

## VIRGINIA ACTS OF ASSEMBLY — CHAPTER

*An Act to amend and reenact §§ 2.2-1159, 3.2-6588, 10.1-200.3, 15.2-1805, 15.2-2025, 15.2-2306, 15.2-5201, 15.2-5301, 15.2-5369, 15.2-6314.1, 20-163, 22.1-101.1, 22.1-183, 22.1-213, 22.1-214.3, 22.1-270, 22.1-290.02, 23.1-1000, 23.1-2400, 25.1-400, 29.1-314, 32.1-78, 33.2-613, 36-96.1:1, 36-98.1, 36-99, 38.2-3323, 38.2-3409, 46.2-100, 46.2-221, 46.2-844, 46.2-859, 46.2-917, 46.2-1090, 46.2-1503.2, 51.1-124.27, 51.5-40.1, 54.1-2968, 58.1-609.10, 58.1-2401, 58.1-3210, 58.1-3213.1, 58.1-3503, 58.1-3506, 58.1-3506.1, 58.1-3506.6, 58.1-3833, 58.1-3840, 58.1-4024, 63.2-100, 63.2-319, 63.2-1301, 63.2-1302, and 64.2-745 of the Code of Virginia, relating to individuals with disabilities; terminology.*

[S 798]

Approved

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

**1. That §§ 2.2-1159, 3.2-6588, 10.1-200.3, 15.2-1805, 15.2-2025, 15.2-2306, 15.2-5201, 15.2-5301, 15.2-5369, 15.2-6314.1, 20-163, 22.1-101.1, 22.1-183, 22.1-213, 22.1-214.3, 22.1-270, 22.1-290.02, 23.1-1000, 23.1-2400, 25.1-400, 29.1-314, 32.1-78, 33.2-613, 36-96.1:1, 36-98.1, 36-99, 38.2-3323, 38.2-3409, 46.2-100, 46.2-221, 46.2-844, 46.2-859, 46.2-917, 46.2-1090, 46.2-1503.2, 51.1-124.27, 51.5-40.1, 54.1-2968, 58.1-609.10, 58.1-2401, 58.1-3210, 58.1-3213.1, 58.1-3503, 58.1-3506, 58.1-3506.1, 58.1-3506.6, 58.1-3833, 58.1-3840, 58.1-4024, 63.2-100, 63.2-319, 63.2-1301, 63.2-1302, and 64.2-745 of the Code of Virginia are amended and reenacted as follows:**

**§ 2.2-1159. Facilities for persons with physical disabilities in certain buildings; definitions; construction standards; waiver; temporary buildings.**

A. For the purposes of this section and § 2.2-1160:

"Building" means any building or facility, used by the public, which is constructed in whole or in part or altered by the use of state, county or municipal funds, or the funds of any political subdivision of ~~this~~ the Commonwealth. "Building" shall not include public school buildings and facilities, which shall be governed by standards established by the Board of Education pursuant to § 22.1-138.

"Persons with physical disabilities" means persons with:

1. Impairments that, regardless of cause or manifestation, for all practical purposes, confine individuals to wheelchairs;

2. Impairments that cause individuals to walk with difficulty or insecurity;

3. Total blindness or impairments affecting sight to the extent that the individual functioning in public areas is insecure or exposed to dangers;

4. Deafness or hearing ~~handicaps~~ loss that might make an individual insecure in public areas because he is unable to communicate or hear warning signals;

5. Faulty coordination or palsy from brain, spinal, or peripheral nerve injury; or

6. Those manifestations of the aging processes that significantly reduce mobility, flexibility, coordination and perceptiveness but are not accounted for in the aforementioned categories.

B. The Division shall prescribe standards for the design, construction, and alteration of buildings constructed in whole or in part or altered by the use of state funds, other than school funds, necessary to ensure that persons with physical disabilities will have ready access to, and use of, such buildings.

C. The governing body of a county, city or town or other political subdivision shall prescribe standards for the design, construction and alteration of buildings, not including public school facilities, constructed in whole or in part or altered by the use of the funds of such locality or political subdivision necessary to ensure that persons with physical disabilities will have ready access to, and use of, such buildings. The Division shall consult with the governing bodies upon request.

D. The Division, with respect to standards issued by it, and the governing body of any county, city or town or other political subdivision with respect to standards issued by it may:

1. Modify or waive any such standard, on a case-by-case basis, upon application made by the head of the department, agency or other instrumentality concerned, upon determining that a modification or waiver is clearly necessary; and

2. Conduct necessary surveys and investigations to ensure compliance with such standards.

E. The provisions of this section and § 2.2-1160 shall apply to temporary and emergency construction as well as permanent buildings.

**§ 3.2-6588. Intentional interference with a guide or leader dog; penalty.**

A. It is unlawful for a person to, without just cause, willfully impede or interfere with the duties performed by a dog if the person knows or has reason to believe the dog is a guide or leader dog. A

violation of this subsection is a Class 3 misdemeanor.

B. It is unlawful for a person to, without just cause, willfully injure a dog if the person knows or has reason to believe the dog is a guide or leader dog. A violation of this subsection is a Class 1 misdemeanor.

"Guide or leader dog" means a dog that: (i) serves as a dog guide for a blind person as defined in § 51.5-60 or for a person with a visual disability; (ii) serves as a listener for a deaf or hard-of-hearing person as defined in § 51.5-111; or (iii) provides support or assistance for a ~~physically disabled or handicapped person~~ *an individual with a physical disability*.

**§ 10.1-200.3. Admittance and parking in state parks; prohibitions; civil penalty.**

A. No person shall make use of, gain admittance to, or attempt to use or gain admittance to the facilities in any state park for the use of which a charge is assessed by the Department, unless the person pays the charge or price established by the Department.

B. No owner or driver shall cause or permit a vehicle to stand:

1. Anywhere in a state park outside of designated parking spaces, except for a reasonable time in order to receive or discharge passengers; or

2. In any space in a state park designated for use by ~~the handicapped individuals with disabilities~~ unless the vehicle displays a license plate or decal issued by the Commissioner of the Department of Motor Vehicles, or a similar identification issued by a similar authority of another state or the District of Columbia, ~~which that~~ authorizes parking in a ~~handicap~~ *space designated for use by individuals with disabilities*.

C. Any person violating any provision of this section may, in lieu of any criminal penalty, be assessed a civil penalty of ~~twenty-five dollars~~ \$25 by the Department. Civil penalties assessed under this section shall be paid into the Conservation Resources Fund.

**§ 15.2-1805. Permitting individuals with visual impairments to operate stands for sale of newspapers, etc.**

A locality, by ordinance or resolution, may authorize any ~~visually handicapped person individual with a visual impairment~~ to construct, maintain and operate, under the supervision of the Virginia Department for the Blind and Vision Impaired, in the county or city courthouse or in any other property of the locality, a stand for the sale of newspapers, periodicals, confections, tobacco products and similar articles and may prescribe rules for the operation of such stand.

**§ 15.2-2025. Removal of snow and ice; civil penalty.**

Notwithstanding the provisions of subsection A of § 15.2-2000, any county in Northern Virginia Planning District 8, or any county outside Planning District 8 that has adopted the county executive form of government, may provide by ordinance reasonable criteria and requirements for the removal of accumulations of snow and ice from public sidewalks, by the owner or other person in charge of any occupied property.

Such ordinance shall include reasonable time frames for compliance and reasonable exceptions for ~~handicapped and individuals with disabilities, elderly persons individuals,~~ and those otherwise physically incapable of meeting the criteria and requirements for such removal.

Civil penalties not to exceed \$100 may be imposed for violation of such ordinance.

**§ 15.2-2306. Preservation of historical sites and architectural areas.**

A. 1. Any locality may adopt an ordinance setting forth the historic landmarks within the locality as established by the Virginia Board of Historic Resources, and any other buildings or structures within the locality having an important historic, architectural, archaeological or cultural interest, any historic areas within the locality as defined by § 15.2-2201, and areas of unique architectural value located within designated conservation, rehabilitation or redevelopment districts, amending the existing zoning ordinance and delineating one or more historic districts, adjacent to such landmarks, buildings and structures, or encompassing such areas, or encompassing parcels of land contiguous to arterial streets or highways (as designated pursuant to Title 33.2, including § 33.2-319 ~~of that title~~) found by the governing body to be significant routes of tourist access to the locality or to designated historic landmarks, buildings, structures or districts therein or in a contiguous locality. A governing body may provide in the ordinance that the applicant must submit documentation that any development in an area of the locality of known historical or archaeological significance will preserve or accommodate the historical or archaeological resources. An amendment of the zoning ordinance and the establishment of a district or districts shall be in accordance with the provisions of Article 7 (§ 15.2-2280 et seq.) ~~of this chapter~~. The governing body may provide for a review board to administer the ordinance and may provide compensation to the board. The ordinance may include a provision that no building or structure, including signs, shall be erected, reconstructed, altered or restored within any such district unless approved by the review board or, on appeal, by the governing body of the locality as being architecturally compatible with the historic landmarks, buildings or structures therein.

2. Subject to the provisions of subdivision 3 ~~of this subsection~~ the governing body may provide in

the ordinance that no historic landmark, building or structure within any district shall be razed, demolished or moved until the razing, demolition or moving thereof is approved by the review board, or, on appeal, by the governing body after consultation with the review board.

3. The governing body shall provide by ordinance for appeals to the circuit court for such locality from any final decision of the governing body pursuant to subdivisions 1 and 2 of ~~this subsection~~ and shall specify therein the parties entitled to appeal the decisions, which parties shall have the right to appeal to the circuit court for review by filing a petition at law, setting forth the alleged illegality of the action of the governing body, provided the petition is filed within ~~thirty~~ 30 days after the final decision is rendered by the governing body. The filing of the petition shall stay the decision of the governing body pending the outcome of the appeal to the court, except that the filing of the petition shall not stay the decision of the governing body if the decision denies the right to raze or demolish a historic landmark, building or structure. The court may reverse or modify the decision of the governing body, in whole or in part, if it finds upon review that the decision of the governing body is contrary to law or that its decision is arbitrary and constitutes an abuse of discretion, or it may affirm the decision of the governing body.

In addition to the right of appeal hereinabove set forth, the owner of a historic landmark, building or structure, the razing or demolition of which is subject to the provisions of subdivision 2 of ~~this subsection~~, shall, as a matter of right, be entitled to raze or demolish such landmark, building or structure provided that: (i) he has applied to the governing body for such right, (ii) the owner has for the period of time set forth in the same schedule hereinafter contained and at a price reasonably related to its fair market value, made a bona fide offer to sell the landmark, building or structure, and the land pertaining thereto, to the locality or to any person, firm, corporation, government or agency thereof, or political subdivision or agency thereof, which gives reasonable assurance that it is willing to preserve and restore the landmark, building or structure and the land pertaining thereto, and (iii) no bona fide contract, binding upon all parties thereto, shall have been executed for the sale of any such landmark, building or structure, and the land pertaining thereto, prior to the expiration of the applicable time period set forth in the time schedule hereinafter contained. Any appeal which may be taken to the court from the decision of the governing body, whether instituted by the owner or by any other proper party, notwithstanding the provisions heretofore stated relating to a stay of the decision appealed from shall not affect the right of the owner to make the bona fide offer to sell referred to above. No offer to sell shall be made more than one year after a final decision by the governing body, but thereafter the owner may renew his request to the governing body to approve the razing or demolition of the historic landmark, building or structure. The time schedule for offers to sell shall be as follows: three months when the offering price is less than \$25,000; four months when the offering price is \$25,000 or more but less than \$40,000; five months when the offering price is \$40,000 or more but less than \$55,000; six months when the offering price is \$55,000 or more but less than \$75,000; seven months when the offering price is \$75,000 or more but less than \$90,000; and ~~twelve~~ 12 months when the offering price is \$90,000 or more.

4. The governing body is authorized to acquire in any legal manner any historic area, landmark, building or structure, land pertaining thereto, or any estate or interest therein which, in the opinion of the governing body should be acquired, preserved and maintained for the use, observation, education, pleasure and welfare of the people; provide for their renovation, preservation, maintenance, management and control as places of historic interest by a department of the locality or by a board, commission or agency specially established by ordinance for the purpose; charge or authorize the charging of compensation for the use thereof or admission thereto; lease, subject to such regulations as may be established by ordinance, any such area, property, lands or estate or interest therein so acquired upon the condition that the historic character of the area, landmark, building, structure or land shall be preserved and maintained; or to enter into contracts with any person, firm or corporation for the management, preservation, maintenance or operation of any such area, landmark, building, structure, land pertaining thereto or interest therein so acquired as a place of historic interest; however, the locality shall not use the right of condemnation under this subsection unless the historic value of such area, landmark, building, structure, land pertaining thereto, or estate or interest therein is about to be destroyed.

The authority to enter into contracts with any person, firm or corporation as stated above may include the creation, by ordinance, of a resident curator program such that private entities through lease or other contract may be engaged to manage, preserve, maintain, or operate, including the option to reside in, any such historic area, property, lands, or estate owned or leased by the locality. Any leases or contracts entered into under this provision shall require that all maintenance and improvement be conducted in accordance with established treatment standards for historic landmarks, areas, buildings, and structures. For purposes of this section, leases or contracts that preserve historic landmarks, buildings, structures, or areas are deemed to be consistent with the purposes of use, observation, education, pleasure, and welfare of the people as stated above so long as the lease or contract provides

for reasonable public access consistent with the property's nature and use. The Department of Historic Resources shall provide technical assistance to local governments, at their request, to assist in developing resident curator programs.

B. Notwithstanding any contrary provision of law, general or special, in the City of Portsmouth no approval of any governmental agency or review board shall be required for the construction of a ramp to serve ~~the handicapped~~ *individuals with disabilities* at any structure designated pursuant to the provisions of this section.

C. Any locality that establishes or expands a local historic district pursuant to this section shall identify and inventory all landmarks, buildings, or structures in the areas being considered for inclusion within the proposed district. Prior to adoption of an ordinance establishing or expanding a local historic district, the locality shall (i) provide for public input from the community and affected property owners in accordance with § 15.2-2204; (ii) establish written criteria to be used to determine which properties should be included within a local historic district; and (iii) review the inventory and the criteria to determine which properties in the areas being considered for inclusion within the proposed district meet the criteria to be included in a local historic district. Local historic district boundaries may be adjusted to exclude properties along the perimeter that do not meet the criteria. The locality shall include only the geographical areas in a local historic district where a majority of the properties meet the criteria established by the locality in accordance with this section. However, parcels of land contiguous to arterial streets or highways found by the governing body to be significant routes of tourist access to the locality or to designated historic landmarks, buildings, structures, or districts therein, or in a contiguous locality may be included in a local historic district notwithstanding the provisions of this subsection.

D. Any locality utilizing the urban county executive form of government may include a provision in any ordinance adopted pursuant to this section that would allow public access to any such historic area, landmark, building, or structure, or land pertaining thereto, or providing that no subdivision shall occur within any historic district unless approved by the review board or, on appeal, by the governing body of the locality as being compatible with the historic nature of such area, landmarks, buildings, or structures therein with regard to any parcel or parcels that collectively are (i) adjacent to a navigable river and a national park and (ii) in part or as a whole subject to an easement granted to the National Park Service or Virginia Outdoors Foundation granted on or after January 1, 1973.

#### **§ 15.2-5201. Definitions.**

As used in this chapter:

"Bond" includes any interest-bearing obligation, including promissory notes.

"Hospital or health center" means any and all medical facilities and approaches thereto and appurtenances thereof. Medical facilities shall include any and all facilities suitable for providing hospital and medical care, including any and all structures, buildings, improvements, additions, extensions, replacements, appurtenances, lands, rights in lands, franchises, machinery, equipment, furnishing, landscaping, approaches, roadways and other facilities necessary or desirable in connection therewith or incidental thereto (including, without limitation, hospitals, nursing homes, assisted living facilities, continuing care facilities, self-care facilities, medical office facilities, clinics, out-patient surgical centers, alcohol, substance abuse and drug treatment centers, laboratories, research facilities, sanitariums, hospices, facilities for the residence or care of ~~the elderly, the handicapped or the~~ chronically ill *individuals or individuals with disabilities*, residential facilities for nurses, interns, and physicians and any other kind of facility for the diagnosis, treatment, rehabilitation, prevention, or palliation of any human illness, injury, disorder, or disability), together with all related and supporting facilities and equipment necessary and desirable in connection therewith or incidental thereto, or equipment alone, including, without limitation, kitchen, laundry, laboratory, pharmaceutical, administrative, communications, computer and recreational facilities and equipment, storage space, mobile medical facilities, vehicles and other equipment necessary or desirable for the transportation of medical equipment or the transportation of patients.

#### **§ 15.2-5301. Definitions.**

As used ~~or referred to~~ in this chapter, unless *the context requires* a different meaning ~~clearly appears~~ *from the context*:

"Authority" or "hospital authority" means a body corporate organized in accordance with the provisions of this chapter for the purposes, with the powers and subject to the restrictions hereinafter set forth.

"Bonds" means any bonds, interim certificates, notes, debentures, or other obligations of the authority issued pursuant to this chapter.

"City," means both cities and counties, and city-specific terms such as "mayor" shall be deemed to also include the equivalent county term.

"Commissioner" means one of the members of an authority appointed in accordance with the provisions of this chapter.

"Contract" means any agreement of an authority with or for the benefit of an obligee whether contained in a resolution, trust indenture, mortgage, lease, bond or other instrument.

"Cost," as applied to a hospital project, means all or any part of the cost of acquisition, construction, alteration, enlargement, reconstruction and remodeling of a hospital project, including all lands, structures, real or personal property, interest in land and air rights, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of all labor, materials, machinery and equipment, financing charges, interest on all bonds prior to, during and for a period of time not to exceed two years after completion, provisions for working capital, the cost of architectural engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and revenues, administrative expenses, expenses necessary or incident to determining the feasibility or practicability of acquiring or constructing the hospital project and such other expenses as may be necessary or incidental to the acquisition and construction of such project, the financing of such acquisition and construction and the placing of the project in operation.

"Federal government" means the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America.

"Government" means the Commonwealth and the federal government and any subdivision, agency or instrumentality, corporate or otherwise, of either of them.

"Hospital project" or "project" means any and all medical facilities and approaches thereto and appurtenances thereof. Medical facilities shall include any and all facilities suitable for providing adequate hospital facilities and medical care for concentrated centers of population, and also includes any and all structures, buildings, improvements, additions, extensions, replacements, appurtenances, lands, rights in land, franchises, machinery, equipment, furnishings, landscaping, approaches, roadways and other facilities necessary or desirable in connection therewith or incidental thereto, including, without limitation, hospitals, nursing homes, assisted living facilities, continuing care facilities, self-care facilities, medical office facilities, clinics, out-patient surgical centers, alcohol, substance abuse and drug treatment centers, laboratories, research facilities, sanitariums, hospices, facilities for the residence or care of the elderly, ~~the handicapped~~ or ~~the~~ chronically ill *individuals or individuals with disabilities*, residential facilities for nurses, interns, and physicians and any other kind of facility for the diagnosis, treatment, rehabilitation, prevention or palliation of any human illness, injury, disorder, or disability; together with all related and supporting facilities and equipment necessary and desirable in connection therewith or incidental thereto; or equipment alone, including, without limitation, parking facilities, kitchen, laundry, laboratory, pharmaceutical, administrative, communications, computer and recreational facilities and equipment, storage space, mobile medical facilities, vehicles, and other equipment necessary or desirable for the transportation of medical equipment or the transportation of patients.

