 presumption shall also be rebutted if a certified copy of a police report, showing that the vehicle had
366 been reported to the police as stolen prior to the time of the alleged violation of § 46.2-873 or

46.2-878.1, is presented, prior to the return date established on the summons issued pursuant to this section, to the court adjudicating the alleged violation.

5. Imposition of a penalty pursuant to this section by mailing a summons shall not be deemed a conviction as an operator and shall not be made part of the operating record of the person upon whom such liability is imposed, nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage. However, if a law-enforcement officer uses a photo speed monitoring device to record a violation of § 46.2-873 or 46.2-878.1 and personally issues a summons at the time of the violation, the conviction that results shall be made a part of such driver's driving record and used for insurance purposes in the provision of motor vehicle insurance coverage.

6. A summons for a violation of § 46.2-873 or 46.2-878.1 issued by mail pursuant to this section shall be executed by mailing by first-class mail a copy thereof to the owner, lessee, or renter of the vehicle. In the case of a vehicle owner, the copy shall be mailed to the address contained in the records of or accessible to the Department. In the case of a vehicle lessee or renter, the copy shall be mailed to the address contained in the records of the lessor or renter. Every such mailing shall include, in addition to the summons, a notice of (i) the summoned person's ability to rebut the presumption that he was the operator of the vehicle at the time of the alleged violation through the filing of an affidavit as provided in subdivision 4 and (ii) instructions for filing such affidavit, including the address to which the affidavit is to be sent. If the summoned person fails to appear on the date of return set out in the summons mailed pursuant to this section, the summons shall be executed in the manner set out in § 19.2-76.3. No proceedings for contempt or arrest of a person summoned by mailing shall be instituted for failure to appear on the return date of the summons. If the summons is issued to an owner, lessee, or renter of a vehicle with a registration outside the Commonwealth and such person fails to appear on the date of return set out in the summons mailed pursuant to this section, the summons will be eligible for all legal collections activities. Any summons executed for a violation of § 46.2-873 or 46.2-878.1 issued pursuant to this section shall provide to the person summoned at least 30 days from the mailing of the summons to inspect information collected by a photo speed monitoring device in connection with the violation. If the law-enforcement agency that was operating the photo speed monitoring device does not execute a summons for a violation of § 46.2-873 or 46.2-878.1 issued pursuant to this section within 30 days from the date of the violation, all information collected pertaining to that suspected violation shall be purged within 60 days from the date of the violation.

7. A private vendor may enter into an agreement with a law-enforcement agency to be compensated for providing a photo speed monitoring device and all related support services, including consulting, operations, and administration. However, only a law-enforcement officer may operate a photo speed monitoring device and only a law-enforcement officer may swear to or affirm the certificate required by this subsection. Any such agreement for compensation shall be based on the value of the goods and services provided, not on the number of violations paid or monetary penalties imposed. Any private vendor contracting with a law-enforcement agency of a locality pursuant to this section may enter into an agreement with the Department, in accordance with the provisions of subdivision B 31 of § 46.2-208, to obtain vehicle owner information regarding the registered owners of vehicles that committed a violation of § 46.2-873 or 46.2-878.1. Any such information provided to such private vendor shall be protected in a database.

8. Information collected by a photo speed monitoring device operated pursuant to this section shall be limited exclusively to that information that is necessary for the enforcement of school crossing zone and highway work zone speeding violations. Information provided to the operator of a photo speed monitoring device shall be protected in a database and used only for enforcement against individuals who violate the provisions of this section or § 46.2-873 or 46.2-878.1. Notwithstanding any other provision of law, all photographs, microphotographs, videotapes, or other recorded images collected by a photo speed monitoring device shall be used exclusively for enforcing school crossing zone and highway work zone speed limits and shall not be (i) open to the public; (ii) sold or used for sales, solicitation, or marketing purposes; (iii) disclosed to any other entity except as may be necessary for the enforcement of school crossing zone and highway work zone speed limits or to a vehicle owner or operator as part of a challenge to the violation; or (iv) used in a court in a pending action or proceeding unless the action or proceeding relates to a violation of this section or § 46.2-873 or 46.2-878.1, or such information is requested upon order from a court of competent jurisdiction. Information collected under this section pertaining to a specific violation shall be purged and not retained later than 60 days after the collection of any civil penalties. Any law-enforcement agency using photo speed monitoring devices shall annually certify compliance with this section and make all records pertaining to such system available for inspection and audit by the Commissioner of Highways or the Commissioner of the Department of Motor Vehicles or his designee. Any person who discloses personal information in violation of the provisions of this subdivision shall be subject to a civil penalty of \$1,000 per disclosure.

428 9. A conspicuous sign shall be placed within 1,000 feet of any school crossing zone or highway work
429 zone at which a photo speed monitoring device is used, indicating the use of the device. There shall be
430 a rebuttable presumption that such sign was in place at the time of the commission of the speed limit
431 violation.