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HOUSE BILL NO. 2248

Offered January 13, 2021

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A BILL to amend and reenact §§ 46.2-208 and 46.2-214 of the Code of Virginia, relating to Department of Motor Vehicles; personal information requests; fees.

Patrons—Miyares and Cole, M.L.

Referred to Committee on Communications, Technology and Innovation

Be it enacted by the General Assembly of Virginia:**1. That §§ 46.2-208 and 46.2-214 of the Code of Virginia are amended and reenacted as follows:****§ 46.2-208. Records of Department; when open for inspection; release of privileged information.**

A. The information outlined below shall be considered privileged and, unless otherwise provided for in this title, shall not be released except as provided in subsection B:

1. Personal information as defined in § 2.2-3801;
 2. Driver information, defined as all data that relates to driver's license status and driver activity;
 3. Special identification card information, defined as all data that relates to identification card status;
- and
4. Vehicle information, including all descriptive vehicle data and title, registration, and vehicle activity data, but excluding crash data.

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

1. Notwithstanding other provisions of this section, medical information included in personal information shall be released only to a physician, physician assistant, or nurse practitioner in accordance with a proceeding under §§ 46.2-321 and 46.2-322.

2, 3. [Repealed.]

4. Upon the request of (i) the subject of the information, (ii) the parent of a minor who is the subject of the information, (iii) the guardian of the subject of the information, (iv) the authorized representative of the subject of the information, or (v) 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 of a minor who is the subject of the information, (c) the guardian of the subject of the information, (d) the authorized representative of the subject of the information, or (e) 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, special identification card, or vehicle information. If the requester is requesting such information in the scope of his official business as counsel from a public defender's office or as counsel appointed by a court, such records shall be provided free of charge.

5. Upon the written request of any insurance carrier, surety, or representative of either, the Commissioner shall furnish to such requester information in the record of any person subject to the provisions of this title. The transcript 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 filed pursuant to § 46.2-373. No such report of any conviction or crash shall be made after 60 months from the date of the conviction or crash unless the Commissioner or court used the conviction or crash 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 crash pertaining thereto shall not be reported after 60 months from the date that the driver's license or driving privilege has been reinstated. The response of the Commissioner under this subdivision shall not be admissible in evidence in any court proceedings.

6. Upon the written request of any business organization or its authorized agent, in the conduct of its business, the Commissioner shall compare personal information supplied by the requester with that contained in the Department's records and, when the information supplied by the requester is different from that contained in the Department's records, provide the requester 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. Upon the written request of any business organization or its authorized agent, the Commissioner shall provide vehicle information to the requester. 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. Upon the written request of any motor vehicle rental or leasing company or its authorized agent,
60 the Commissioner shall (i) compare personal information supplied by the requester with that contained
61 in the Department's records and, when the information supplied by the requester is different from that
62 contained in the Department's records, provide the requester with correct information as contained in the
63 Department's records and (ii) provide the requester with driver information of any person subject to the
64 provisions of this title. Such information shall include any record of any conviction of a violation of any
65 provision of any statute or ordinance relating to the operation or ownership of a motor vehicle or of any
66 injury or damage in which the subject of the information was involved and a report of which was filed
67 pursuant to § 46.2-373. No such information shall include any record of any conviction or crash more
68 than 60 months after the date of such conviction or crash unless the Commissioner or court used the
69 conviction or crash as a reason for the suspension or revocation of a driver's license or driving privilege,
70 in which case the revocation or suspension and any conviction or crash pertaining thereto shall cease to
71 be included in such information after 60 months from the date on which the driver's license or driving
72 privilege was reinstated. The response of the Commissioner under this subdivision shall not be
73 admissible in evidence in any court proceedings.