"Obligee of the authority" or "obligee" includes any bondholder, trustee or trustees for any bondholders, any lessor demising property to the authority used in connection with a hospital project or any assignee or assignees of such lessor's interest or any part thereof, and the United States of America when it is a party to any contract with the authority.

"Real property" includes lands under water, structures, and any and all easements, franchises and incorporeal hereditaments and every estate and right therein, legal and equitable, including terms for years and liens by way of judgments, mortgage or otherwise.

"Trust indenture" includes instruments pledging the revenues of real or personal properties but not conveying such properties or conferring a right to foreclose and cause a sale thereof.

#### **§ 15.2-5369. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Authority" means any political subdivision, a body politic and corporate, created, organized, and operated pursuant to the provisions of this chapter or, if such Authority is abolished, the board, body, authority, department, or officer succeeding to the principal functions thereof or to whom the powers given by this chapter are given by law.

"Bond" includes any interest bearing obligation, including promissory notes.

"Commissioner" means the State Health Commissioner.

"Cooperative agreement" means an agreement among two or more hospitals for the sharing, allocation, consolidation by merger or other combination of assets, or referral of patients, personnel, instructional programs, support services, and facilities or medical, diagnostic, or laboratory facilities or procedures or other services traditionally offered by hospitals.

"Hospital" includes any health center and health provider under common ownership with the hospital and means any and all providers of dental, medical, and mental health services, including all related facilities and approaches thereto and appurtenances thereof. Dental, medical, and mental health facilities includes any and all facilities suitable for providing hospital, dental, medical, and mental health care, including any and all structures, buildings, improvements, additions, extensions, replacements,

appurtenances, lands, rights in lands, franchises, machinery, equipment, furnishing, landscaping, approaches, roadways, and other facilities necessary or desirable in connection therewith or incidental thereto (including, without limitation, hospitals, nursing homes, assisted living facilities, continuing care facilities, self-care facilities, mental health facilities, wellness and health maintenance centers, medical office facilities, clinics, outpatient surgical centers, alcohol, substance abuse and drug treatment centers, dental care clinics, laboratories, research facilities, sanitariums, hospices, facilities for the residence or care of the elderly, ~~the handicapped~~ or the chronically ill *individuals or individuals with disabilities*, residential facilities for nurses, interns, and physicians and any other kind of facility for the diagnosis, treatment, rehabilitation, prevention, or palliation of any human illness, injury, disorder, or disability), together with all related and supporting facilities and equipment necessary and desirable in connection therewith or incidental thereto, or equipment alone, including, without limitation, kitchen, laundry, laboratory, wellness, pharmaceutical, administrative, communications, computer and recreational facilities and equipment, storage space, mobile medical facilities, vehicles and other equipment necessary or desirable for the transportation of medical equipment or the transportation of patients. Dental, medical, and mental health facilities also includes facilities for graduate-level instruction in medicine or dentistry and clinics appurtenant thereto offering free or reduced rate dental, medical, or mental health services to the public.

"Participating locality" means any county or city in the LENOWISCO or Cumberland Plateau Planning District Commissions and the Counties of Smyth and Washington and the City of Bristol with respect to which an authority may be organized and in which it is contemplated that the Authority will function.

**§ 15.2-6314.1. Applicability of the Virginia Personnel Act and the Virginia Public Procurement Act.**

A. Employees of an authority created by a locality shall be exempt from the provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.) if (i) the locality has personnel policies and procedures that are consistent with the goals, objectives, and policies of the Virginia Personnel Act; and (ii) such authority adopts the locality's personnel policies and procedures. In any event, personnel actions shall be taken without regard to race, sex, sexual orientation, gender identity, color, national origin, religion, age, ~~handicap~~ *disability*, or political affiliation.

B. Any authority created under this chapter shall be subject to the terms of the Virginia Public Procurement Act (§ 2.2-4300 et seq.). Notwithstanding the foregoing, should the ~~United States~~ *U.S.* Department of Defense place a federal area on a list of installations to be closed or realigned under the authority granted to the ~~United States~~ *U.S.* Department of Defense pursuant to the federal Defense Base Closure And Realignment Act of 1990 (~~United States Public Law~~ *P.L.* 101-501, as amended through the National Defense Authorization Act of Fiscal Year 2003), and such federal area is subject to the jurisdiction of an authority created by a locality, such listing of that installation shall qualify as an "emergency" under subsection F of § 2.2-4303 of the Virginia Public Procurement Act.

**§ 20-163. Miscellaneous provisions related to all surrogacy contracts.**

A. The surrogate shall be solely responsible for the clinical management of the pregnancy.

B. After the entry of an order under subsection B of § 20-160 or upon the execution of a contract pursuant to § 20-162, the marriage of the surrogate shall not affect the validity of the order or contract, and her spouse shall not be deemed a party to the contract in the absence of his explicit written consent.

C. Following the entry of an order pursuant to subsection D of § 20-160 or upon the relinquishing of the custody of and parental rights to any resulting child and the filing of the surrogate consent and report form as provided in § 20-162, the intended parent shall have the custody of, parental rights to, and full responsibilities for any child resulting from the performance of assisted conception from a surrogacy agreement regardless of the child's health, physical appearance, any mental or physical ~~handicap~~ *disability*, and regardless of whether the child is born alive.

D. A child born to a surrogate within 300 days after assisted conception pursuant to an order under subsection B of § 20-160 or a contract under § 20-162 is presumed to result from the assisted conception. This presumption is conclusive as to all persons who fail to file an action to test its validity within two years after the birth of the child. The child and the parties to the contract shall be named as parties in any such action. The action shall be filed in the court that issued or could have issued an order under § 20-160.

E. Health care providers shall not be liable for recognizing the surrogate as the mother of the resulting child before receipt of a copy of an order entered under § 20-160 or a copy of the contract, or for recognizing the intended parent as the parent of the resulting child after receipt of such order or copy of the contract.

F. Any contract provision requiring or prohibiting an abortion or selective reduction is against the public policy of the Commonwealth and is void and unenforceable.

**§ 22.1-101.1. Increase of funds for certain nonresident students; how increase computed and**

**paid; billing of out-of-state placing agencies or persons.**

A. To the extent such funds are appropriated by the General Assembly, a school division shall be reimbursed for the cost of educating a child who is not a child with disabilities and who is not a resident of such school division under the following conditions:

1. When such child has been placed in foster care or other custodial care within the geographical boundaries of the school division by a Virginia agency, whether state or local, which is authorized under the laws of ~~this~~ *the* Commonwealth to place children;

2. When such child has been placed within the geographical boundaries of the school division in an orphanage or children's home which exercises legal guardianship rights; or

3. When such child, who is a resident of Virginia, has been placed, not solely for school purposes, in a child-caring institution or group home licensed under the provisions of Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2 which is located within the geographical boundaries of the school division.

B. To the extent such funds are appropriated by the General Assembly, a school division shall be reimbursed for the cost of educating a child with disabilities who is not a resident of such school division under the following conditions:

1. When the child with disabilities has been placed in foster care or other custodial care within the geographical boundaries of the school division by a Virginia agency, whether state or local, which is authorized under the laws of ~~this~~ *the* Commonwealth to place children;

2. When such child with disabilities has been placed within the geographical boundaries of the school division in an orphanage or children's home which exercises legal guardianship rights; or

3. When such child with disabilities, who is a resident of Virginia, has been placed, not solely for school purposes, in a child-caring institution or group home licensed under the provisions of Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2 which is located within the geographical boundaries of the school division.

C. Each school division shall keep an accurate record of the number of days which any child, identified in subsection A or B ~~above~~, was enrolled in its public schools, the required local expenditure per child, the ~~handicapping condition~~ *specific disability*, if applicable, the placing agency or person and the jurisdiction from which the child was sent. Each school division shall certify this information to the Board of Education by July 1 following the end of the school year in order to receive proper reimbursement. No school division shall charge tuition to any such child.

D. When a child who is not a resident of Virginia, whether ~~disabled~~ or not *such child has a disability*, has been placed by an out-of-state agency or a person who is the resident of another state in foster care or other custodial care or in a child-caring institution or group home licensed under the provisions of Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2 located within the geographical boundaries of the school division, the school division shall not be reimbursed for the cost of educating such child from funds appropriated by the General Assembly. The school division in which such child has been enrolled shall bill the sending agency or person for the cost of the education of such child as provided in subsection C of § 22.1-5.

The costs of the support and maintenance of the child shall include the cost of the education provided by the school division; therefore, the sending agency or person shall have the financial responsibility for the educational costs for the child pursuant to Article V of the Interstate Compact on the Placement of Children as set forth in Chapters 10 (§ 63.2-1000 et seq.) and 11 (§ 63.2-1100 et seq.) of Title 63.2. Upon receiving the bill for the educational costs from the school division, the sending agency or person shall reimburse the billing school division for providing the education of the child. Pursuant to Article III of the Interstate Compact on the Placement of Children, no sending agency or person shall send, bring, or cause to be sent or brought into ~~this~~ *the* Commonwealth any child for placement unless the sending agency or person has complied with this section by honoring the financial responsibility for the educational cost as billed by a local school division.

E. To the extent that state funds appropriated by the General Assembly pursuant to subsection A or B or other state funds, such as those provided on the basis of average daily membership, do not cover the full cost of educating a child pursuant to this subsection, a school division shall be reimbursed by (i) the school division in which a child's custodial parent or guardian resides or (ii) in the case of a child who has been placed in the custody of the Department of Social Services, the school division in which the parent or guardian who had custody immediately preceding the placement resides, for any remaining costs of educating such child, whether ~~disabled~~ or not *such child has a disability*, who has been placed, not solely for school purposes, in (a) foster care or other custodial care within the geographical boundaries of the school division to be reimbursed, or (b) a child-caring institution or group home licensed under the provisions of Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2 that is located within the geographical boundaries of the school division to be reimbursed.

**§ 22.1-183. When warning lights and identification to be covered.**

It ~~shall be~~ *is* unlawful for a school bus licensed in ~~this~~ *the* Commonwealth to be operated on the

public highways of ~~this~~ *the* Commonwealth for the purpose of transporting persons or commodities other than school personnel, school children ~~or~~, elderly *individuals*, or ~~mentally or physically handicapped persons~~ *individuals with mental or physical disabilities* unless the lettered identification and school bus traffic warning lights on the front and rear of such bus are covered with some opaque detachable material. This section shall not apply to any such bus when operated by a salesman or demonstrator in connection with a prospective sale or delivery of a bus.

**§ 22.1-213. Definitions.**

As used in this article:

"Children with disabilities" means those persons (i) who are age two to 21, inclusive, having reached the age of two by the date specified in § 22.1-254; (ii) who have intellectual disability or serious emotional disturbance, are physically disabled, speech impaired, deaf or hard of hearing, visually impaired, or multiple disabled, are otherwise health impaired, including those who have autism spectrum disorder or a specific learning disability, or are otherwise disabled as defined by the Board of Education; and (iii) who because of such impairments need special education.

"Related services" means transportation and such developmental, corrective, and other supportive services as are required to assist a ~~disabled~~ *child with a disability* to benefit from special education, including speech pathology and audiology, psychological services, physical and occupational therapy, recreation, early identification and assessment of disabilities in children, counseling services, and medical services for diagnostic or evaluation purposes. "Related services" also includes school health services, social work services in schools, and parent counseling and training.

"Special education" means specially designed instruction at no cost to the parent to meet the unique needs of a ~~disabled~~ *child with a disability*, including classroom instruction, home instruction, instruction provided in hospitals and institutions, instruction in physical education, and instruction in career and technical education.

"Specific learning disability" means a disorder in one or more of the basic psychological processes involved in understanding or using language, spoken or written, which may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. "Specific learning disability" does not include children who have learning problems that are primarily the result of visual, hearing, ~~or~~ motor ~~handicaps~~, ~~of~~ *or* intellectual disability, or of environmental, cultural, or economic disadvantage.

**§ 22.1-214.3. Department to develop certain curriculum guidelines; Board to approve.**

The Department of Education shall develop curricula for the school-age individuals in state training centers and curriculum guidelines for the school-age individuals in state hospitals operated by the Department of Behavioral Health and Developmental Services in cooperation with the Department of Behavioral Health and Developmental Services and representatives of the teachers employed to provide instruction to the children. Prior to implementation, the Board of Education shall approve these curricula and curriculum guidelines.

These curricula and curriculum guidelines shall be designed to provide a range of programs and suggested program sequences for different functioning levels and ~~handicaps~~ *disabilities* and shall be reviewed and revised at least every three years. In addition to academic programming, the curriculum guidelines for the school-age individuals in state hospitals operated by the Department of Behavioral Health and Developmental Services shall include affective education and physical education as well as independent living and career and technical education, with particular emphasis on the needs of older adolescents and young adults.

**§ 22.1-270. Preschool physical examinations.**

A. No pupil shall be admitted for the first time to any public kindergarten or elementary school in a school division unless such pupil shall furnish, prior to admission, (i) a report from a qualified licensed physician, or a licensed nurse practitioner or licensed physician assistant acting under the supervision of a licensed physician, of a comprehensive physical examination of a scope prescribed by the State Health Commissioner performed within the 12 months prior to the date such pupil first enters such public kindergarten or elementary school or (ii) records establishing that such pupil furnished such report upon prior admission to another school or school division and providing the information contained in such report.

If the pupil is a homeless child or youth as defined in subdivision A 7 of § 22.1-3, and for that reason cannot furnish the report or records required by *clause* (i) or (ii) of this subsection, and the person seeking to enroll the pupil furnishes to the school division an affidavit so stating and also indicating that, to the best of his knowledge, such pupil is in good health and free from any communicable or contagious disease, the school division shall immediately refer the student to the local school division liaison, as described in Subtitle VII-B of the federal McKinney-Vento Homeless Assistance Act, as amended (42 U.S.C. § 11431 et seq.) (the Act), who shall, as soon as practicable, assist in obtaining the necessary physical examination by the county or city health department or other



clinic or physician's office and shall immediately admit the pupil to school, as required by such Act.

B. The physician, or licensed nurse practitioner or licensed physician assistant acting under the supervision of a licensed physician, making a report of a physical examination required by this section shall, at the end of such report, summarize the abnormal physical findings, if any, and shall specifically state what, if any, conditions are found that would identify the child as ~~handicapped~~ *having a disability*.

C. Such physical examination report shall be placed in the child's health record at the school and shall be made available for review by any employee or official of the State Department of Health or any local health department at the request of such employee or official.

D. Such physical examination shall not be required of any child whose parent shall object on religious grounds and who shows no visual evidence of sickness, provided that such parent shall state in writing that, to the best of his knowledge, such child is in good health and free from any communicable or contagious disease.

E. The health departments of all of the counties and cities of the Commonwealth shall conduct such physical examinations for medically indigent children without charge upon request and may provide such examinations to others on such uniform basis as such departments may establish.

F. Parents of entering students shall complete a health information form which shall be distributed by the local school divisions. Such forms shall be developed and provided jointly by the Department of Education and Department of Health, or developed and provided by the school division and approved by the Superintendent of Public Instruction. Such forms shall be returnable within 15 days of receipt unless reasonable extensions have been granted by the superintendent or his designee. Upon failure of the parent to complete such form within the extended time, the superintendent may send to the parent written notice of the date he intends to exclude the child from school; however, no child who is a homeless child or youth as defined in subdivision A 7 of § 22.1-3 shall be excluded from school for such failure to complete such form.

#### **§ 22.1-290.02. Traineeships for education of special education personnel.**

A. There are hereby established traineeships that shall be awarded to persons who are interested in working in programs for the education of ~~handicapped~~ children *with disabilities* for either part-time or full-time study in programs designed to qualify them as special education personnel in the public schools. Applicants for such traineeships shall be graduates of a recognized institution of higher education.

B. The award of such traineeships shall be made by the State Board, and the number of awards during any one year shall depend upon the amounts appropriated by the General Assembly for this purpose. The amount awarded for each traineeship shall be \$450 for a minimum of six semester hours of course work in areas relating to special education to be taken by the applicant during a single semester or summer session.

C. This program shall be administered by the Department of Education under rules and regulations promulgated by the State Board.

#### **§ 23.1-1000. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Bonds, notes, or other obligations" means bonds, notes, commercial paper, bond anticipation notes, revenue certificates, capital leases, lease participation certificates, or other evidences of indebtedness or deferred purchase financing arrangements.

"Capital project" means the acquisition of any interest in land, including (i) capital leases and (ii) improvements on the acquired land consisting of (a) new construction of at least 5,000 square feet, (b) new construction costing at least \$2 million, or (c) improvements or renovations costing at least \$2 million.

"Covered employee" means any individual who is employed by a covered institution on either a salaried or wage basis.

"Covered institution" means a public institution of higher education that has entered into a management agreement with the Commonwealth to be governed by the provisions of Article 4 (§ 23.1-1004 et seq.).

"Enabling statutes" means each chapter in Subtitle IV (§ 23.1-1300 et seq.), and in the case of the University of Virginia Medical Center §§ 2.2-2817.2, 2.2-2905, 51.1-126.3, and 51.1-1100, creating, continuing, or otherwise setting forth the powers, duties, purposes, and missions of each individual public institution of higher education unless otherwise expressly provided in this chapter.

"Facilities" means all (i) real, personal, tangible, and intangible property, including all (a) infrastructure suitable for supporting a covered institution's mission and ancillary activities and (b) structures, buildings, improvements, additions, extensions, replacements, appurtenances, lands, rights in land, furnishings, landscaping, approaches, roadways, and other related and supporting facilities held, possessed, owned, leased, operated, or used, in whole or in part, by a covered institution and (ii) rights in such property.

"Includes" has the same meaning as provided in § 1-218.

"Management agreement" means an agreement between the Commonwealth and a public institution of higher education that enables such institution to be governed by Article 4 (§ 23.1-1004 et seq.).

"Participating covered employee" includes (i) all salaried nonfaculty covered employees who were employed by the covered institution on the day prior to the effective date of the initial management agreement and elect pursuant to § 23.1-1022 to participate in and be governed by the program, plans, policies, and procedures established by the institution pursuant to Article 4 (§ 23.1-1004 et seq.); (ii) all salaried nonfaculty covered employees who are employed by the covered institution on or after the effective date of the initial management agreement; (iii) all nonsalaried nonfaculty covered employees of the covered institution without regard to when they were hired; (iv) all faculty covered employees of the covered institution without regard to when they were hired; and (v) all employees of the University of Virginia Medical Center without regard to when they were hired.

