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## SENATE BILL NO. 761

Offered January 8, 2020

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A *BILL to amend and reenact §§ 46.2-323, 46.2-328.1, 46.2-330, 46.2-345, and 46.2-345.2 of the Code of Virginia, relating to Department of Motor Vehicles; driver's license eligibility.*

\_\_\_\_\_  
Patron—Barker

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Referred to Committee on Transportation

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

**1. That §§ 46.2-323, 46.2-328.1, 46.2-330, 46.2-345, and 46.2-345.2 of the Code of Virginia are amended and reenacted 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 *or Employment Authorization Document 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~~ *If required to appear in person before the Department to apply, the* applicant may also be required to present proof of identity, residency, and social security number, *Employment Authorization Document 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 seq.) of Title 9.1, the State Police shall promptly investigate and, if there is probable cause to believe a

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59 violation has occurred, obtain a warrant or assist in obtaining an indictment charging a violation of §  
60 18.2-472.1 in the jurisdiction in which the person made application of licensure.

61 **§ 46.2-328.1. Licenses, permits and special identification cards to be issued only to United States**  
62 **citizens, legal permanent resident aliens, or holders of certain immigration documents; exceptions;**  
63 **renewal, duplication, or reissuance.**

64 A. Notwithstanding any other provision of this title, except as provided in subsection G of  
65 § 46.2-345, the Department shall not issue an original license, permit, or special identification card to  
66 any applicant who has not presented to the Department, with the application, valid documentary  
67 evidence that the applicant is either (i) a citizen of the United States, (ii) a legal permanent resident of  
68 the United States, or (iii) a conditional resident alien of the United States, *or (iv) has a valid, unexpired*  
69 *Employment Authorization Document number.*

70 B. Notwithstanding the provisions of subsection A and the provisions of §§ 46.2-330 and 46.2-345,  
71 an applicant who presents in person valid documentary evidence of (i) a valid, unexpired nonimmigrant  
72 visa or nonimmigrant visa status for entry into the United States, (ii) a pending or approved application  
73 for asylum in the United States, (iii) entry into the United States in refugee status, (iv) a pending or  
74 approved application for temporary protected status in the United States, (v) approved deferred action  
75 status, or (vi) a pending application for adjustment of status to legal permanent residence status or  
76 conditional resident status, may be issued a temporary license, permit, or special identification card.  
77 Such temporary license, permit, or special identification card shall be valid only during the period of  
78 time of the applicant's authorized stay in the United States or if there is no definite end to the period of  
79 authorized stay a period of one year. No license, permit, or special identification card shall be issued if  
80 an applicant's authorized stay in the United States is less than 30 days from the date of application. Any  
81 temporary license, permit, or special identification card issued pursuant to this subsection shall clearly  
82 indicate that it is temporary and shall state the date that it expires. Such a temporary license, permit or  
83 identification card may be renewed only upon presentation of valid documentary evidence that the status  
84 by which the applicant qualified for the temporary license, permit or special identification has been  
85 extended by the United States Immigration and Naturalization Service or the Bureau of Citizenship and  
86 Immigration Services of the Department of Homeland Security.

87 C. Any license or special identification card for which an application has been made for renewal,  
88 duplication or reissuance shall be presumed to have been issued in accordance with the provisions of  
89 subsection A, provided that, at the time the application is made, (i) the license or special identification  
90 card has not expired or been cancelled, suspended or revoked or (ii) the license or special identification  
91 card has been canceled or suspended as a result of the applicant having been placed under medical  
92 review by the Department pursuant to § 46.2-322. The requirements of subsection A shall apply,  
93 however, to a renewal, duplication or reissuance if the Department is notified by a local, state or federal  
94 government agency that the individual seeking such renewal, duplication or reissuance is neither a  
95 citizen of the United States nor legally in the United States.

96 D. The Department shall cancel any license, permit, or special identification card that it has issued to  
97 an individual if it is notified by a federal government agency that the individual is neither a citizen of  
98 the United States nor legally present in the United States.

99 E. For any applicant who presents a document pursuant to this section proving legal presence other  
100 than citizenship, the Department shall record and provide to the State Board of Elections monthly the  
101 applicant's document number, if any, issued by an agency or court of the United States government.

102 **§ 46.2-330. Expiration and renewal of licenses; examinations required.**

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

119 B. Within one year prior to the date shown on the driver's license as the date of expiration, the  
120 Department shall send notice, to the holder thereof, at the address shown on the records of the

Department in its driver's license file, that his license will expire on a date specified therein, whether he must be reexamined, and when he may be reexamined. Nonreceipt of the notice shall not extend the period of validity of the driver's license beyond its expiration date. The license holder may request the Department to send such renewal notice to an email or other electronic address, upon provision of such address to the Department.

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

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

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

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

F. 1. The Department shall electronically transmit application information, including a photograph, 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 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.

**§ 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 or *Employment Authorization Document number*; sex; and residence address;

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

3. The Department is satisfied that the applicant needs an identification card or the applicant shows

182 he has a bona fide need for such a card; and

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

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

188 B. The fee for the issuance of an original, duplicate, reissue, or renewal special identification card is  
189 \$2 per year, with a \$10 minimum fee. Persons 21 years old or older may be issued a scenic special  
190 identification card for an additional fee of \$5.

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

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

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

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

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

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

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

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

243 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 or *Employment Authorization Document number*; sex; and residence address;

2. The applicant presents, when required by the Department, proof of identity, legal presence, residency, and social security number, *Employment Authorization Document 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

305 application for a special identification card without a photograph or knowingly makes a false statement  
306 or conceals a material fact or otherwise commits a fraud in any such application is guilty of a Class 2  
307 misdemeanor. However, where the special identification card without a photograph is obtained for the  
308 purpose of committing any offense punishable as a felony, a violation of this section shall constitute a  
309 Class 4 felony.

310 H. When requested by the applicant, the applicant's parent if the applicant is a minor, or the  
311 applicant's guardian, and upon presentation of a signed statement by a licensed physician confirming the  
312 applicant's condition, the Department shall indicate on the applicant's special identification card without  
313 a photograph that the applicant has any condition listed in subsection K of § 46.2-342.

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