74 9. Upon 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 compare personal information supplied by the
77 requester with that contained in the Department's records and, when the information supplied by the
78 requester is different from that contained in the Department's records, provide the requester with correct
79 information as contained in the Department's records. The Commissioner shall also provide driver,
80 special identification card, and vehicle information as requested pursuant to this subdivision. The
81 Commissioner may release other appropriate information to the governmental entity upon request. Upon
82 request in accordance with this subdivision, the Commissioner shall furnish a certificate, under seal of
83 the Department, setting forth a distinguishing number or license plate of a motor vehicle, trailer, or
84 semitrailer, together with the name and address of its owner. The certificate shall be prima facie
85 evidence in any court in the Commonwealth of the ownership of the vehicle, trailer, or semitrailer to
86 which the distinguishing number or license plate has been assigned by the Department. However, the
87 Commissioner shall not release any photographs pursuant to this subdivision unless the requester
88 provides the depicted individual's name and other sufficient identifying information contained on such
89 individual's record. The information in this subdivision shall be provided free of charge.

90 The Department shall release to a requester information that is required for a requester to carry out
91 the requester's official functions in accordance with this subdivision. If the requester has entered into an
92 agreement with the Department, such agreement shall be in a manner prescribed by the Department, and
93 such agreement shall contain the legal authority that authorizes the performance of the requester's
94 official functions and a description of how such information will be used to carry out such official
95 functions. If the Commissioner determines that sufficient authority has not been provided by the
96 requester to show that the purpose for which the information shall be used is one of the requester's
97 official functions, the Commissioner shall refuse to enter into any agreement. If the requester submits a
98 request for information in accordance with this subdivision without an existing agreement to receive the
99 information, the request shall be in a manner prescribed by the Department, and such request shall
100 contain the legal authority that authorizes the performance of the requester's official functions and a
101 description of how such information will be used to carry out such official functions. If the
102 Commissioner determines that sufficient authority has not been provided by the requester to show that
103 the purpose for which such information shall be used is one of the requester's official functions, the
104 Commissioner shall deny such request.

105 10. Upon the request of the driver licensing authority in any foreign country, the Commissioner shall
106 provide whatever driver and vehicle information the requesting authority shall require to carry out its
107 official functions. The information shall be provided free of charge.

108 11. a. For the purpose of obtaining information regarding noncommercial driver's license holders,
109 upon the written request of any employer, prospective employer, or authorized agent of either, and with
110 the written consent of the individual concerned, the Commissioner shall (i) compare personal
111 information supplied by the requester with that contained in the Department's records and, when the
112 information supplied by the requester is different from that contained in the Department's records,
113 provide the requester with correct information as contained in the Department's records and (ii) provide
114 the requester with driver information in the form of a transcript of an individual's record, including all
115 convictions, all crashes, any type of driver's license that the individual currently possesses, and all
116 driver's license suspensions, revocations, cancellations, or forfeiture, provided that such individual's
117 position or the position that the individual is being considered for involves the operation of a motor
118 vehicle.

119 b. For the purpose of obtaining information regarding commercial driver's license holders, upon the
120 written request of any employer, prospective employer, or authorized agent of either, the Commissioner

shall (i) compare personal information supplied by the requester with that contained in the Department's records and, when the information supplied by the requester is different from that contained in the Department's records, provide the requester with correct information as contained in the Department's records and (ii) provide the requester with driver information in the form of a transcript of such individual's record, including all convictions, all crashes, any type of driver's license that the individual currently possesses, and all driver's license suspensions, revocations, cancellations, forfeitures, or disqualifications, provided that such individual's position or the position that the individual is being considered for involves the operation of a commercial motor vehicle.

12. Upon the written request of any member of a volunteer fire company or volunteer emergency medical services agency and with written consent of the individual concerned, or upon the request of an applicant for membership in a volunteer fire company or to serve as volunteer emergency medical services personnel, the Commissioner shall (i) compare personal information supplied by the requester with that contained in the Department's records and, when the information supplied by the requester is different from that contained in the Department's records, provide the requester with correct information as contained in the Department's records and (ii) provide driver information in the form of a transcript of the individual's record, including all convictions, all crashes, any type of driver's license that the individual currently possesses, and all license suspensions, revocations, cancellations, or forfeitures. Such transcript shall be provided free of charge if the request is accompanied by appropriate written evidence that the person is a member of or applicant for membership in a volunteer fire company or a volunteer emergency medical services agency and the transcript is needed by the requester to establish the qualifications of the member, volunteer, or applicant to operate equipment owned by the volunteer fire company or volunteer emergency medical services agency.