"Project" means (i) any research program, research facility, or educational facility of a covered institution or equipment necessary or convenient to or consistent with the purposes of such institution, whether or not owned by the institution, including (a) research, training, teaching, dormitory, and classroom facilities and all related and supporting facilities and equipment necessary or desirable in connection with such facilities or incidental to such facilities; (b) office, parking, kitchen, laundry, laboratory, wellness, pharmaceutical, administrative, communications, computer, and recreational and athletics facilities; (c) hotels and related facilities; (d) power plants and equipment; (e) storage space; (f) hospitals; (g) nursing homes; (h) continuing care facilities; (i) self-care facilities; (j) health maintenance centers; (k) medical office facilities; (l) clinics; (m) outpatient clinics; (n) surgical centers; (o) alcohol, substance abuse, and drug treatment centers; (p) sanitariums; (q) hospices; (r) facilities for the residence or care of the elderly, ~~handicapped~~, or chronically ill *individuals or individuals with disabilities*; (s) residential facilities for nurses, interns, and physicians; (t) other facilities for the treatment of sick, disturbed, or infirm individuals, the prevention of disease, or the maintenance of health; (u) colleges, schools, or divisions offering undergraduate, graduate, professional, or extension programs, or any combination of such programs, for such courses of study as may be appropriate; (v) vehicles, mobile medical facilities, and other transportation equipment; and (w) air transport equipment, including equipment necessary or desirable for the transportation of medical equipment, medical personnel, or patients; and (ii) all lands, buildings, improvements, approaches, and appurtenances necessary or desirable in connection with or incidental to any such program, facility, or equipment.

"Virginia Retirement System" includes any retirement system established or authorized by Title 51.1.

#### **§ 23.1-2400. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Authority" means the Virginia Commonwealth University Health System Authority.

"Board" means the board of directors of the Authority.

"Bonds" means bonds, notes, revenue certificates, lease participation certificates, or other evidences of indebtedness or deferred purchase financing arrangements.

"Chief executive officer" means the chief executive officer of the Virginia Commonwealth University Health System Authority.

"Costs" means (i) costs of (a) construction, reconstruction, renovation, site work, and acquisition of lands, structures, rights-of-way, franchises, easements, and other property rights and interests; (b) demolition, removal, or relocation of buildings or structures; (c) labor, materials, machinery, and all other kinds of equipment; (d) engineering and inspections; (e) financial, legal, and accounting services; (f) plans, specifications, studies, and surveys; (g) estimates of costs and of revenues; (h) feasibility studies; and (i) issuance of bonds, including printing, engraving, advertising, legal, and other similar expenses; (ii) financing charges; (iii) administrative expenses, including administrative expenses during the start-up of any project; (iv) credit enhancement and liquidity facility fees; (v) fees for interest rate caps, collars, swaps, or other financial derivative products; (vi) interest on bonds in connection with a project prior to and during construction or acquisition thereof and for a period not exceeding one year thereafter; (vii) provisions for working capital to be used in connection with any project; (viii) redemption premiums, obligations purchased to provide for the payment of bonds being refunded, and other costs necessary or incident to refunding of bonds; (ix) operating and maintenance reserve funds, debt reserve funds, and other reserves for the payment of principal and interest on bonds; (x) all other expenses necessary, desirable, or incidental to the operation of the Authority's facilities or the construction, reconstruction, renovation, acquisition, or financing of projects, other facilities, or equipment appropriate for carrying out the purposes of this chapter and the placing of the same in operation; or (xi) the refunding of bonds.

"Hospital facilities" means all property or rights in property, real and personal, tangible and intangible, including all facilities suitable for providing hospital and health care services and all structures, buildings, improvements, additions, extensions, replacements, appurtenances, lands, rights in

land, furnishings, landscaping, approaches, roadways, and other related and supporting facilities owned, leased, operated, or used, in whole or in part, by Virginia Commonwealth University as part of, or in connection with, MCV Hospitals in the normal course of its operations as a teaching, research, and medical treatment facility.

"Hospital obligations" means all debts or other obligations, contingent or certain, owing to any person or other entity on the transfer date, arising out of the operation of MCV Hospitals as a medical treatment facility or the financing or refinancing of hospital facilities and including all bonds and other debts for the purchase of goods and services, whether or not delivered, and obligations for the delivery of services, whether or not performed.

"Project" means any health care, research, or educational facility or equipment necessary or convenient to or consistent with the purposes of the Authority, whether owned by the Authority, including hospitals; nursing homes; continuing care facilities; self-care facilities; wellness and health maintenance centers; medical office facilities; clinics; outpatient clinics; surgical centers; alcohol, substance abuse, and drug treatment centers; laboratories; sanitariums; hospices; facilities for the residence or care of ~~the elderly; the handicapped, or the chronically ill~~ *individuals or individuals with disabilities*; residential facilities for nurses, interns, and physicians; other kinds of facilities for the treatment of sick, disturbed, or infirm individuals, the prevention of disease, or maintenance of health; colleges, schools, or divisions offering undergraduate or graduate programs for the health professions and sciences and such other courses of study as may be appropriate, together with research, training, and teaching facilities; all necessary or desirable related and supporting facilities and equipment or equipment alone, including (i) parking, kitchen, laundry, laboratory, wellness, pharmaceutical, administrative, communications, computer, and recreational facilities; (ii) power plants and equipment; (iii) storage space; (iv) mobile medical facilities; (v) vehicles; (vi) air transport equipment; and (vii) other equipment necessary or desirable for the transportation of medical equipment, medical personnel, or patients; and all lands, buildings, improvements, approaches, and appurtenances necessary or desirable in connection with or incidental to any project.

"Transfer date" means a date or dates agreed to by the board of visitors of Virginia Commonwealth University and the Authority for the transfer of employees to the Authority and for the transfer of hospital facilities, or any parts thereof, to and the assumption, directly or indirectly, of hospital obligations by the Authority, which dates for the various transfers and the various assumptions may be different, but in no event shall any date be later than June 30, 1997.

"University" means Virginia Commonwealth University.

#### **§ 25.1-400. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Business" means any lawful activity, except a farm operation, conducted primarily:

1. For the purchase, sale, lease and rental of personal and of real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property;
2. For the sale of services to the public;
3. By a nonprofit organization; or
4. Solely for the purposes of § 25.1-406, for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the above activities are conducted.

"Comparable replacement dwelling" means any dwelling that is (i) decent, safe and sanitary; (ii) adequate in size to accommodate the occupants; (iii) within the financial means of the displaced person; (iv) functionally equivalent; (v) in an area not subject to unreasonable adverse environmental conditions; and (vi) in a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities, facilities, services and the displaced person's place of employment.

"Decent, safe, and sanitary dwelling" means a dwelling that:

1. Is structurally sound, weather tight and in good repair;
2. Has a safe electrical wiring system adequate for lighting and appliances;
3. Contains a heating system capable of maintaining a healthful temperature;
4. Is adequate in size with respect to the number of rooms and area of living space needed to accommodate the displaced household;
5. Has a separate, well-lighted and ventilated bathroom that provides privacy to the user and contains sink, toilet, and bathing facilities (shower or bath, or both), all operational and connected to a functional water and sewer disposal system;
6. Provides unobstructed egress to safe open space at ground level. If the unit is above the first floor and served by a common corridor, there must be two means of egress; and
7. Is free of barriers to egress, ingress, and use by a displaced person ~~who is handicapped~~ *with a disability*.

"Displaced person" means:

1. Any person who moves from real property, or moves his personal property from real property (i) as a direct result of a written notice of intent to acquire or the acquisition of such real property, in whole or in part, for any program or project undertaken by a state agency or (ii) on which such person is a residential tenant or conducts a small business, a farm operation or a business described in clause 4 of the definition of "business" in this section as a direct result of rehabilitation, demolition, or other displacing activity as the state agency may prescribe, under a program or project undertaken by the state agency in any case in which the state agency determines that such displacement is permanent;

2. Solely for the purposes of §§ 25.1-406, 25.1-407, and 25.1-411, any person who moves from real property, or moves his personal property from real property: (i) as a direct result of a written notice of intent to acquire or the acquisition of other real property, in whole or in part, on which such person conducts a business or farm operation, for a program or project undertaken by a state agency or (ii) as a direct result of rehabilitation, demolition, or other displacing activity as the state agency may prescribe, of other real property on which such person conducts a business or farm operation, under a program or project undertaken by the state agency in any case in which the state agency determines that such displacement is permanent; and

3. Any person who moves or discontinues his business or moves other personal property, or moves from his dwelling, as the direct result of (i) federally assisted activities for the enforcement of a building code or other similar code or (ii) a program of rehabilitation or demolition of buildings conducted pursuant to a federally assisted governmental program.

The term "displaced person" does not include (i) a person who has been determined, according to criteria established by the state agency, to be either in unlawful occupancy of the displacement dwelling or to have occupied such dwelling for the purpose of obtaining assistance under this chapter or (ii) in any case where the state agency acquires property for a program or project, any person, other than a person who was an occupant of the property at the time it was acquired, who occupies such property on a rental basis for a short term or a period subject to termination when the property is needed for the program or project.

"Dwelling" means the place of permanent or customary and usual residence of a person, according to local custom or law, including a single-family house, a single family unit in a two-family, multi-family, or multi-purpose property; a unit of a condominium or cooperative housing project; a nonhousekeeping unit; a mobile home; or any other residential unit.

"Farm operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

"Mortgage" means such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property, together with the credit instruments, if any, secured thereby.

"Nonprofit organization" means an organization that is exempt from paying federal income taxes under § 501 of the Internal Revenue Code (26 U.S.C. § 501).

"Person" means any (i) individual or (ii) partnership, corporation, limited liability company, association, or other business entity.

"Uneconomic remnant" means a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property and which the state agency has determined has little or no value or utility to the owner.

#### **§ 29.1-314. Special fishing permits for certain individuals with disabilities.**

A. Upon receipt of an application from an officer or designated representative of any organized group of ~~physically or mentally handicapped persons~~ *individuals with physical or mental disabilities* who meet on a regular basis, including students at schools for the blind or deaf, the Director may issue not more than two permits of one day each, in any calendar year, to such group to fish without licenses in public waters open to fishing. The permits shall not be issued for use in designated waters stocked with trout or in waters where a daily fishing fee has been imposed pursuant to § 29.1-318; however, a permit may be issued to such group to fish without licenses on the second Saturday of May in designated waters stocked with trout.

B. The application for the permit shall state the name and description of the group, the date upon which it will be used, the general area in which it will be used, and the name of the person or organization responsible for the group.

#### **§ 32.1-78. Reporting information about children with health problems or disabilities.**

Notwithstanding § 32.1-271 or any other law to the contrary, the Commissioner shall report to the Superintendent of Public Instruction or to the appropriate school division superintendent within the Commonwealth the identity of, and pertinent information about, children with health problems or ~~handicapping conditions~~ *which disabilities that* might affect the child's career in school and his need for

special education.

**§ 33.2-613. Free use of toll facilities by certain state officers and employees; penalties.**

A. Upon presentation of a toll pass issued pursuant to regulations promulgated by the Board, the following persons may use all toll bridges, toll ferries, toll tunnels, and toll roads in the Commonwealth without the payment of toll while in the performance of their official duties:

1. The Commissioner of Highways;
2. Members of the Commonwealth Transportation Board;
3. Employees of the Department of Transportation;
4. The Superintendent of the Department of State Police;
5. Officers and employees of the Department of State Police;
6. Members of the Board of Directors of the Virginia Alcoholic Beverage Control Authority;
7. Employees of the regulatory and hearings divisions of the Virginia Alcoholic Beverage Control Authority and special agents of the Virginia Alcoholic Beverage Control Authority;
8. The Commissioner of the Department of Motor Vehicles;
9. Employees of the Department of Motor Vehicles;
10. Local police officers;
11. Sheriffs and their deputies;
12. Regional jail officials;
13. Animal wardens;
14. The Director and officers of the Department of Wildlife Resources;
15. Persons operating firefighting equipment and emergency medical services vehicles as defined in § 32.1-111.1;
16. Operators of school buses being used to transport pupils to or from schools;
17. Operators of (i) commuter buses having a capacity of 20 or more passengers, including the driver, and used to regularly transport workers to and from their places of employment and (ii) public transit buses;
18. Employees of the Department of Rail and Public Transportation;
19. Employees of any transportation facility created pursuant to the Virginia Highway Corporation Act of 1988; and
20. Law-enforcement officers of the Virginia Marine Resources Commission.

B. Notwithstanding the provision of subsection A requiring presentation of a toll pass for toll-free use of such facilities, in cases of emergency and circumstances of concern for public safety on the highways of the Commonwealth, the Department of Transportation shall, in order to alleviate an actual or potential threat or risk to the public's safety, facilitate the flow of traffic on or within the vicinity of the toll facility by permitting the temporary suspension of toll collection operations on its facilities.

1. The assessment of the threat to public safety shall be performed and the decision temporarily to suspend toll collection operations shall be made by the Commissioner of Highways or his designee.

2. Major incidents that may require the temporary suspension of toll collection operations shall include (i) natural disasters, such as hurricanes, tornadoes, fires, and floods; (ii) accidental releases of hazardous materials, such as chemical spills; (iii) major traffic accidents, such as multivehicle collisions; and (iv) other incidents deemed to present a risk to public safety. Any mandatory evacuation during a state of emergency as defined in § 44-146.16 shall require the temporary suspension of toll collection operations in affected evacuation zones on routes designated as mass evacuation routes. The Commissioner of Highways shall reinstate toll collection when the mandatory evacuation period ends.

3. In any judicial proceeding in which a person is found to be criminally responsible or civilly liable for any incident resulting in the suspension of toll collections as provided in this subsection, the court may assess against the person an amount equal to lost toll revenue as a part of the costs of the proceeding and order that such amount, not to exceed \$2,000 for any individual incident, be paid to the Department of Transportation for deposit into the toll road fund.

C. Any tollgate keeper who refuses to permit the persons listed in subsection A to use any toll bridge, toll ferry, toll tunnel, or toll road upon presentation of such a toll pass is guilty of a misdemeanor punishable by a fine of not more than \$50 and not less than \$2.50. Any person other than those listed in subsection A who exhibits any such toll pass for the purpose of using any toll bridge, toll ferry, toll tunnel, or toll road is guilty of a Class 1 misdemeanor.

D. Any vehicle operated by the holder of a valid driver's license or other document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2, or the comparable law of another jurisdiction, authorizing the operation of a motor vehicle upon the highways shall be allowed free use of all toll bridges, toll roads, and other toll facilities in the Commonwealth if:

1. The vehicle is specially equipped to permit its operation by a ~~handicapped person~~ *an individual with a disability*;
2. The driver of the vehicle has been certified, either by a physician licensed by the Commonwealth

or any other state or by the Adjudication Office of the U.S. Department of Veterans Affairs, as ~~being severely physically disabled~~ *having a severe physical disability* and having permanent upper limb mobility or dexterity impairments that substantially impair his ability to deposit coins in toll baskets;

3. The driver has applied for and received from the Department of Transportation a vehicle window sticker identifying him as eligible for such free passage; and

4. Such identifying window sticker is properly displayed on the vehicle.

A copy of this subsection shall be posted at all toll bridges, toll roads, and other toll facilities in the Commonwealth. The Department of Transportation shall provide envelopes for payments of tolls by those persons exempted from tolls pursuant to this subsection and shall accept any payments made by such persons.

E. Nothing contained in this section or in § 33.2-612 or 33.2-1718 shall operate to affect the provisions of § 22.1-187.

F. Notwithstanding the provisions of subsections A, B, and C, only the following persons may use the Chesapeake Bay Bridge-Tunnel, facilities of the Richmond Metropolitan Transportation Authority, or facilities of an operator authorized to operate a toll facility pursuant to the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) without the payment of toll when necessary and incidental to the conduct of official business:

1. The Commissioner of Highways;
2. Members of the Commonwealth Transportation Board;
3. Employees of the Department of Transportation;
4. The Superintendent of the Department of State Police;
5. Officers and employees of the Department of State Police;
6. The Commissioner of the Department of Motor Vehicles;
7. Employees of the Department of Motor Vehicles; and
8. Sheriffs and deputy sheriffs.

However, in the event of a mandatory evacuation and suspension of tolls pursuant to subdivision B 2, the Commissioner of Highways or his designee shall order the temporary suspension of toll collection operations on facilities of all operators authorized to operate a toll facility pursuant to the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) that has been designated as a mass evacuation route in affected evacuation zones, to the extent such order is necessary to facilitate evacuation and is consistent with the terms of the applicable comprehensive agreement between the operator and the Department. The Commissioner of Highways shall authorize the reinstatement of toll collections suspended pursuant to this subsection when the mandatory evacuation period ends or upon the reinstatement of toll collections on other tolled facilities in the same affected area, whichever occurs first.

G. Any vehicle operated by a quadriplegic driver shall be allowed free use of all toll facilities in Virginia controlled by the Richmond Metropolitan Transportation Authority, pursuant to the requirements of subdivisions D 1 through 4.

H. Vehicles transporting two or more persons, including the driver, may be permitted toll-free use of the Dulles Toll Road during rush hours by the Board; however, notwithstanding the provisions of subdivision B 1 of § 56-543, such vehicles shall not be permitted toll-free use of a roadway as defined pursuant to the Virginia Highway Corporation Act of 1988 (§ 56-535 et seq.).

#### **§ 36-96.1:1. Definitions.**

For the purposes of this chapter, unless the context requires a different meaning:

"Aggrieved person" means any person who (i) claims to have been injured by a discriminatory housing practice or (ii) believes that such person will be injured by a discriminatory housing practice that is about to occur.

"Assistance animal" means an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or provides emotional support that alleviates one or more identified symptoms or effects of a person's disability. Assistance animals perform many disability-related functions, including guiding individuals who are blind or have low vision, alerting individuals who are deaf or hard of hearing to sounds, providing protection or rescue assistance, pulling a wheelchair, fetching items, alerting persons to impending seizures, or providing emotional support to persons with disabilities who have a disability-related need for such support. An assistance animal is not required to be individually trained or certified. While dogs are the most common type of assistance animal, other animals can also be assistance animals. An assistance animal is not a pet.

"Complainant" means a person, including the Fair Housing Board, who files a complaint under § 36-96.9.

"Conciliation" means the attempted resolution of issues raised by a complainant, or by the investigation of such complaint, through informal negotiations involving the aggrieved person, the respondent, their respective authorized representatives and the Fair Housing Board.

"Conciliation agreement" means a written agreement setting forth the resolution of the issues in

conciliation.

"Disability" means, with respect to a person, (i) a physical or mental impairment that substantially limits one or more of such person's major life activities; (ii) a record of having such an impairment; or (iii) being regarded as having such an impairment. The term does not include current, illegal use of or addiction to a controlled substance as defined in Virginia or federal law. For the purposes of this chapter, the terms "disability" and "handicap" shall be interchangeable.

"Discriminatory housing practices" means an act that is unlawful under § 36-96.3, 36-96.4, 36-96.5, or 36-96.6.

"Dwelling" means any building, structure, or portion thereof that is occupied as, or designated or intended for occupancy as, a residence by one or more families, and any vacant land that is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

"Elderliness" means an individual who has attained his fifty-fifth birthday.

"Familial status" means one or more individuals who have not attained the age of 18 years being domiciled with (i) a parent or other person having legal custody of such individual or individuals or (ii) the designee of such parent or other person having custody with the written permission of such parent or other person. The term "familial status" also includes any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years. For purposes of this section, "in the process of securing legal custody" means having filed an appropriate petition to obtain legal custody of such minor in a court of competent jurisdiction.

"Family" includes a single individual, whether male or female.

"Lending institution" includes any bank, savings institution, credit union, insurance company or mortgage lender.

"Major life activities" includes any the following functions: caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

"Military status" means status as (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual shall have been provided 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50.

"Person" means one or more individuals, whether male or female, corporations, partnerships, associations, labor organizations, fair housing organizations, civil rights organizations, organizations, governmental entities, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries.

"Physical or mental impairment" includes any of the following: (i) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; or endocrine or (ii) any mental or psychological disorder, such as an intellectual or developmental disability, organic brain syndrome, emotional or mental illness, or specific learning disability. "Physical or mental impairment" includes such diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral palsy; autism; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; diabetes; human immunodeficiency virus infection; intellectual and developmental disabilities; emotional illness; drug addiction other than addiction caused by current, illegal use of a controlled substance; and alcoholism.

"Religion" includes any outward expression of religious faith, including adherence to religious dressing and grooming practices and the carrying or display of religious items or symbols.

"Respondent" means any person or other entity alleged to have violated the provisions of this chapter, as stated in a complaint filed under the provisions of this chapter and any other person joined pursuant to the provisions of § 36-96.9.

"Restrictive covenant" means any specification in any instrument affecting title to real property that purports to limit the use, occupancy, transfer, rental, or lease of any dwelling because of race, color, religion, national origin, sex, elderliness, familial status, sexual orientation, gender identity, military status, or disability.

"Source of funds" means any source that lawfully provides funds to or on behalf of a renter or buyer of housing, including any assistance, benefit, or subsidy program, whether such program is administered by a governmental or nongovernmental entity.

"To rent" means to lease, to sublease, to let, or otherwise to grant for consideration the right to occupy premises not owned by the occupant.

**§ 36-98.1. State buildings; exception for certain assets owned by the Department of Transportation.**

911 A. The Building Code shall be applicable to all state-owned buildings and structures, and to all  
 912 buildings and structures built on state-owned property, with the exception that §§ 2.2-1159 through  
 913 2.2-1161 shall provide the standards for ready access to and use of state-owned buildings by the  
 914 ~~physically handicapped individuals with physical disabilities~~.

915 Any state-owned building or structure, or building or structure built on state-owned property, for  
 916 which preliminary plans were prepared or on which construction commenced after the initial effective  
 917 date of the Uniform Statewide Building Code, shall remain subject to the provisions of the Uniform  
 918 Statewide Building Code that were in effect at the time such plans were completed or such construction  
 919 commenced. Subsequent reconstruction, renovation or demolition of such building or structure shall be  
 920 subject to the pertinent provisions of the Building Code.

921 Acting through the Division of Engineering and Buildings, the Department of General Services shall  
 922 function as the building official for any state-owned buildings or structures and for all buildings and  
 923 structures built on state-owned property. The Department shall review and approve plans and  
 924 specifications, grant modifications, and establish such rules and regulations as may be necessary to  
 925 implement this section. It may provide for the (i) inspection of state-owned buildings or structures and  
 926 for all buildings and structures built on state-owned property and (ii) enforcement of the Building Code  
 927 and standards for access by the ~~physically handicapped individuals with physical disabilities~~ by  
 928 delegating inspection and Building Code enforcement duties to the State Fire Marshal's Office, to other  
 929 appropriate state agencies having needed expertise, and to local building departments, all of which shall  
 930 provide such assistance within a reasonable time and in the manner requested. State agencies and  
 931 institutions occupying buildings shall pay to the local building department the same fees as would be  
 932 paid by a private citizen for the services rendered when such services are requested by the Department  
 933 of General Services. The Department of General Services may alter or overrule any decision of the local  
 934 building department after having first considered the local building department's report or other rationale  
 935 given for its decision. When altering or overruling any decision of a local building department, the  
 936 Department of General Services shall provide the local building department with a written summary of  
 937 its reasons for doing so.

938 B. Notwithstanding the provisions of subsection A and § 27-99, roadway tunnels and bridges owned  
 939 by the Department of Transportation shall be exempt from the Building Code and the Statewide Fire  
 940 Prevention Code Act (§ 27-94 et seq.). The Department of General Services shall not have jurisdiction  
 941 over such roadway tunnels, bridges, and other limited access highways; provided, however, that the  
 942 Department of General Services shall have jurisdiction over any occupied buildings within any  
 943 Department of Transportation rights-of-way that are subject to the Building Code.

944 Roadway tunnels and bridges shall be designed, constructed, and operated to comply with fire safety  
 945 standards based on nationally recognized model codes and standards to be developed by the Department  
 946 of Transportation in consultation with the State Fire Marshal. Emergency response planning and  
 947 activities related to the standards shall be developed by the Department of Transportation and  
 948 coordinated with the appropriate local officials and emergency services providers. On an annual basis the  
 949 Department of Transportation shall provide a report on the maintenance and operability of installed fire  
 950 protection and detection systems in roadway tunnels and bridges to the State Fire Marshal.

951 C. Except as provided in subsection E of § 23.1-1016, and notwithstanding the provisions of  
 952 subsection A, at the request of a public institution of higher education, the Department, as further set  
 953 forth in this subsection, shall authorize that institution of higher education to contract with a building  
 954 official of the locality in which the construction is taking place to perform any inspection and  
 955 certifications required for the purpose of complying with the Uniform Statewide Building Code (§ 36-97  
 956 et seq.). The Department shall publish administrative procedures that shall be followed in contracting  
 957 with a building official of the locality. The authority granted to a public institution of higher education  
 958 under this subsection to contract with a building official of the locality shall be subject to the institution  
 959 meeting the conditions prescribed in subsection A of § 23.1-1002.

960 D. This section shall not apply to the nonhabitable structures, equipment, and wiring owned by a  
 961 public service company, a certificated provider of telecommunications services, or a franchised cable  
 962 operator that are built on rights-of-way owned or controlled by the Commonwealth Transportation  
 963 Board.

#### 964 **§ 36-99. Provisions of Code; modifications.**

965 A. The Building Code shall prescribe building regulations to be complied with in the construction  
 966 and rehabilitation of buildings and structures, and the equipment therein as defined in § 36-97, and shall  
 967 prescribe regulations to ensure that such buildings and structures are properly maintained, and shall also  
 968 prescribe procedures for the administration and enforcement of such regulations, including procedures to  
 969 be used by the local building department in the evaluation and granting of modifications for any  
 970 provision of the Building Code, provided the spirit and functional intent of the Building Code are  
 971 observed and public health, welfare and safety are assured. The provisions of the Building Code and



modifications thereof shall be such as to protect the health, safety and welfare of the residents of the Commonwealth, provided that buildings and structures should be permitted to be constructed, rehabilitated and maintained at the least possible cost consistent with recognized standards of health, safety, energy conservation and water conservation, including provisions necessary to prevent overcrowding, rodent or insect infestation, and garbage accumulation; and barrier-free provisions for the physically handicapped individuals with physical disabilities and aged individuals. Such regulations shall be reasonable and appropriate to the objectives of this chapter.

B. In formulating the Code provisions, the Board shall have due regard for generally accepted standards as recommended by nationally recognized organizations, including, but not limited to, the standards of the International Code Council and the National Fire Protection Association. Notwithstanding the provisions of this section, farm buildings and structures shall be exempt from the provisions of the Building Code, except for a building or a portion of a building located on a farm that is operated as a restaurant as defined in § 35.1-1 and licensed as such by the Board of Health pursuant to Chapter 2 (§ 35.1-11 et seq.) of Title 35.1. However, farm buildings and structures lying within a flood plain or in a mudslide-prone area shall be subject to flood-proofing regulations or mudslide regulations, as applicable.

C. Where practical, the Code provisions shall be stated in terms of required level of performance, so as to facilitate the prompt acceptance of new building materials and methods. When generally recognized standards of performance are not available, such provisions shall provide for acceptance of materials and methods whose performance has been found by the local building department, on the basis of reliable test and evaluation data, presented by the proponent, to be substantially equal in safety to those specified.

D. The Board, upon a finding that sufficient allegations exist regarding failures noted in several localities of performance standards by either building materials, methods, or design, may conduct hearings on such allegations if it determines that such alleged failures, if proven, would have an adverse impact on the health, safety, or welfare of the citizens of the Commonwealth. After at least 21 days' written notice, the Board shall convene a hearing to consider such allegations. Such notice shall be given to the known manufacturers of the subject building material and as many other interested parties, industry representatives, and trade groups as can reasonably be identified. Following the hearing, the Board, upon finding that (i) the current technical or administrative Code provisions allow use of or result in defective or deficient building materials, methods, or designs, and (ii) immediate action is necessary to protect the health, safety, and welfare of the citizens of the Commonwealth, may issue amended regulations establishing interim performance standards and Code provisions for the installation, application, and use of such building materials, methods or designs in the Commonwealth. Such amended regulations shall become effective upon their publication in the Virginia Register of Regulations. Any amendments to regulations adopted pursuant to this subsection shall become effective upon their publication in the Virginia Register of Regulations and shall be effective for a period of 24 months or until adopted, modified, or repealed by the Board.

**§ 38.2-3323. Group life insurance coverages of spouses, dependent children, and other persons.**

A. Coverage under a group life insurance policy, except a policy issued pursuant to § 38.2-3318.1 B, may be extended to insure:

1. The spouse and any child who is under the age of 19 years or who is a dependent and a full-time student under 25 years of age, or any class of spouses and dependent children, of each insured group member who so elects; and

2. Any other person in whom the insured group member has an insurable interest as defined in §§ 38.2-301 and 38.2-302 as may mutually be agreed upon by the insurer and the group policyholder.

The amount of insurance on the life of a spouse, child, or other person shall not exceed the amount of insurance for which the insured group member is eligible.

B. A spouse insured under this section shall have the same conversion right to the insurance on his or her life as the insured group member.

C. Notwithstanding the provisions of § 38.2-3331, one certificate may be issued for each insured group member if a statement concerning any spouse's, dependent child's, or other person's coverage is included in the certificate.

D. In addition to the coverages afforded by the provisions of this section, any such plan for group life insurance which includes coverage for children shall afford coverage to any child who is both (i) incapable of self-sustaining employment by reason of intellectual disability or physical handicap and (ii) chiefly dependent upon the employee for support and maintenance. Upon request of the insurer, proof of incapacity and dependency shall be furnished to the insurer by the insured group member within 31 days of the child's attainment of the specified age. Subsequent proof may be required by the insurer but not more frequently than annually after the two-year period following the child's attainment of the specified age. The insurer shall be allowed to charge a premium at the insurer's then

customary rate applicable to such group policy for such extended coverage.

E. 1. Upon termination of such group coverage of a child, the child shall be entitled to have issued to him by the insurer, without evidence of insurability, an individual life insurance policy without disability or other supplementary benefits, if:

a. An application for the individual policy is made, and the first premium paid to the insurer, within 31 days after such termination; and

b. The individual policy, at the option of such person, is on any one of the forms then customarily issued by the insurer at the age and for the amount applied for, except that the group policy may exclude the option to elect term insurance;

c. The individual policy is in an amount not in excess of the amount of life insurance which ceases because of such termination, less the amount of any life insurance for which such person becomes eligible under the same or any other group policy within 31 days after such termination, provided that any amount of insurance which has matured on or before the date of such termination as an endowment payable to the person insured, whether in one sum or in installments or in the form of an annuity, shall not, for the purposes of this provision, be included in the amount which is considered to cease because of such termination; and

d. The premium on the individual policy is at the insurer's then customary rate applicable to the form and amount of the individual policy, to the class of risk to which such person then belongs, and to the individual age attained on the effective date of the individual policy.

2. Subject to the same conditions set forth above, the conversion privilege shall be available (i) to a surviving dependent, if any, at the death of the group member, with respect to the coverage under the group policy which terminates by reason of such death, and (ii) to the dependent of the group member upon termination of coverage of the dependent, while the group member remains insured under the group policy, by reason of the dependent ceasing to be a qualified family member under the group policy.

#### **§ 38.2-3409. Coverage of dependent children.**

A. Any group or individual accident and sickness insurance policy or subscription contract delivered or issued for delivery in ~~this~~ the Commonwealth which provides that coverage of a dependent child shall terminate upon that child's attainment of a specified age, shall also provide in substance that attainment of the specified age shall not terminate the child's coverage during the continuance of the policy while the dependent child is and continues to be both: (i) incapable of self-sustaining employment by reason of intellectual ~~disability~~ or physical ~~handicap~~, *disability* and (ii) chiefly dependent upon the policyowner for support and maintenance.

B. Proof of incapacity and dependency shall be furnished to the insurer by the policyowner within 31 days of the child's attainment of the specified age. Subsequent proof may be required by the insurer but not more frequently than annually after the two-year period following the child's attainment of the specified age.

C. The insurer may charge an additional premium for any continuation of coverage beyond the specified age. The additional premium shall be determined by the insurer on the basis of the class of risks applicable to the child.

#### **§ 46.2-100. Definitions.**

As used in this title, unless the context requires a different meaning:

"All-terrain vehicle" means a motor vehicle having three or more wheels that is powered by a motor and is manufactured for off-highway use. "All-terrain vehicle" does not include four-wheeled vehicles commonly known as "go-carts" that have low centers of gravity and are typically used in racing on relatively level surfaces, nor does the term include any riding lawn mower.

"Antique motor vehicle" means every motor vehicle, as defined in this section, which was actually manufactured or designated by the manufacturer as a model manufactured in a calendar year not less than 25 years prior to January 1 of each calendar year and is owned solely as a collector's item.

"Antique trailer" means every trailer or semitrailer, as defined in this section, that was actually manufactured or designated by the manufacturer as a model manufactured in a calendar year not less than 25 years prior to January 1 of each calendar year and is owned solely as a collector's item.

"Autocycle" means a three-wheeled motor vehicle that has a steering wheel and seating that does not require the operator to straddle or sit astride and is manufactured to comply with federal safety requirements for motorcycles. Except as otherwise provided, an autocycle shall not be deemed to be a motorcycle.

"Automobile transporter" means any tractor truck, lowboy, vehicle, or combination, including vehicles or combinations that transport motor vehicles on their power unit, designed and used exclusively for the transportation of motor vehicles or used to transport cargo or general freight on a backhaul pursuant to the provisions of 49 U.S.C. § 31111(a)(1).

"Bicycle" means a device propelled solely by human power, upon which a person may ride either on

1094 or astride a regular seat attached thereto, having two or more wheels in tandem, including children's  
 1095 bicycles, except a toy vehicle intended for use by young children. For purposes of Chapter 8 (§ 46.2-800  
 1096 et seq.), a bicycle shall be a vehicle while operated on the highway.

1097 "Bicycle lane" means that portion of a roadway designated by signs and/or pavement markings for  
 1098 the preferential use of bicycles, electric power-assisted bicycles, motorized skateboards or scooters, and  
 1099 mopeds.

1100 "Business district" means the territory contiguous to a highway where 75 percent or more of the  
 1101 property contiguous to a highway, on either side of the highway, for a distance of 300 feet or more  
 1102 along the highway, is occupied by land and buildings actually in use for business purposes.

1103 "Camping trailer" means every vehicle that has collapsible sides and contains sleeping quarters but  
 1104 may or may not contain bathing and cooking facilities and is designed to be drawn by a motor vehicle.

1105 "Cancel" or "cancellation" means that the document or privilege cancelled has been annulled or  
 1106 terminated because of some error, defect, or ineligibility, but the cancellation is without prejudice and  
 1107 reapplication may be made at any time after cancellation.

1108 "Chauffeur" means every person employed for the principal purpose of driving a motor vehicle and  
 1109 every person who drives a motor vehicle while in use as a public or common carrier of persons or  
 1110 property.

1111 "Circular intersection" means an intersection that has an island, generally circular in design, located  
 1112 in the center of the intersection, where all vehicles pass to the right of the island. Circular intersections  
 1113 include roundabouts, rotaries, and traffic circles.

1114 "Commission" means the State Corporation Commission.

1115 "Commissioner" means the Commissioner of the Department of Motor Vehicles of the  
 1116 Commonwealth.

1117 "Converted electric vehicle" means any motor vehicle, other than a motorcycle or auticycle, that has  
 1118 been modified subsequent to its manufacture to replace an internal combustion engine with an electric  
 1119 propulsion system. Such vehicles shall retain their original vehicle identification number, line-make, and  
 1120 model year. A converted electric vehicle shall not be deemed a "reconstructed vehicle" as defined in this  
 1121 section unless it has been materially altered from its original construction by the removal, addition, or  
 1122 substitution of new or used essential parts other than those required for the conversion to electric  
 1123 propulsion.

1124 "Crosswalk" means that part of a roadway at an intersection included within the connections of the  
 1125 lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the  
 1126 absence of curbs, from the edges of the traversable roadway; or any portion of a roadway at an  
 1127 intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the  
 1128 surface.

1129 "Decal" means a device to be attached to a license plate that validates the license plate for a  
 1130 predetermined registration period.

1131 "Department" means the Department of Motor Vehicles of the Commonwealth.

1132 "Disabled parking license plate" means a license plate that displays the international symbol of access  
 1133 in the same size as the numbers and letters on the plate and in a color that contrasts with the  
 1134 background.

1135 "Disabled veteran" means a veteran who (i) has either lost, or lost the use of, a leg, arm, or hand;  
 1136 (ii) is blind; or (iii) is permanently and totally disabled as certified by the U.S. Department of Veterans  
 1137 Affairs. A veteran shall be considered blind if he has a permanent impairment of both eyes to the  
 1138 following extent: central visual acuity of 20/200 or less in the better eye, with corrective lenses, or  
 1139 central visual acuity of more than 20/200, if there is a field defect in which the peripheral field has  
 1140 contracted to such an extent that the widest diameter of visual field subtends an angular distance no  
 1141 greater than 20 degrees in the better eye.

1142 "Driver's license" means any license, including a commercial driver's license as defined in the  
 1143 Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.) and a driver privilege card issued  
 1144 pursuant to § 46.2-328.3, issued under the laws of the Commonwealth authorizing the operation of a  
 1145 motor vehicle.

1146 "Electric personal assistive mobility device" means a self-balancing two-nontandem-wheeled device  
 1147 that is designed to transport only one person and powered by an electric propulsion system that limits  
 1148 the device's maximum speed to 15 miles per hour or less. For purposes of Chapter 8 (§ 46.2-800 et  
 1149 seq.), an electric personal assistive mobility device shall be a vehicle when operated on a highway.

1150 "Electric power-assisted bicycle" means a vehicle that travels on not more than three wheels in  
 1151 contact with the ground and is equipped with (i) pedals that allow propulsion by human power, (ii) a  
 1152 seat for the use of the rider, and (iii) an electric motor with an input of no more than 750 watts. Electric  
 1153 power-assisted bicycles shall be classified as follows:

1154 1. "Class one" means an electric power-assisted bicycle equipped with a motor that provides

1155 assistance only when the rider is pedaling and that ceases to provide assistance when the bicycle reaches  
 1156 a speed of 20 miles per hour;

1157 2. "Class two" means an electric power-assisted bicycle equipped with a motor that may be used  
 1158 exclusively to propel the bicycle and that ceases to provide assistance when the bicycle reaches the  
 1159 speed of 20 miles per hour; and

1160 3. "Class three" means an electric power-assisted bicycle equipped with a motor that provides  
 1161 assistance only when the rider is pedaling and that ceases to provide assistance when the bicycle reaches  
 1162 the speed of 28 miles per hour.

1163 For the purposes of Chapter 8 (§ 46.2-800 et seq.), an electric power-assisted bicycle shall be a  
 1164 vehicle when operated on a highway.

1165 "Essential parts" means all integral parts and body parts, the removal, alteration, or substitution of  
 1166 which will tend to conceal the identity of a vehicle.