13. Upon the written request of a Virginia affiliate of Big Brothers Big Sisters of America, a Virginia affiliate of Compeer, or the Virginia Council of the Girl Scouts of the USA, and with the consent of the individual who is the subject of the information and has applied to be a volunteer with the requester, or on the written request of a Virginia chapter of the American Red Cross, a Virginia chapter of the Civil Air Patrol, or Faith in Action, and with the consent of the individual who is the subject of the information and applied to be a volunteer vehicle operator with the requester, the Commissioner shall (i) compare personal information supplied by the requester with that contained in the Department's records and, when the information supplied by the requester is different from that contained in the Department's records, provide the requester with correct information as contained in the Department's records and (ii) provide driver information in the form of a transcript of the applicant's record, including all convictions, all crashes, any type of driver's license that the individual currently possesses, and all license suspensions, revocations, cancellations, or forfeitures. Such transcript 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 or volunteer vehicle operator with the requester as provided in this subdivision.

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 a transcript of the applicant's record, including all convictions, all crashes, any type of driver's license that the individual currently possesses, and all license suspensions, revocations, cancellations, or forfeitures. Such transcript 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, 16. [Repealed.]

17. Upon the request of an attorney representing a person involved in a motor vehicle crash, the Commissioner shall provide the vehicle information for any vehicle involved in the crash and the name and address of the owner of any such vehicle.

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 (i) all vehicle information, 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, provided that such request includes the driver's license number or address information of such driver. Use of such information shall be limited to use in connection with insurance claims investigation activities, antifraud activities, rating, or underwriting.

19. [Repealed.]

20. Upon the written request of the compliance agent of a private security services business, as defined in § 9.1-138, which is licensed by the Virginia 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, a traffic light photo-monitoring system acting on behalf of a government entity, or 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.

22-26. [Repealed.]

27. Upon the written request of the executor or administrator of a deceased person's estate, the Department shall, if the deceased person had been issued a driver's license or special identification card by the Department, supply the requester with a hard copy image of any photograph of the deceased person kept in the Department's records.

28. [Repealed.]

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

b. The Commissioner may release information in the Department's record through any American Association of Motor Vehicle Administrators service program created for the purpose of the exchange of information to any business, government agency, or authorized agent who would otherwise be authorized to receive the information requested pursuant to this section.

30. Upon the request of the operator of a video-monitoring system as defined in § 46.2-844 acting on behalf of a government entity, the Commissioner shall provide vehicle owner data pursuant to subsection 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.

32. Notwithstanding the provisions of this section other than subdivision 33, the Department shall not release, except upon request by the subject of the information, the guardian of the subject of the information, the parent of a minor who is the subject of the information, or the authorized representative of the subject of the information, or pursuant to a court order, (i) proof documents submitted for the purpose of obtaining a driving credential or a special identification card, (ii) the information in the Department's records indicating the type of proof documentation that was provided, or (iii) applications relating to the issuance of a driving credential or a special identification card. As used in this subdivision, "proof document" means any document not originally created by the Department that is submitted to the Department for the issuance of any driving credential or special identification card. "Proof document" does not include any information contained on a driving credential or special identification card.

33. Notwithstanding the provisions of this section, the Department may release the information in the Department's records that it deems reasonable and necessary for the purpose of federal compliance audits.

C. Information disclosed or furnished shall be assessed a fee as specified in § 46.2-214, unless as otherwise provided in this section.

D. 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.

E. No requester shall release or redistribute personal information or data obtained from the Department to a third party without prior authorization. This prohibition includes information or data that has been altered from its original form by a requester.

§ 46.2-214. Charges for information supplied by Department.

The Commissioner may make a reasonable charge for furnishing information under this title, but no fee shall be charged to any official of the Commonwealth, including court and police officials; officials of counties, cities, or towns; local government group self-insurance pools; or court, police, or licensing officials of other states or of the federal government, provided that the information requested is for

244 official use and such officials do not charge the Commonwealth a fee for the provision of the same or
245 substantially similar information. *No fee in excess of administrative charges for furnishing the*
246 *information shall be charged to any requester.* The fees received by the Commissioner under this
247 section shall be paid into the state treasury and shall be set aside as a special fund to be used to meet
248 the expenses of the Department.

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