1167 "Farm tractor" means every motor vehicle designed and used as a farm, agricultural, or horticultural  
 1168 implement for drawing plows, mowing machines, and other farm, agricultural, or horticultural machinery  
 1169 and implements, including self-propelled mowers designed and used for mowing lawns.

1170 "Farm utility vehicle" means a vehicle that is powered by a motor and is designed for off-road use  
 1171 and is used as a farm, agricultural, or horticultural service vehicle, generally having four or more  
 1172 wheels, bench seating for the operator and a passenger, a steering wheel for control, and a cargo bed.  
 1173 "Farm utility vehicle" does not include pickup or panel trucks, golf carts, low-speed vehicles, or riding  
 1174 lawn mowers.

1175 "Federal safety requirements" means applicable provisions of 49 U.S.C. § 30101 et seq. and all  
 1176 administrative regulations and policies adopted pursuant thereto.

1177 "Financial responsibility" means the ability to respond in damages for liability thereafter incurred  
 1178 arising out of the ownership, maintenance, use, or operation of a motor vehicle, in the amounts provided  
 1179 for in § 46.2-472.

1180 "Foreign market vehicle" means any motor vehicle originally manufactured outside the United States,  
 1181 which was not manufactured in accordance with 49 U.S.C. § 30101 et seq. and the policies and  
 1182 regulations adopted pursuant to that Act, and for which a Virginia title or registration is sought.

1183 "Foreign vehicle" means every motor vehicle, trailer, or semitrailer that is brought into the  
 1184 Commonwealth otherwise than in the ordinary course of business by or through a manufacturer or dealer  
 1185 and that has not been registered in the Commonwealth.

1186 "Golf cart" means a self-propelled vehicle that is designed to transport persons playing golf and their  
 1187 equipment on a golf course.

1188 "Governing body" means the board of supervisors of a county, council of a city, or council of a  
 1189 town, as context may require.

1190 "Gross weight" means the aggregate weight of a vehicle or combination of vehicles and the load  
 1191 thereon.

1192 "Highway" means the entire width between the boundary lines of every way or place open to the use  
 1193 of the public for purposes of vehicular travel in the Commonwealth, including the streets and alleys,  
 1194 and, for law-enforcement purposes, (i) the entire width between the boundary lines of all private roads  
 1195 or private streets that have been specifically designated "highways" by an ordinance adopted by the  
 1196 governing body of the county, city, or town in which such private roads or streets are located and (ii)  
 1197 the entire width between the boundary lines of every way or place used for purposes of vehicular travel  
 1198 on any property owned, leased, or controlled by the United States government and located in the  
 1199 Commonwealth.

1200 "Intersection" means (i) the area embraced within the prolongation or connection of the lateral  
 1201 curblines or, if none, then the lateral boundary lines of the roadways of two highways that join one  
 1202 another at, or approximately at, right angles, or the area within which vehicles traveling on different  
 1203 highways joining at any other angle may come in conflict; (ii) where a highway includes two roadways  
 1204 30 feet or more apart, then every crossing of each roadway of such divided highway by an intersecting  
 1205 highway shall be regarded as a separate intersection, in the event such intersecting highway also  
 1206 includes two roadways 30 feet or more apart, then every crossing of two roadways of such highways  
 1207 shall be regarded as a separate intersection; or (iii) for purposes only of authorizing installation of  
 1208 traffic-control devices, every crossing of a highway or street at grade by a pedestrian crosswalk.

1209 "Lane-use control signal" means a signal face displaying indications to permit or prohibit the use of  
 1210 specific lanes of a roadway or to indicate the impending prohibition of such use.

1211 "Law-enforcement officer" means any officer authorized to direct or regulate traffic or to make  
 1212 arrests for violations of this title or local ordinances authorized by law. For the purposes of access to  
 1213 law-enforcement databases regarding motor vehicle registration and ownership only, "law-enforcement  
 1214 officer" also includes city and county commissioners of the revenue and treasurers, together with their  
 1215 duly designated deputies and employees, when such officials are actually engaged in the enforcement of

§§ 46.2-752, 46.2-753, and 46.2-754 and local ordinances enacted thereunder.

"License plate" means a device containing letters, numerals, or a combination of both, attached to a motor vehicle, trailer, or semitrailer to indicate that the vehicle is properly registered with the Department.

"Light" means a device for producing illumination or the illumination produced by the device.

"Low-speed vehicle" means any four-wheeled electrically powered or gas-powered vehicle, except a motor vehicle or low-speed vehicle that is used exclusively for agricultural or horticultural purposes or a golf cart, whose maximum speed is greater than 20 miles per hour but not greater than 25 miles per hour and is manufactured to comply with safety standards contained in Title 49 of the Code of Federal Regulations, § 571.500.

"Manufactured home" means a structure subject to federal regulation, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. "Manufactured home" does not include a park model recreational vehicle, which is a vehicle that is (i) designed and marketed as temporary living quarters for recreational, camping, travel, or seasonal use; (ii) not permanently affixed to real property for use as a permanent dwelling; (iii) built on a single chassis mounted on wheels; and (iv) certified by the manufacturer as complying with the American National Standards Institute (ANSI) A119.5 Park Model Recreational Vehicle Standard.

"Military surplus motor vehicle" means a multipurpose or tactical vehicle that was manufactured by or under the direction of the United States Armed Forces for off-road use and subsequently authorized for sale to civilians. "Military surplus motor vehicle" does not include specialized mobile equipment as defined in § 46.2-700, trailers, or semitrailers.

"Moped" means every vehicle that travels on not more than three wheels in contact with the ground that (i) has a seat that is no less than 24 inches in height, measured from the middle of the seat perpendicular to the ground; (ii) has a gasoline, electric, or hybrid motor that (a) displaces 50 cubic centimeters or less or (b) has an input of 1500 watts or less; (iii) is power-driven, with or without pedals that allow propulsion by human power; and (iv) is not operated at speeds in excess of 35 miles per hour. "Moped" does not include an electric power-assisted bicycle or a motorized skateboard or scooter. For purposes of this title, a moped shall be a motorcycle when operated at speeds in excess of 35 miles per hour. For purposes of Chapter 8 (§ 46.2-800 et seq.), a moped shall be a vehicle while operated on a highway.

"Motor-driven cycle" means every motorcycle that has a gasoline engine that (i) displaces less than 150 cubic centimeters; (ii) has a seat less than 24 inches in height, measured from the middle of the seat perpendicular to the ground; and (iii) has no manufacturer-issued vehicle identification number.

"Motor home" means every private motor vehicle with a normal seating capacity of not more than 10 persons, including the driver, designed primarily for use as living quarters for human beings.

"Motor vehicle" means every vehicle as defined in this section that is self-propelled or designed for self-propulsion except as otherwise provided in this title. Any structure designed, used, or maintained primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, sleeping place, office, or commercial space shall be considered a part of a motor vehicle. Except as otherwise provided, for the purposes of this title, any device herein defined as a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, motorized skateboard or scooter, moped, or personal delivery device shall be deemed not to be a motor vehicle.

"Motorcycle" means every motor vehicle designed to travel on not more than three wheels in contact with the ground and is capable of traveling at speeds in excess of 35 miles per hour. "Motorcycle" does not include any "autocycle," "electric personal assistive mobility device," "electric power-assisted bicycle," "farm tractor," "golf cart," "moped," "motorized skateboard or scooter," "utility vehicle," or "wheelchair or wheelchair conveyance" as defined in this section.

"Motorized skateboard or scooter" means every vehicle, regardless of the number of its wheels in contact with the ground, that (i) is designed to allow an operator to sit or stand, (ii) has no manufacturer-issued vehicle identification number, (iii) is powered in whole or in part by an electric motor, (iv) weighs less than 100 pounds, and (v) has a speed of no more than 20 miles per hour on a paved level surface when powered solely by the electric motor. "Motorized skateboard or scooter" includes vehicles with or without handlebars but does not include electric personal assistive mobility devices or electric power-assisted bicycles.

"Nonresident" means every person who is not domiciled in the Commonwealth, except: (i) any foreign corporation that is authorized to do business in the Commonwealth by the State Corporation Commission shall be a resident of the Commonwealth for the purpose of this title; in the case of corporations incorporated in the Commonwealth but doing business outside the Commonwealth, only

such principal place of business or branches located within the Commonwealth shall be dealt with as residents of the Commonwealth; (ii) a person who becomes engaged in a gainful occupation in the Commonwealth for a period exceeding 60 days shall be a resident for the purposes of this title except for the purposes of Chapter 3 (§ 46.2-300 et seq.); (iii) a person, other than (a) a nonresident student as defined in this section or (b) a person who is serving a full-time church service or proselyting mission of not more than 36 months and who is not gainfully employed, who has actually resided in the Commonwealth for a period of six months, whether employed or not, or who has registered a motor vehicle, listing an address in the Commonwealth in the application for registration, shall be deemed a resident for the purposes of this title, except for the purposes of the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.).

"Nonresident student" means every nonresident person who is enrolled as a full-time student in an accredited institution of learning in the Commonwealth and who is not gainfully employed.

"Off-road motorcycle" means every motorcycle designed exclusively for off-road use by an individual rider with not more than two wheels in contact with the ground. Except as otherwise provided in this chapter, for the purposes of this chapter off-road motorcycles shall be deemed to be "motorcycles."

"Operation or use for rent or for hire, for the transportation of passengers, or as a property carrier for compensation," and "business of transporting persons or property" mean any owner or operator of any motor vehicle, trailer, or semitrailer operating over the highways in the Commonwealth who accepts or receives compensation for the service, directly or indirectly; but these terms do not mean a "truck lessor" as defined in this section and do not include persons or businesses that receive compensation for delivering a product that they themselves sell or produce, where a separate charge is made for delivery of the product or the cost of delivery is included in the sale price of the product, but where the person or business does not derive all or a substantial portion of its income from the transportation of persons or property except as part of a sales transaction.

"Operator" or "driver" means every person who either (i) drives or is in actual physical control of a motor vehicle on a highway or (ii) is exercising control over or steering a vehicle being towed by a motor vehicle.

"Owner" means a person who holds the legal title to a vehicle; however, if a vehicle is the subject of an agreement for its conditional sale or lease with the right of purchase on performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee or if a mortgagor of a vehicle is entitled to possession, then the conditional vendee or lessee or mortgagor shall be the owner for the purpose of this title. In all such instances when the rent paid by the lessee includes charges for services of any nature or when the lease does not provide that title shall pass to the lessee on payment of the rent stipulated, the lessor shall be regarded as the owner of the vehicle, and the vehicle shall be subject to such requirements of this title as are applicable to vehicles operated for compensation. A "truck lessor" as defined in this section shall be regarded as the owner, and his vehicles shall be subject to such requirements of this title as are applicable to vehicles of private carriers.

"Passenger car" means every motor vehicle other than a motorcycle or autocycle designed and used primarily for the transportation of no more than 10 persons, including the driver.

"Payment device" means any credit card as defined in 15 U.S.C. § 1602 (k) or any "accepted card or other means of access" set forth in 15 U.S.C. § 1693a (1). For the purposes of this title, this definition shall also include a card that enables a person to pay for transactions through the use of value stored on the card itself.

"Personal delivery device" means a powered device operated primarily on sidewalks and crosswalks and intended primarily for the transport of property on public rights-of-way that does not exceed 500 pounds, excluding cargo, and is capable of navigating with or without the active control or monitoring of a natural person. Notwithstanding any other provision of law, a personal delivery device shall not be considered a motor vehicle or a vehicle.

"Personal delivery device operator" means an entity or its agent that exercises direct physical control or monitoring over the navigation system and operation of a personal delivery device. For the purposes of this definition, "agent" means a person not less than 16 years of age charged by an entity with the responsibility of navigating and operating a personal delivery device. "Personal delivery device operator" does not include (i) an entity or person who requests the services of a personal delivery device to transport property or (ii) an entity or person who only arranges for and dispatches the requested services of a personal delivery device.

"Pickup or panel truck" means (i) every motor vehicle designed for the transportation of property and having a registered gross weight of 7,500 pounds or less or (ii) every motor vehicle registered for personal use, designed to transport property on its own structure independent of any other vehicle, and having a registered gross weight in excess of 7,500 pounds but not in excess of 10,000 pounds.

"Private road or driveway" means every way in private ownership and used for vehicular travel by

the owner and those having express or implied permission from the owner, but not by other persons.

"Reconstructed vehicle" means every vehicle of a type required to be registered under this title materially altered from its original construction by the removal, addition, or substitution of new or used essential parts. Such vehicles, at the discretion of the Department, shall retain their original vehicle identification number, line-make, and model year. Except as otherwise provided in this title, this definition shall not include a "converted electric vehicle" as defined in this section.

"Replica vehicle" means every vehicle of a type required to be registered under this title not fully constructed by a licensed manufacturer but either constructed or assembled from components. Such components may be from a single vehicle, multiple vehicles, a kit, parts, or fabricated components. The kit may be made up of "major components" as defined in § 46.2-1600, a full body, or a full chassis, or a combination of these parts. The vehicle shall resemble a vehicle of distinctive name, line-make, model, or type as produced by a licensed manufacturer or manufacturer no longer in business and is not a reconstructed or specially constructed vehicle as herein defined.

"Residence district" means the territory contiguous to a highway, not comprising a business district, where 75 percent or more of the property abutting such highway, on either side of the highway, for a distance of 300 feet or more along the highway consists of land improved for dwelling purposes, or is occupied by dwellings, or consists of land or buildings in use for business purposes, or consists of territory zoned residential or territory in residential subdivisions created under Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2.

"Revoke" or "revocation" means that the document or privilege revoked is not subject to renewal or restoration except through reapplication after the expiration of the period of revocation.

"Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the shoulder. A highway may include two or more roadways if divided by a physical barrier or barriers or an unpaved area.

"Safety zone" means the area officially set apart within a roadway for the exclusive use of pedestrians and that is protected or is so marked or indicated by plainly visible signs.

"School bus" means any motor vehicle, other than a station wagon, automobile, truck, or commercial bus, which is: (i) designed and used primarily for the transportation of pupils to and from public, private or religious schools, or used for the transportation of ~~the mentally or physically handicapped individuals~~ *with mental or physical disabilities* to and from a sheltered workshop; (ii) painted yellow and bears the words "School Bus" in black letters of a specified size on front and rear; and (iii) is equipped with warning devices prescribed in § 46.2-1090. A yellow school bus may have a white roof provided such vehicle is painted in accordance with regulations promulgated by the Department of Education.

"Semitrailer" means every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests on or is carried by another vehicle.

"Shared-use path" means a bikeway that is physically separated from motorized vehicular traffic by an open space or barrier and is located either within the highway right-of-way or within a separate right-of-way. Shared-use paths may also be used by pedestrians, skaters, users of wheel chairs or wheel chair conveyances, joggers, and other nonmotorized users and personal delivery devices.

"Shoulder" means that part of a highway between the portion regularly traveled by vehicular traffic and the lateral curbline or ditch.

"Sidewalk" means the portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use by pedestrians.

"Snowmobile" means a self-propelled vehicle designed to travel on snow or ice, steered by skis or runners, and supported in whole or in part by one or more skis, belts, or cleats.

"Special construction and forestry equipment" means any vehicle which is designed primarily for highway construction, highway maintenance, earth moving, timber harvesting or other construction or forestry work and which is not designed for the transportation of persons or property on a public highway.

"Specially constructed vehicle" means any vehicle that was not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles and not a reconstructed vehicle as herein defined.

"Stinger-steered automobile or watercraft transporter" means an automobile or watercraft transporter configured as a semitrailer combination wherein the fifth wheel is located on a drop frame behind and below the rearmost axle of the power unit.

"Superintendent" means the Superintendent of the Department of State Police of the Commonwealth.

"Suspend" or "suspension" means that the document or privilege suspended has been temporarily withdrawn, but may be reinstated following the period of suspension unless it has expired prior to the end of the period of suspension.

"Tow truck" means a motor vehicle for hire (i) designed to lift, pull, or carry another vehicle by

1399 means of a hoist or other mechanical apparatus and (ii) having a manufacturer's gross vehicle weight  
 1400 rating of at least 10,000 pounds. "Tow truck" also includes vehicles designed with a ramp on wheels  
 1401 and a hydraulic lift with a capacity to haul or tow another vehicle, commonly referred to as "rollbacks."  
 1402 "Tow truck" does not include any "automobile or watercraft transporter," "stinger-steered automobile or  
 1403 watercraft transporter," or "tractor truck" as those terms are defined in this section.

1404 "Towing and recovery operator" means a person engaged in the business of (i) removing disabled  
 1405 vehicles, parts of vehicles, their cargoes, and other objects to facilities for repair or safekeeping and (ii)  
 1406 restoring to the highway or other location where they either can be operated or removed to other  
 1407 locations for repair or safekeeping vehicles that have come to rest in places where they cannot be  
 1408 operated.

1409 "Toy vehicle" means any motorized or propellant-driven device that has no manufacturer-issued  
 1410 vehicle identification number that is designed or used to carry any person or persons, on any number of  
 1411 wheels, bearings, glides, blades, runners, or a cushion of air. "Toy vehicle" does not include electric  
 1412 personal assistive mobility devices, electric power-assisted bicycles, mopeds, motorized skateboards or  
 1413 scooters, or motorcycles, nor does it include any nonmotorized or nonpropellant-driven devices such as  
 1414 bicycles, roller skates, or skateboards.

1415 "Tractor truck" means every motor vehicle designed and used primarily for drawing other vehicles  
 1416 and not so constructed as to carry a load other than a part of the load and weight of the vehicle attached  
 1417 thereto.

1418 "Traffic control device" means a sign, signal, marking, or other device used to regulate, warn, or  
 1419 guide traffic placed on, over, or adjacent to a street, highway, private road open to public travel,  
 1420 pedestrian facility, or shared-use path by authority of a public agency or official having jurisdiction, or  
 1421 in the case of a private road open to public travel, by authority of the private owner or private official  
 1422 having jurisdiction.

1423 "Traffic infraction" means a violation of law punishable as provided in § 46.2-113, which is neither a  
 1424 felony nor a misdemeanor.

1425 "Traffic lane" or "lane" means that portion of a roadway designed or designated to accommodate the  
 1426 forward movement of a single line of vehicles.

1427 "Trailer" means every vehicle without motive power designed for carrying property or passengers  
 1428 wholly on its own structure and for being drawn by a motor vehicle, including manufactured homes.

1429 "Truck" means every motor vehicle designed to transport property on its own structure independent  
 1430 of any other vehicle and having a registered gross weight in excess of 7,500 pounds. "Truck" does not  
 1431 include any pickup or panel truck.

1432 "Truck lessor" means a person who holds the legal title to any motor vehicle, trailer, or semitrailer  
 1433 that is the subject of a bona fide written lease for a term of one year or more to another person,  
 1434 provided that: (i) neither the lessor nor the lessee is a common carrier by motor vehicle or restricted  
 1435 common carrier by motor vehicle or contract carrier by motor vehicle as defined in § 46.2-2000; (ii) the  
 1436 leased motor vehicle, trailer, or semitrailer is used exclusively for the transportation of property of the  
 1437 lessee; (iii) the lessor is not employed in any capacity by the lessee; (iv) the operator of the leased  
 1438 motor vehicle is a bona fide employee of the lessee and is not employed in any capacity by the lessor;  
 1439 and (v) a true copy of the lease, verified by affidavit of the lessor, is filed with the Commissioner.

1440 "Utility vehicle" means a motor vehicle that is (i) designed for off-road use, (ii) powered by a motor,  
 1441 and (iii) used for general maintenance, security, agricultural, or horticultural purposes. "Utility vehicle"  
 1442 does not include riding lawn mowers.

1443 "Vehicle" means every device in, on or by which any person or property is or may be transported or  
 1444 drawn on a highway, except personal delivery devices and devices moved by human power or used  
 1445 exclusively on stationary rails or tracks. For the purposes of Chapter 8 (§ 46.2-800 et seq.), bicycles,  
 1446 electric personal assistive mobility devices, electric power-assisted bicycles, motorized skateboards or  
 1447 scooters, and mopeds shall be vehicles while operated on a highway.

1448 "Watercraft transporter" means any tractor truck, lowboy, vehicle, or combination, including vehicles  
 1449 or combinations that transport watercraft on their power unit, designed and used exclusively for the  
 1450 transportation of watercraft.

1451 "Wheel chair or wheel chair conveyance" means a chair or seat equipped with wheels, typically used  
 1452 to provide mobility for persons who, by reason of physical disability, are otherwise unable to move  
 1453 about as pedestrians. "Wheel chair or wheel chair conveyance" includes both three-wheeled and  
 1454 four-wheeled devices. So long as it is operated only as provided in § 46.2-677, a self-propelled wheel  
 1455 chair or self-propelled wheel chair conveyance shall not be considered a motor vehicle.

1456 **§ 46.2-221. Certain state agencies to report to Department concerning the blind and nearly**  
 1457 **blind; use of such information by Department; Department to report names of persons refused**  
 1458 **licenses for defective vision; reports to law-enforcement agencies concerning certain blind or vision**  
 1459 **impaired individuals who operate motor vehicles.**



Every state agency having knowledge of the blind or ~~visually handicapped~~ *vision impaired*, maintaining any register of the blind or *vision impaired*, or administering either tax deductions or exemptions for or aid to the blind or ~~visually handicapped~~ *vision impaired* shall report in January of each year to the Department the names of all persons so known, registered or benefiting from such deductions or exemptions, for aid to the blind or ~~visually handicapped~~ *vision impaired*. This information shall be used by the Department only for the purpose of determining qualifications of these persons for licensure under Chapter 3 (§ 46.2-300 et seq.). If any such state agency has knowledge that any person so reported continues to operate a motor vehicle, such agency may provide this information to appropriate law-enforcement agencies as otherwise permitted by law.

The Department shall report to the Virginia Department for the Blind and Vision Impaired and the Department for Aging and Rehabilitative Services at least annually the name and address of every person who has been refused a driver's license solely or partly because of failure to pass the Department's visual examination.

If any employee of the Virginia Department for the Blind and Vision Impaired makes a report to the Department of Motor Vehicles or provides information to an appropriate law-enforcement agency as required or permitted by this section concerning any client of the agency, it shall not be deemed to have been made in violation of the client-agency relationship.

**§ 46.2-844. Passing stopped school buses; prima facie evidence; penalty.**

A. The driver of a motor vehicle approaching from any direction a clearly marked school bus that is stopped on any highway, private road, or school driveway for the purpose of taking on or discharging children, ~~the elderly individuals, or mentally or physically handicapped persons~~ *individuals with mental or physical disabilities*, who, in violation of § 46.2-859, fails to stop and remain stopped until all such ~~persons~~ *individuals* are clear of the highway, private road, or school driveway and the bus is put in motion is subject to a civil penalty of \$250, and any prosecution shall be instituted and conducted in the same manner as prosecutions for traffic infractions.

A prosecution or proceeding under § 46.2-859 is a bar to a prosecution or proceeding under this section for the same act, and a prosecution or proceeding under this section is a bar to a prosecution or proceeding under § 46.2-859 for the same act.

In any prosecution for which a summons charging a violation of this section was issued within 10 days of the alleged violation, proof that the motor vehicle described in the summons was operated in violation of this section, together with proof that the defendant was at the time of such violation the registered owner of the vehicle, as required by Chapter 6 (§ 46.2-600 et seq.) shall give rise to a rebuttable presumption that the registered owner of the vehicle was the person who operated the vehicle at the place where, and for the time during which, the violation occurred. Such presumption shall be rebutted if (i) the owner of the vehicle files an affidavit by regular mail with the clerk of the general district court that he was not the operator of the vehicle at the time of the alleged violation, (ii) the owner testifies in open court under oath that he was not the operator of the vehicle at the time of the alleged violation, or (iii) a certified copy of a police report showing that the vehicle had been reported to the police as stolen prior to the time of the alleged violation of this section is presented prior to the return date established on the summons issued pursuant to this section to the court adjudicating the alleged violation. Nothing herein shall limit the admission of otherwise admissible evidence.

The testimony of the school bus driver, the supervisor of school buses, or a law-enforcement officer that the vehicle was yellow, conspicuously marked as a school bus, and equipped with warning devices as prescribed in § 46.2-1090 is prima facie evidence that the vehicle is a school bus.

B. 1. For purposes of this subsection, "video-monitoring system" means a system with one or more camera sensors and computers installed and operated on a school bus that produces live digital and recorded video of motor vehicles being operated in violation of § 46.2-859. All such systems installed shall, at a minimum, produce a recorded image of the license plate and shall record the activation status of at least one warning device as prescribed in § 46.2-1090 and the time, date, and location of the vehicle when the image is recorded.

2. A locality may, by ordinance, authorize the school division of the locality to install and operate a video-monitoring system in or on the school buses operated by the division or to contract with a private vendor to do so on behalf of the school division for the purpose of recording violations of subsection A. Such ordinance may direct that any civil penalty levied for a violation of subsection A shall be payable to the local school division. In any locality that has adopted such an ordinance, a summons for a violation of subsection A may be executed as provided in § 19.2-76.2 and, notwithstanding the provisions of § 19.2-76, the summons may be executed by mailing by first-class mail a copy thereof to the address of the owner of the vehicle contained in the records of the Department. 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 subsection A and (ii) instructions for filing such an 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. Any summons executed for violation of this section shall provide to the person summoned at least 30 business days from the mailing of the summons to inspect information collected by a video-monitoring system in connection with the violation.

3. Any private vendor contracting with a school division pursuant to this subsection may impose and collect an administrative fee in addition to the civil penalty imposed for a violation of subsection A and payable pursuant to this subsection, so as to recover the expenses of collecting any unpaid civil penalty when such penalty remains due more than 30 days after the date of the mailing of the summons and notice. The administrative fee shall be reasonably related to the actual cost of collecting the civil penalty and shall not exceed \$100 per violation. The operator of the vehicle shall pay the unpaid civil penalty and any administrative fee detailed in a notice or citation issued by the private vendor. If paid no later than 60 days after the date of the mailing of the summons and notice, the administrative fee shall not exceed \$25.

4. Any private vendor contracting with a school division pursuant to this subsection may enter into an agreement with the Department of Motor Vehicles, in accordance with the provisions of subdivision B 30 of § 46.2-208, to obtain vehicle owner information regarding the registered owners of vehicles that improperly pass stopped school buses. Information provided to such private vendor shall be protected in a database with security comparable to that of the Department of Motor Vehicles' system and used only for enforcement against individuals who violate the provisions of this section. The school division shall annually certify compliance with this subdivision 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 their 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. Any unauthorized use or disclosure of such personal information shall be grounds for termination of the agreement between the Department of Motor Vehicles and the private vendor.

**§ 46.2-859. Passing a stopped school bus; prima facie evidence.**

A person driving a motor vehicle shall stop such vehicle when approaching, from any direction, any school bus which is stopped on any highway, private road or school driveway for the purpose of taking on or discharging children, ~~the elderly individuals, or mentally or physically handicapped persons~~ *individuals with mental or physical disabilities*, and shall remain stopped until all the ~~persons~~ *individuals* are clear of the highway, private road or school driveway and the bus is put in motion; any ~~person~~ *individual* violating the foregoing is guilty of reckless driving. The driver of a vehicle, however, need not stop when approaching a school bus if the school bus is stopped on the other roadway of a divided highway, on an access road, or on a driveway when the other roadway, access road, or driveway is separated from the roadway on which he is driving by a physical barrier or an unpaved area. The driver of a vehicle also need not stop when approaching a school bus which is loading or discharging passengers from or onto property immediately adjacent to a school if the driver is directed by a law-enforcement officer or other duly authorized uniformed school crossing guard to pass the school bus. This section shall apply to school buses which are equipped with warning devices prescribed in § 46.2-1090 and are painted yellow with the words "School Bus" in black letters at least eight inches high on the front and rear thereof. Only school buses which are painted yellow and equipped with the required lettering and warning devices shall be identified as school buses.

The testimony of the school bus driver, the supervisor of school buses or a law-enforcement officer that the vehicle was yellow, conspicuously marked as a school bus, and equipped with warning devices as prescribed in § 46.2-1090 is prima facie evidence that the vehicle is a school bus.

**§ 46.2-917. Operation of yellow motor vehicles of certain seating capacity on state highways prohibited; exceptions; penalty.**

It shall be unlawful for any motor vehicle licensed in Virginia having a seating capacity of more than 15 persons to be operated on the highways of the Commonwealth if it is yellow, unless it is used in transporting students who attend public, private, or religious schools or used in transporting ~~the elderly individuals or mentally or physically handicapped persons~~ *individuals with mental or physical disabilities*.

Any violation of this section shall constitute a Class 1 misdemeanor.

**§ 46.2-1090. Warning devices on school buses; other buses; use thereof; penalties.**

Every bus used for the principal purpose of transporting school children shall be equipped with a warning device of such type as may be prescribed by the State Board of Education after consultation with the Superintendent of State Police. Such a warning device shall indicate when such bus is either (i) stopped or about to stop to take on or discharge children, ~~the elderly individuals, or mentally or~~

physically handicapped persons *individuals with mental or physical disabilities* or (ii) stopped or about to stop for another such bus, when approaching from any direction, that is stopped or about to stop to take on or discharge any such *persons individual*. Such warning device shall be used and in operation for at least 100 feet before any proposed stop of such bus if the lawful speed limit is less than ~~thirty-five~~ 35 miles per hour, and for at least 200 feet before any proposed stop of such bus if the lawful speed limit is ~~thirty-five~~ 35 miles per hour or more.

For any new bus placed into service on or after July 1, 2007, such warning devices, at a minimum, shall include a nonsequential system of red traffic warning lights, a warning sign with flashing lights, and a crossing control arm such that when the bus door is opened, the red warning lights, warning sign with flashing lights, and crossing control arm are automatically activated.

Failure of a warning device to function on any school bus shall not relieve any person operating a motor vehicle from his duty to stop as provided in §§ 46.2-844 and 46.2-859.

Any person operating such bus who fails or refuses to equip such vehicle being driven by him with such equipment, or who fails to use such warning devices in the operation of such vehicle ~~shall be~~ is guilty of a Class 3 misdemeanor.

Transit buses used to transport school children in the City of Hampton may be equipped with an advisory sign that extends from the left side of the bus and displays the words: "CAUTION-STUDENTS." Such sign may be equipped with not more than two warning lights of a type approved for use by the Superintendent of State Police.

**§ 46.2-1503.2. State Personnel and Public Procurement Acts not applicable.**

A. The Executive Director and all staff employed by the Board shall be exempt from the Virginia Personnel Act (§ 2.2-2900 et seq.) of Title 2.2. Personnel actions under this exemption shall be taken without regard to race, sex, sexual orientation, gender identity, color, national origin, religion, age, ~~handicap~~ disability, or political affiliation.

B. The Board and the Executive Director shall be exempt from the Virginia Public Procurement Act (§ 2.2-4300 et seq.) of Title 2.2.

**§ 51.1-124.27. Employees of the Retirement System.**

The officers and employees of the Virginia Retirement System shall be exempt from the provisions of § 2.2-1202.1 and of the Virginia Personnel Act (§ 2.2-2900 et seq.). Personnel actions shall be taken without regard to race, sex, sexual orientation, gender identity, color, national origin, religion, age, ~~handicap~~ disability, or political affiliation.

**§ 51.5-40.1. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Hearing dog" means a dog trained to alert its owner by touch to sounds of danger and sounds to which the owner should respond.

"Mental impairment" means (i) a disability attributable to intellectual disability, autism, or any other ~~neurologically handicapping condition~~ *neurological disability* closely related to intellectual disability and requiring treatment similar to that required by individuals with intellectual disability or (ii) an organic or mental impairment that has substantial adverse effects on an individual's cognitive or volitional functions, including central nervous system disorders or significant discrepancies among mental functions of an individual.

"Mobility-impaired person" means any person who has completed training to use a dog for service or support because he is unable to move about without the aid of crutches, a wheelchair, or any other form of support or because of limited functional ability to ambulate, climb, descend, sit, rise, or perform any related function.

"Otherwise disabled person" means any person who has a physical, sensory, intellectual, developmental, or mental disability or a mental illness.

"Person with a disability" means any person who has a physical or mental impairment that substantially limits one or more of his major life activities or who has a record of such impairment.

"Physical impairment" means any physical condition, anatomic loss, or cosmetic disfigurement that is caused by bodily injury, birth defect, or illness.

"Service dog" means a dog trained to do work or perform tasks for the benefit of a mobility-impaired or otherwise disabled person. The work or tasks performed by a service dog shall be directly related to the individual's disability or disorder. Examples of work or tasks include providing nonviolent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting an individual to the presence of allergens, retrieving items, carrying items, providing physical support and assistance with balance and stability, and preventing or interrupting impulsive or destructive behaviors. The provision of emotional support, well-being, comfort, or companionship shall not constitute work or tasks for the purposes of this definition.

"Three-unit service dog team" means a team consisting of a trained service dog, a ~~disabled~~ person *with a disability*, and a person who is an adult and who has been trained to handle the service dog.

**§ 54.1-2968. Information about certain individuals with disabilities.**

This chapter shall not be construed to prohibit any duly licensed physician from communicating the identity of any person under age ~~twenty-two~~ 22 who has a physical or mental ~~handicapping condition~~ *disability* to appropriate agencies of the Commonwealth or any of its political subdivisions and other information regarding such person or condition which may be helpful to the agency in the planning or conduct of services for ~~handicapped persons~~ *individuals with disabilities*.

**§ 58.1-609.10. Miscellaneous exemptions.**

The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not apply to the following:

1. Artificial or propane gas, firewood, coal or home heating oil used for domestic consumption. "Domestic consumption" means the use of artificial or propane gas, firewood, coal or home heating oil by an individual purchaser for other than business, commercial or industrial purposes. The Tax Commissioner shall establish by regulation a system for use by dealers in classifying individual purchases for domestic or nondomestic use based on the principal usage of such gas, wood, coal or oil. Any person making a nondomestic purchase and paying the tax pursuant to this chapter who uses any portion of such purchase for domestic use may, between the first day of the first month and the fifteenth day of the fourth month following the year of purchase, apply for a refund of the tax paid on the domestic use portion.

2. An occasional sale, as defined in § 58.1-602. A nonprofit organization that is eligible to be granted an exemption on its purchases pursuant to § 58.1-609.11, and that is otherwise eligible for the exemption pursuant to this subdivision, shall be exempt pursuant to this subdivision on its sales of (i) food, prepared food and meals and (ii) tickets to events that include the provision of food, prepared food and meals, so long as such sales take place on fewer than 24 occasions in a calendar year.

3. Tangible personal property for future use by a person for taxable lease or rental as an established business or part of an established business, or incidental or germane to such business, including a simultaneous purchase and taxable leaseback.

4. Delivery of tangible personal property outside the Commonwealth for use or consumption outside of the Commonwealth. Delivery of goods destined for foreign export to a factor or export agent shall be deemed to be delivery of goods for use or consumption outside of the Commonwealth.

5. Tangible personal property purchased with food coupons issued by the ~~United States~~ *U.S.* Department of Agriculture under the Food Stamp Program or drafts issued through the Virginia Special Supplemental Food Program for Women, Infants, and Children.

6. Tangible personal property purchased for use or consumption in the performance of maintenance and repair services at Nuclear Regulatory Commission-licensed nuclear power plants located outside the Commonwealth.

7. Beginning July 1, 1997, and ending July 1, 2006, a professional's provision of original, revised, edited, reformatted or copied documents, including but not limited to documents stored on or transmitted by electronic media, to its client or to third parties in the course of the professional's rendition of services to its clientele.

8. School lunches sold and served to pupils and employees of schools and subsidized by government; school textbooks sold by a local board or authorized agency thereof; and school textbooks sold for use by students attending a college or other institution of learning, when sold (i) by such institution of learning or (ii) by any other dealer, when such textbooks have been certified by a department or instructor of such institution of learning as required textbooks for students attending courses at such institution.

9. Medicines, drugs, hypodermic syringes, artificial eyes, contact lenses, eyeglasses, eyeglass cases, and contact lens storage containers when distributed free of charge, all solutions or sterilization kits or other devices applicable to the wearing or maintenance of contact lenses or eyeglasses when distributed free of charge, and hearing aids dispensed by or sold on prescriptions or work orders of licensed physicians, dentists, optometrists, ophthalmologists, opticians, audiologists, hearing aid dealers and fitters, nurse practitioners, physician assistants, and veterinarians; controlled drugs purchased for use by a licensed physician, optometrist, licensed nurse practitioner, or licensed physician assistant in his professional practice, regardless of whether such practice is organized as a sole proprietorship, partnership, or professional corporation, or any other type of corporation in which the shareholders and operators are all licensed physicians, optometrists, licensed nurse practitioners, or licensed physician assistants engaged in the practice of medicine, optometry, or nursing; medicines and drugs purchased for use or consumption by a licensed hospital, nursing home, clinic, or similar corporation not otherwise exempt under this section; and samples of prescription drugs and medicines and their packaging distributed free of charge to authorized recipients in accordance with the federal Food, Drug, and Cosmetic Act (21 U.S.C.A. § 301 et seq., as amended).

10. Wheelchairs and parts therefor, braces, crutches, prosthetic devices, orthopedic appliances,

1704 catheters, urinary accessories, other durable medical equipment and devices, and related parts and  
 1705 supplies specifically designed for those products; and insulin and insulin syringes, and equipment,  
 1706 devices or chemical reagents that may be used by a diabetic to test or monitor blood or urine, when  
 1707 such items or parts are purchased by or on behalf of an individual for use by such individual. Durable  
 1708 medical equipment is equipment that (i) can withstand repeated use, (ii) is primarily and customarily  
 1709 used to serve a medical purpose, (iii) generally is not useful to a person in the absence of illness or  
 1710 injury, and (iv) is appropriate for use in the home.

1711 11. Drugs and supplies used in hemodialysis and peritoneal dialysis.

1712 12. Special equipment installed on a motor vehicle when purchased by a ~~handicapped person~~ *an*  
 1713 *individual with a disability* to enable such ~~person~~ *individual* to operate the motor vehicle.

1714 13. Special typewriters and computers and related parts and supplies specifically designed for those  
 1715 products used by ~~handicapped persons~~ *individuals with disabilities* to communicate when such equipment  
 1716 is prescribed by a licensed physician.

1717 14. a. (i) Any nonprescription drugs and proprietary medicines purchased for the cure, mitigation,  
 1718 treatment, or prevention of disease in human beings and (ii) any samples of nonprescription drugs and  
 1719 proprietary medicines distributed free of charge by the manufacturer, including packaging materials and  
 1720 constituent elements and ingredients.

1721 b. The terms "nonprescription drugs" and "proprietary medicines" shall be defined pursuant to  
 1722 regulations promulgated by the Department of Taxation. The exemption authorized in this subdivision  
 1723 shall not apply to cosmetics.

1724 15. Tangible personal property withdrawn from inventory and donated to (i) an organization exempt  
 1725 from taxation under § 501(c)(3) of the Internal Revenue Code or (ii) the Commonwealth, any political  
 1726 subdivision of the Commonwealth, or any school, agency, or instrumentality thereof.

1727 16. Tangible personal property purchased by nonprofit churches that are exempt from taxation under  
 1728 § 501(c)(3) of the Internal Revenue Code, or whose real property is exempt from local taxation pursuant  
 1729 to the provisions of § 58.1-3606, for use (i) in religious worship services by a congregation or church  
 1730 membership while meeting together in a single location and (ii) in the libraries, offices, meeting or  
 1731 counseling rooms or other rooms in the public church buildings used in carrying out the work of the  
 1732 church and its related ministries, including kindergarten, elementary and secondary schools. The  
 1733 exemption for such churches shall also include baptistries; bulletins, programs, newspapers and  
 1734 newsletters that do not contain paid advertising and are used in carrying out the work of the church;  
 1735 gifts including food for distribution outside the public church building; food, disposable serving items,  
 1736 cleaning supplies and teaching materials used in the operation of camps or conference centers by the  
 1737 church or an organization composed of churches that are exempt under this subdivision and which are  
 1738 used in carrying out the work of the church or churches; and property used in caring for or maintaining  
 1739 property owned by the church including, but not limited to, mowing equipment; and building materials  
 1740 installed by the church, and for which the church does not contract with a person or entity to have  
 1741 installed, in the public church buildings used in carrying out the work of the church and its related  
 1742 ministries, including, but not limited to worship services; administrative rooms; and kindergarten,  
 1743 elementary, and secondary schools.

1744 17. Medical products and supplies, which are otherwise taxable, such as bandages, gauze dressings,  
 1745 incontinence products and wound-care products, when purchased by a Medicaid recipient through a  
 1746 Department of Medical Assistance Services provider agreement.

1747 18. Beginning July 1, 2007, and ending July 1, 2012, multifuel heating stoves used for heating an  
 1748 individual purchaser's residence. "Multifuel heating stoves" are stoves that are capable of burning a wide  
 1749 variety of alternative fuels, including, but not limited to, shelled corn, wood pellets, cherry pits, and  
 1750 olive pits.

1751 19. Fabrication of animal meat, grains, vegetables, or other foodstuffs when the purchaser (i) supplies  
 1752 the foodstuffs and they are consumed by the purchaser or his family, (ii) is an organization exempt from  
 1753 taxation under § 501(c)(3) or (c)(4) of the Internal Revenue Code, or (iii) donates the foodstuffs to an  
 1754 organization exempt from taxation under § 501(c)(3) or (c)(4) of the Internal Revenue Code.

1755 20. Beginning July 1, 2018, and ending July 1, 2025, parts, engines, and supplies used for  
 1756 maintaining, repairing, or reconditioning aircraft or any aircraft's avionics system, engine, or component  
 1757 parts. This exemption shall not apply to tools and other equipment not attached to or that does not  
 1758 become a part of the aircraft. For purposes of this subdivision, "aircraft" shall include both manned and  
 1759 unmanned systems. However, for manned systems, "aircraft" shall include only aircraft with a maximum  
 1760 takeoff weight of at least 2,400 pounds.

1761 21. A gun safe with a selling price of \$1,500 or less. For purposes of this subdivision, "gun safe"  
 1762 means a safe or vault that is (i) commercially available, (ii) secured with a digital or dial combination  
 1763 locking mechanism or biometric locking mechanism, and (iii) designed for the storage of a firearm or of  
 1764 ammunition for use in a firearm. "Gun safe" does not include a glass-faced cabinet. Any discount,

coupon, or other credit offered by the retailer or a vendor of the retailer to reduce the final price to the customer shall be taken into account in determining the selling price for purposes of this exemption.

22. Beginning July 1, 2022, and ending July 1, 2025, prescription medicines and drugs purchased by veterinarians and administered or dispensed to patients within a veterinarian-client-patient relationship as defined in § 54.1-3303.

**§ 58.1-2401. Definitions.**

As used in this chapter, unless the context clearly shows otherwise, the term or phrase requires a different meaning:

"Commissioner" shall mean means the Commissioner of the Department of Motor Vehicles of the Commonwealth.

"Department" shall mean means the Department of Motor Vehicles of this the Commonwealth, acting through its duly authorized officers and agents.

"Mobile office" shall mean means an industrialized building unit not subject to the federal regulation, which may be constructed on a chassis for the purpose of towing to the point of use and designed to be used with or without a permanent foundation, for commercial use and not for residential use; or two or more such units separately towable, but designed to be joined together at the point of use to form a single commercial structure, and which may be designed for removal to, and installation or erection on other sites.

"Motor vehicle" shall mean means every vehicle, except for mobile office as herein defined, which that is self-propelled or designed for self-propulsion and every vehicle drawn by or designed to be drawn by a motor vehicle, including all-terrain vehicles, manufactured homes, mopeds, and off-road motorcycles as those terms are defined in § 46.2-100 and every device in, upon and by which any person or property is, or can be, transported or drawn upon a highway, but excepting devices moved by human or animal power, devices used exclusively upon stationary rails or tracks and vehicles, other than manufactured homes, used in this the Commonwealth but not required to be licensed by the Commonwealth.

"Sale" shall mean means any transfer of ownership or possession, by exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, of a motor vehicle. The term shall "Sale" also include includes a transaction whereby possession is transferred but title is retained by the seller as security. The term shall "Sale" does not include a transfer of ownership or possession made to secure payment of an obligation, nor shall does it include a refund for, or replacement of, a motor vehicle of equivalent or lesser value pursuant to the Virginia Motor Vehicle Warranty Enforcement Act (§ 59.1-207.9 et seq.). Where the replacement motor vehicle is of greater value than the motor vehicle replaced, only the difference in value shall constitute a sale.

"Sale price" shall mean means the total price paid for a motor vehicle and all attachments thereon and accessories thereto, as determined by the Commissioner, exclusive of any federal manufacturers' excise tax, without any allowance or deduction for trade-ins or unpaid liens or encumbrances. However, "sale price" shall does not include (i) any manufacturer rebate or manufacturer incentive payment applied to the transaction by the customer or dealer whether as a reduction in the sales price or as payment for the vehicle and (ii) the cost of controls, lifts, automatic transmission, power steering, power brakes or any other equipment installed in or added to a motor vehicle which that is required by law or regulation as a condition for operation of a motor vehicle by a handicapped person an individual with a disability.

**Article 2.**

**Exemptions for Elderly Individuals and Handicapped Individuals with Disabilities.**

**§ 58.1-3210. Exemption or deferral of taxes on property of certain elderly individuals and individuals with disabilities.**

A. The governing body of any county, city or town locality may, by ordinance, provide for the exemption from, deferral of, or a combination program of exemptions from and deferrals of taxation of real estate and manufactured homes as defined in § 36-85.3, or any portion thereof, and upon such conditions and in such amount as the ordinance may prescribe. Such real estate shall be owned by, and be occupied as the sole dwelling of anyone at least 65 years of age or if provided in the ordinance, anyone found to be permanently and totally disabled as defined in § 58.1-3217. Such ordinance may provide for the exemption from or deferral of that portion of the tax which represents the increase in tax liability since the year such taxpayer reached the age of 65 or became disabled, or the year such ordinance became effective, whichever is later. A dwelling jointly held by married individuals, with no other joint owners, may qualify if either spouse is 65 or over or is permanently and totally disabled, and the proration of the exemption or deferral under § 58.1-3211.1 shall not apply for such dwelling.

B. For purposes of this section, "eligible person" means a person who is at least age 65 or, if provided in the ordinance pursuant to subsection A, permanently and totally disabled. Under subsection A, real property owned and occupied as the sole dwelling of an eligible person includes real property (i)

held by the eligible person alone or in conjunction with his spouse as tenant or tenants for life or joint lives, (ii) held in a revocable inter vivos trust over which the eligible person or the eligible person and his spouse hold the power of revocation, or (iii) held in an irrevocable trust under which an eligible person alone or in conjunction with his spouse possesses a life estate or an estate for joint lives or enjoys a continuing right of use or support. The term "eligible person" does not include any interest held under a leasehold or term of years.

C. For purposes of this article, any reference to:

"Dwelling" ~~shall include~~ *includes* an improvement to real estate exempt pursuant to this article and the land upon which such improvement is situated so long as the improvement is used principally for other than a business purpose and is used to house or cover any motor vehicle classified pursuant to subdivisions A 3 through 10 of § 58.1-3503; household goods classified pursuant to subdivision A 14 of § 58.1-3503; or household goods exempted from personal property tax pursuant to § 58.1-3504.

"Real estate" ~~shall include~~ *includes* manufactured homes.

**§ 58.1-3213.1. Notice of local real estate tax exemption or deferral program for elderly individuals and individuals with disabilities.**

The treasurer of any county, city, or town shall enclose written notice, in each real estate tax bill, of the terms and conditions of any local real estate tax exemption or deferral program established in the jurisdiction pursuant to § 58.1-3210. The treasurer shall also employ any other reasonable means necessary to notify residents of the county, city, or town about the terms and conditions of the real estate tax exemption or deferral program for elderly *individuals* and ~~handicapped residents of individuals with disabilities who reside in~~ the county, city, or town.

**§ 58.1-3503. General classification of tangible personal property.**

A. Tangible personal property is classified for valuation purposes according to the following separate categories which are not to be considered separate classes for rate purposes:

1. Farm animals, except as exempted under § 58.1-3505.
2. Farm machinery, except as exempted under § 58.1-3505.
3. Automobiles, except those described in subdivisions 7, 8, and 9 of this subsection and in subdivision A 8 of § 58.1-3504, which shall be valued by means of a recognized pricing guide or if the model and year of the individual automobile are not listed in the recognized pricing guide, the individual vehicle may be valued on the basis of percentage or percentages of original cost. In using a recognized pricing guide, the commissioner shall use either of the following two methods. The commissioner may use all applicable adjustments in such guide to determine the value of each individual automobile, or alternatively, if the commissioner does not utilize all applicable adjustments in valuing each automobile, he shall use the base value specified in such guide which may be either average retail, wholesale, or loan value, so long as uniformly applied within classifications of property. If the model and year of the individual automobile are not listed in the recognized pricing guide, the taxpayer may present to the commissioner proof of the original cost, and the basis of the tax for purposes of the motor vehicle sales and use tax as described in § 58.1-2405 shall constitute proof of original cost. If such percentage or percentages of original cost do not accurately reflect fair market value, or if the taxpayer does not supply proof of original cost, then the commissioner may select another method which establishes fair market value.
4. Trucks of less than two tons, which may be valued by means of a recognized pricing guide or, if the model and year of the individual truck are not listed in the recognized pricing guide, on the basis of a percentage or percentages of original cost.
5. Trucks and other vehicles, as defined in § 46.2-100, except those described in subdivisions 4, and 6 through 10 of this subsection, which shall be valued by means of either a recognized pricing guide using the lowest value specified in such guide or a percentage or percentages of original cost.
6. Manufactured homes, as defined in § 36-85.3, which may be valued on the basis of square footage of living space.
7. Antique motor vehicles, as defined in § 46.2-100, which may be used for general transportation purposes as provided in subsection C of § 46.2-730.
8. Taxicabs.
9. Motor vehicles with specially designed equipment for use by ~~the handicapped individuals with disabilities~~, which shall not be valued in relation to their initial cost, but by determining their actual market value if offered for sale on the open market.
10. Motorcycles, mopeds, all-terrain vehicles, and off-road motorcycles as defined in § 46.2-100, campers and other recreational vehicles, which shall be valued by means of a recognized pricing guide or a percentage or percentages of original cost.
11. Boats weighing under five tons and boat trailers, which shall be valued by means of a recognized pricing guide or a percentage or percentages of original cost.
12. Boats or watercraft weighing five tons or more, which shall be valued by means of a percentage

or percentages of original cost.

13. Aircraft, which shall be valued by means of a recognized pricing guide or a percentage or percentages of original cost.

14. Household goods and personal effects, except as exempted under § 58.1-3504.

15. Tangible personal property used in a research and development business, which shall be valued by means of a percentage or percentages of original cost.

16. Programmable computer equipment and peripherals used in business which shall be valued by means of a percentage or percentages of original cost to the taxpayer, or by such other method as may reasonably be expected to determine the actual fair market value.

17. Computer equipment and peripherals used in a data center, as defined in subdivision A 43 of § 58.1-3506, which shall be valued by means of a percentage or percentages of original cost, or by such other method as may reasonably be expected to determine the actual fair market value.

18. All tangible personal property employed in a trade or business other than that described in subdivisions 1 through 17, which shall be valued by means of a percentage or percentages of original cost.

19. Outdoor advertising signs regulated under Article 1 (§ 33.2-1200 et seq.) of Chapter 12 of Title 33.2.

20. All other tangible personal property.

B. Methods of valuing property may differ among the separate categories, so long as each method used is uniform within each category, is consistent with requirements of this section and may reasonably be expected to determine actual fair market value as determined by the commissioner of revenue or other assessing official; however, assessment ratios shall only be used with the concurrence of the local governing body. A commissioner of revenue shall upon request take into account the condition of the property. The term "condition of the property" includes, but is not limited to, technological obsolescence of property where technological obsolescence is an appropriate factor for valuing such property. The commissioner of revenue shall make available to taxpayers on request a reasonable description of his valuation methods. Such commissioner, or other assessing officer, or his authorized agent, when using a recognized pricing guide as provided for in this section, may automatically extend the assessment if the pricing information is stored in a computer. For any locality in which the commissioner of revenue or other assessing official adjusts the valuation of property described in subdivision A 3 to account for the amount of mileage on such vehicles, such adjustment shall also be provided to motorcycles described in subdivision A 10.

#### **§ 58.1-3506. Other classifications of tangible personal property for taxation.**

A. The items of property set forth below are each declared to be a separate class of property and shall constitute a classification for local taxation separate from other classifications of tangible personal property provided in this chapter:

1. a. Boats or watercraft weighing five tons or more, not used solely for business purposes;

b. Boats or watercraft weighing less than five tons, not used solely for business purposes;

2. Aircraft having a maximum passenger seating capacity of no more than 50 that are owned and operated by scheduled air carriers operating under certificates of public convenience and necessity issued by the State Corporation Commission or the Civil Aeronautics Board;

3. Aircraft having a registered empty gross weight equal to or greater than 20,000 pounds that are not owned or operated by scheduled air carriers recognized under federal law, but not including any aircraft described in subdivision 4;

4. Aircraft that are (i) considered Warbirds, manufactured and intended for military use, excluding those manufactured after 1954, and (ii) used only for (a) exhibit or display to the general public and otherwise used for educational purposes (including such flights as are necessary for testing, maintaining, or preparing such aircraft for safe operation), or (b) airshow and flight demonstrations (including such flights necessary for testing, maintaining, or preparing such aircraft for safe operation), shall constitute a new class of property. Such class of property shall not include any aircraft used for commercial purposes, including transportation and other services for a fee;

5. All other aircraft not included in subdivision 2, 3, or 4 and flight simulators;

6. Antique motor vehicles as defined in § 46.2-100 which may be used for general transportation purposes as provided in subsection C of § 46.2-730;

7. Tangible personal property used in a research and development business;

8. Heavy construction machinery not used for business purposes, including land movers, bulldozers, front-end loaders, graders, packers, power shovels, cranes, pile drivers, forest harvesting and silvicultural activity equipment except as exempted under § 58.1-3505, and ditch and other types of diggers;

9. Generating equipment purchased after December 31, 1974, for the purpose of changing the energy source of a manufacturing plant from oil or natural gas to coal, wood, wood bark, wood residue, or any other alternative energy source for use in manufacturing and any cogeneration equipment purchased to



achieve more efficient use of any energy source. Such generating equipment and cogeneration equipment shall include, without limitation, such equipment purchased by firms engaged in the business of generating electricity or steam, or both;

10. Vehicles without motive power, used or designed to be used as manufactured homes as defined in § 36-85.3;

11. Computer hardware used by businesses primarily engaged in providing data processing services to other nonrelated or nonaffiliated businesses;

12. Privately owned pleasure boats and watercraft, 18 feet and over, used for recreational purposes only;

13. Privately owned vans with a seating capacity of not less than seven nor more than 15 persons, including the driver, used exclusively pursuant to a ridesharing arrangement as defined in § 46.2-1400;

14. Motor vehicles specially equipped to provide transportation for ~~physically handicapped~~ individuals *with physical disabilities*;

15. Motor vehicles (i) owned by members of a volunteer emergency medical services agency or a member of a volunteer fire department or (ii) leased by volunteer emergency medical services personnel or a member of a volunteer fire department if the volunteer is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. One motor vehicle that is owned by each volunteer member who meets the definition of "emergency medical services personnel" in § 32.1-111.1 or volunteer fire department member, or leased by each volunteer member who meets the definition of "emergency medical services personnel" in § 32.1-111.1 or volunteer fire department member if the volunteer is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle, may be specially classified under this section, provided the volunteer regularly responds to emergency calls. The volunteer shall furnish the commissioner of revenue, or other assessing officer, with a certification by the chief of the volunteer emergency medical services agency or volunteer fire department, that the volunteer is an individual who meets the definition of "emergency medical services personnel" in § 32.1-111.1 or a member of the volunteer fire department who regularly responds to calls or regularly performs other duties for the emergency medical services agency or fire department, and the motor vehicle owned or leased by the volunteer is identified. The certification shall be submitted by January 31 of each year to the commissioner of revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the volunteer, to accept a certification after the January 31 deadline. In any county that prorates the assessment of tangible personal property pursuant to § 58.1-3516, a replacement vehicle may be certified and classified pursuant to this subsection when the vehicle certified as of the immediately prior January date is transferred during the tax year;

16. Motor vehicles (i) owned by auxiliary members of a volunteer emergency medical services agency or volunteer fire department or (ii) leased by auxiliary members of a volunteer emergency medical services agency or volunteer fire department if the auxiliary member is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. One motor vehicle that is regularly used by each auxiliary volunteer fire department or emergency medical services agency member may be specially classified under this section. The auxiliary member shall furnish the commissioner of revenue, or other assessing officer, with a certification by the chief of the volunteer emergency medical services agency or volunteer fire department, that the volunteer is an auxiliary member of the volunteer emergency medical services agency or fire department who regularly performs duties for the emergency medical services agency or fire department, and the motor vehicle is identified as regularly used for such purpose; however, if a volunteer meets the definition of "emergency medical services personnel" in § 32.1-111.1 or volunteer fire department member and an auxiliary member are members of the same household, that household shall be allowed no more than two special classifications under this subdivision or subdivision 15. The certification shall be submitted by January 31 of each year to the commissioner of revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the auxiliary member, to accept a certification after the January 31 deadline;

17. Motor vehicles owned by a nonprofit organization and used to deliver meals to homebound persons or provide transportation to senior ~~or handicapped~~ citizens *or individuals with disabilities* in the community to carry out the purposes of the nonprofit organization;

18. Privately owned camping trailers as defined in § 46.2-100, and privately owned travel trailers as defined in § 46.2-1500, which are used for recreational purposes only, and privately owned trailers as defined in § 46.2-100, which are designed and used for the transportation of horses except those trailers described in subdivision A 11 of § 58.1-3505;

19. One motor vehicle owned and regularly used by a veteran who has either lost, or lost the use of, one or both legs, or an arm or a hand, or who is blind or who is permanently and totally disabled as certified by the Department of Veterans Services. In order to qualify, the veteran shall provide a written

statement to the commissioner of revenue or other assessing officer from the Department of Veterans Services that the veteran has been so designated or classified by the Department of Veterans Services as to meet the requirements of this section, and that his disability is service-connected. For purposes of this section, a person is blind if he meets the provisions of § 46.2-100;

20. Motor vehicles (i) owned by persons who have been appointed to serve as auxiliary police officers pursuant to Article 3 (§ 15.2-1731 et seq.) of Chapter 17 of Title 15.2 or (ii) leased by persons who have been so appointed to serve as auxiliary police officers if the person is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. One motor vehicle that is regularly used by each auxiliary police officer to respond to auxiliary police duties may be specially classified under this section. In order to qualify for such classification, any auxiliary police officer who applies for such classification shall identify the vehicle for which this classification is sought, and shall furnish the commissioner of revenue or other assessing officer with a certification from the governing body that has appointed such auxiliary police officer or from the official who has appointed such auxiliary officers. That certification shall state that the applicant is an auxiliary police officer who regularly uses a motor vehicle to respond to auxiliary police duties, and it shall state that the vehicle for which the classification is sought is the vehicle that is regularly used for that purpose. The certification shall be submitted by January 31 of each year to the commissioner of revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the member, to accept a certification after the January 31 deadline;

21. Until the first to occur of June 30, 2029, or the date that a special improvements tax is no longer levied under § 15.2-4607 on property within a Multicounty Transportation Improvement District created pursuant to Chapter 46 (§ 15.2-4600 et seq.) of Title 15.2, tangible personal property that is used in manufacturing, testing, or operating satellites within a Multicounty Transportation Improvement District, provided that such business personal property is put into service within the District on or after July 1, 1999;

22. Motor vehicles which use clean special fuels as defined in § 46.2-749.3, which shall not include any vehicle described in subdivision 38 or 40;

23. Wild or exotic animals kept for public exhibition in an indoor or outdoor facility that is properly licensed by the federal government, the Commonwealth, or both, and that is properly zoned for such use. "Wild animals" means any animals that are found in the wild, or in a wild state, within the boundaries of the United States, its territories or possessions. "Exotic animals" means any animals that are found in the wild, or in a wild state, and are native to a foreign country;

24. Furniture, office, and maintenance equipment, exclusive of motor vehicles, that are owned and used by an organization whose real property is assessed in accordance with § 58.1-3284.1 and that is used by that organization for the purpose of maintaining or using the open or common space within a residential development;

25. Motor vehicles, trailers, and semitrailers with a gross vehicle weight of 10,000 pounds or more used to transport property or passengers for hire by a motor carrier engaged in interstate commerce;

26. All tangible personal property employed in a trade or business other than that described in subdivisions A 1 through A 20, except for subdivision A 18, of § 58.1-3503;

27. Programmable computer equipment and peripherals employed in a trade or business;

28. Privately owned pleasure boats and watercraft, motorized and under 18 feet, used for recreational purposes only;

29. Privately owned pleasure boats and watercraft, nonmotorized and under 18 feet, used for recreational purposes only;

30. Privately owned motor homes as defined in § 46.2-100 that are used for recreational purposes only;

31. Tangible personal property used in the provision of Internet services. For purposes of this subdivision, "Internet service" means a service, including an Internet Web-hosting service, that enables users to access content, information, electronic mail, and the Internet as part of a package of services sold to customers;

32. Motor vehicles (i) owned by persons who serve as auxiliary, reserve, volunteer, or special deputy sheriffs or (ii) leased by persons who serve as auxiliary, reserve, volunteer, or special deputy sheriffs if the person is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. For purposes of this subdivision, the term "auxiliary deputy sheriff" means auxiliary, reserve, volunteer, or special deputy sheriff. One motor vehicle that is regularly used by each auxiliary deputy sheriff to respond to auxiliary deputy sheriff duties may be specially classified under this section. In order to qualify for such classification, any auxiliary deputy sheriff who applies for such classification shall identify the vehicle for which this classification is sought, and shall furnish the commissioner of revenue or other assessing officer with a certification from the governing body that has appointed such

auxiliary deputy sheriff or from the official who has appointed such auxiliary deputy sheriff. That certification shall state that the applicant is an auxiliary deputy sheriff who regularly uses a motor vehicle to respond to such auxiliary duties, and it shall state that the vehicle for which the classification is sought is the vehicle that is regularly used for that purpose. The certification shall be submitted by January 31 of each year to the commissioner of revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the member, to accept a certification after the January 31 deadline;

33. Forest harvesting and silvicultural activity equipment, except as exempted under § 58.1-3505;

34. Equipment used primarily for research, development, production, or provision of biotechnology for the purpose of developing or providing products or processes for specific commercial or public purposes, including medical, pharmaceutical, nutritional, and other health-related purposes; agricultural purposes; or environmental purposes but not for human cloning purposes as defined in § 32.1-162.21 or for products or purposes related to human embryo stem cells. For purposes of this section, biotechnology equipment means equipment directly used in activities associated with the science of living things;

35. Boats or watercraft weighing less than five tons, used for business purposes only;

36. Boats or watercraft weighing five tons or more, used for business purposes only;

37. Tangible personal property which is owned and operated by a service provider who is not a CMRS provider and is not licensed by the FCC used to provide, for a fee, wireless broadband Internet service. For purposes of this subdivision, "wireless broadband Internet service" means a service that enables customers to access, through a wireless connection at an upload or download bit rate of more than one megabyte per second, Internet service, as defined in § 58.1-602, as part of a package of services sold to customers;

38. Low-speed vehicles as defined in § 46.2-100;

39. Motor vehicles with a seating capacity of not less than 30 persons, including the driver;

40. Motor vehicles powered solely by electricity;

41. Tangible personal property designed and used primarily for the purpose of manufacturing a product from renewable energy as defined in § 56-576;

42. Motor vehicles leased by a county, city, town, or constitutional officer if the locality or constitutional officer is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle;

43. Computer equipment and peripherals used in a data center. For purposes of this subdivision, "data center" means a facility whose primary services are the storage, management, and processing of digital data and is used to house (i) computer and network systems, including associated components such as servers, network equipment and appliances, telecommunications, and data storage systems; (ii) systems for monitoring and managing infrastructure performance; (iii) equipment used for the transformation, transmission, distribution, or management of at least one megawatt of capacity of electrical power and cooling, including substations, uninterruptible power supply systems, all electrical plant equipment, and associated air handlers; (iv) Internet-related equipment and services; (v) data communications connections; (vi) environmental controls; (vii) fire protection systems; and (viii) security systems and services;

44. Motor vehicles (i) owned by persons who serve as uniformed members of the Virginia Defense Force pursuant to Article 4.2 (§ 44-54.4 et seq.) of Chapter 1 of Title 44 or (ii) leased by persons who serve as uniformed members of the Virginia Defense Force pursuant to Article 4.2 (§ 44-54.4 et seq.) of Chapter 1 of Title 44 if the person is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. One motor vehicle that is regularly used by a uniformed member of the Virginia Defense Force to respond to his official duties may be specially classified under this section. In order to qualify for such classification, any person who applies for such classification shall identify the vehicle for which the classification is sought and shall furnish to the commissioner of the revenue or other assessing officer a certification from the Adjutant General of the Department of Military Affairs under § 44-11. That certification shall state that (a) the applicant is a uniformed member of the Virginia Defense Force who regularly uses a motor vehicle to respond to his official duties, and (b) the vehicle for which the classification is sought is the vehicle that is regularly used for that purpose. The certification shall be submitted by January 31 of each year to the commissioner of the revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the member, to accept a certification after the January 31 deadline;

45. If a locality has adopted an ordinance pursuant to subsection D of § 58.1-3703, tangible personal property of a business that qualifies under such ordinance for the first two tax years in which the business is subject to tax upon its personal property pursuant to this chapter. If a locality has not

adopted such ordinance, this classification shall apply to the tangible personal property for such first two tax years of a business that otherwise meets the requirements of subsection D of § 58.1-3703;

46. Miscellaneous and incidental tangible personal property employed in a trade or business that is not classified as machinery and tools pursuant to Article 2 (§ 58.1-3507 et seq.), merchants' capital pursuant to Article 3 (§ 58.1-3509 et seq.), or short-term rental property pursuant to Article 3.1 (§ 58.1-3510.4 et seq.), and has an original cost of less than \$500. A county, city, or town shall allow a taxpayer to provide an aggregate estimate of the total cost of all such property owned by the taxpayer that qualifies under this subdivision, in lieu of a specific, itemized list;

47. Commercial fishing vessels and property permanently attached to such vessels; and

48. The following classifications of vehicles:

a. Automobiles as described in subdivision A 3 of § 58.1-3503;

b. Trucks of less than two tons as described in subdivision A 4 of § 58.1-3503;

c. Trucks and other vehicles as described in subdivision A 5 of § 58.1-3503;

d. Motor vehicles with specially designed equipment for use by ~~the handicapped~~ *individuals with disabilities* as described in subdivision A 9 of § 58.1-3503; and

e. Motorcycles, mopeds, all-terrain vehicles, off-road motorcycles, campers, and other recreational vehicles as described in subdivision A 10 of § 58.1-3503.

B. The governing body of any county, city, or town may levy a tax on the property enumerated in subsection A at different rates from the tax levied on other tangible personal property. The rates of tax and the rates of assessment shall (i) for purposes of subdivisions A 1, 2, 3, 4, 5, 6, 8, 11 through 20, 22 through 24, and 26 through 47, not exceed that applicable to the general class of tangible personal property, (ii) for purposes of subdivisions A 7, 9, 21, and 25, not exceed that applicable to machinery and tools, and (iii) for purposes of subdivision A 10, equal that applicable to real property. If an item of personal property is included in multiple classifications under subsection A, then the rate of tax shall be the lowest rate assigned to such classifications.

C. Notwithstanding any other provision of this section, for any qualifying vehicle, as such term is defined in § 58.1-3523, (i) included in any separate class of property in subsection A and (ii) assessed for tangible personal property taxes by a county, city, or town receiving a payment from the Commonwealth under Chapter 35.1 (§ 58.1-3523 et seq.) for providing tangible personal property tax relief, the county, city, or town may levy the tangible personal property tax on such qualifying vehicle at a rate not to exceed the rates of tax and rates of assessment required under such chapter.

Article 1.01.

Alternative Tax Rates for Elderly *Individuals* and ~~Handicapped~~ *Individuals with Disabilities*.

**§ 58.1-3506.1. Other classification for taxation of certain tangible personal property owned by certain elderly individuals and individuals with disabilities.**

The governing body of any ~~county, city or town~~ *locality* may, by ordinance, levy a tax on one motor vehicle owned and used primarily by or for anyone at least 65 years of age or anyone found to be permanently and totally disabled, as defined in § 58.1-3506.3, at a different rate from the tax levied on other tangible personal property, upon such conditions as the ordinance may prescribe. Such rate shall not exceed the tangible personal property tax on the general class of tangible personal property. For purposes of this article, the term motor vehicle shall include only automobiles and pickup trucks. Any such motor vehicle owned by married individuals may qualify if either spouse is 65 or over or if either spouse is permanently and totally disabled. Notwithstanding any other provision of this section or article, for any automobile or pickup truck that is (i) a qualifying vehicle, as such term is defined in § 58.1-3523, and (ii) assessed for tangible personal property taxes by a county, city, or town receiving a payment from the Commonwealth under Chapter 35.1 (§ 58.1-3523 et seq.) for providing tangible personal property tax relief, the rate of tax levied pursuant to this article shall not exceed the rates of tax and rates of assessment required under such chapter.

**§ 58.1-3506.6. Notice of local tangible personal property tax relief program for elderly individuals and individuals with disabilities.**

The treasurer of any county, city, or town shall enclose written notice, in each tangible personal property tax bill, of the terms and conditions of any local tangible personal property tax relief program established in the jurisdiction pursuant to § 58.1-3506.1. The treasurer shall also employ any other reasonable means necessary to notify residents of the county, city, or town about the terms and conditions of the tangible personal property tax relief program for elderly *individuals* and ~~handicapped~~ *residents of individuals with disabilities who reside in the county, city, or town.*

**§ 58.1-3833. County food and beverage tax.**

A. 1. Any county is hereby authorized to levy a tax on food and beverages sold, for human consumption, by a restaurant, as such term is defined in § 35.1-1, not to exceed six percent of the amount charged for such food and beverages. Such tax shall not be levied on food and beverages sold through vending machines or by (i) boardinghouses that do not accommodate transients; (ii) cafeterias

operated by industrial plants for employees only; (iii) restaurants to their employees as part of their compensation when no charge is made to the employee; (iv) volunteer fire departments and volunteer emergency medical services agencies; nonprofit churches or other religious bodies; or educational, charitable, fraternal, or benevolent organizations the first three times per calendar year and, beginning with the fourth time, on the first \$100,000 of gross receipts per calendar year from sales of food and beverages (excluding gross receipts from the first three times), as a fundraising activity, the gross proceeds of which are to be used by such church, religious body or organization exclusively for nonprofit educational, charitable, benevolent, or religious purposes; (v) churches that serve meals for their members as a regular part of their religious observances; (vi) public or private elementary or secondary schools or institutions of higher education to their students or employees; (vii) hospitals, medical clinics, convalescent homes, nursing homes, or other extended care facilities to patients or residents thereof; (viii) day care centers; (ix) homes for the aged, or infirm *individuals, handicapped individuals with disabilities*, battered women, narcotic addicts, or alcoholics; (x) age-restricted apartment complexes or residences with restaurants, not open to the public, where meals are served and fees are charged for such food and beverages and are included in rental fees; or (xi) sellers at local farmers markets and roadside stands, when such sellers' annual income from such sales does not exceed \$2,500. For the exemption described in clause (xi), the sellers' annual income shall include income from sales at all local farmers markets and roadside stands, not just those sales occurring in the locality imposing the tax. Also, the tax shall not be levied on food and beverages: (a) when used or consumed and paid for by the Commonwealth, any political subdivision of the Commonwealth, or the United States; (b) provided by a public or private nonprofit charitable organization or establishment to elderly, infirm, blind, handicapped, or needy persons *individuals or individuals with blindness or other disabilities* in their homes, or at central locations; or (c) provided by private establishments that contract with the appropriate agency of the Commonwealth to offer food, food products, or beverages for immediate consumption at concession prices to elderly, infirm, blind, handicapped, or needy persons *individuals or individuals with blindness or other disabilities* in their homes or at central locations.

2. Grocery stores and convenience stores selling prepared foods ready for human consumption at a delicatessen counter shall be subject to the tax, for that portion of the grocery store or convenience store selling such items.

The term "beverage" as set forth herein ~~shall mean~~ *means* alcoholic beverages as defined in § 4.1-100 and nonalcoholic beverages served as part of a meal. The tax shall be in addition to the sales tax currently imposed by the county pursuant to the authority of Chapter 6 (§ 58.1-600 et seq.). Collection of such tax shall be in a manner prescribed by the governing body.

B. Nothing herein contained shall affect any authority heretofore granted to any county, city, or town to levy a meals tax. The county tax limitations imposed pursuant to § 58.1-3711 shall apply to any tax levied under this section, mutatis mutandis. All food and beverage tax collections and all meals tax collections shall be deemed to be held in trust for the county, city, or town imposing the applicable tax. The wrongful and fraudulent use of such collections other than remittance of the same as provided by law shall constitute embezzlement pursuant to § 18.2-111.

C. Notwithstanding any other provision of this section, no locality shall levy any tax under this section upon (i) that portion of the amount paid by the purchaser as a discretionary gratuity in addition to the sales price; (ii) that portion of the amount paid by the purchaser as a mandatory gratuity or service charge added by the restaurant in addition to the sales price, but only to the extent that such mandatory gratuity or service charge does not exceed 20 percent of the sales price; or (iii) alcoholic beverages sold in factory sealed containers and purchased for off-premises consumption or food purchased for human consumption as "food" is defined in the Food Stamp Act of 1977, 7 U.S.C. § 2012, as amended, and federal regulations adopted pursuant to that act, except for the following items: sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads consisting primarily of an assortment of vegetables, and nonfactory sealed beverages.

**§ 58.1-3840. Certain excise taxes permitted.**

A. The provisions of Chapter 6 (§ 58.1-600 et seq.) to the contrary notwithstanding, any city or town having general taxing powers established by charter pursuant to or consistent with the provisions of § 15.2-1104 and, to the extent authorized in this chapter, any county may impose excise taxes on cigarettes, admissions, transient room rentals, meals, and travel campgrounds. No such taxes on meals may be imposed on (i) that portion of the amount paid by the purchaser as a discretionary gratuity in addition to the sales price of the meal; (ii) that portion of the amount paid by the purchaser as a mandatory gratuity or service charge added by the restaurant in addition to the sales price of the meal, but only to the extent that such mandatory gratuity or service charge does not exceed 20 percent of the sales price; or (iii) food and beverages sold through vending machines or on any tangible personal property purchased with food coupons issued by the United States U.S. Department of Agriculture under the Food Stamp Program or drafts issued through the Virginia Special Supplemental Food Program for

2253 Women, Infants, and Children. No such taxes on meals may be imposed when sold or provided by (a)  
 2254 restaurants, as such term is defined in § 35.1-1, to their employees as part of their compensation when  
 2255 no charge is made to the employee; (b) volunteer fire departments and volunteer emergency medical  
 2256 services agencies; nonprofit churches or other religious bodies; or educational, charitable, fraternal, or  
 2257 benevolent organizations, the first three times per calendar year and, beginning with the fourth time, on  
 2258 the first \$100,000 of gross receipts per calendar year from sales of meals (excluding gross receipts from  
 2259 the first three times), as a fundraising activity, the gross proceeds of which are to be used by such  
 2260 church, religious body or organization exclusively for nonprofit educational, charitable, benevolent, or  
 2261 religious purposes; (c) churches that serve meals for their members as a regular part of their religious  
 2262 observances; (d) public or private elementary or secondary schools or institutions of higher education to  
 2263 their students or employees; (e) hospitals, medical clinics, convalescent homes, nursing homes, or other  
 2264 extended care facilities to patients or residents thereof; (f) day care centers; (g) homes for the aged, or  
 2265 infirm *individuals, handicapped individuals with disabilities*, battered women, narcotic addicts, or  
 2266 alcoholics; (h) age-restricted apartment complexes or residences with restaurants, not open to the public,  
 2267 where meals are served and fees are charged for such food and beverages and are included in rental  
 2268 fees; or (i) sellers at local farmers markets and roadside stands, when such sellers' annual income from  
 2269 such sales does not exceed \$2,500. For the exemption described in clause (i), the sellers' annual income  
 2270 shall include income from sales at all local farmers markets and roadside stands, not just those sales  
 2271 occurring in the locality imposing the tax.

2272 Also, the tax shall not be levied on meals: (1) when used or consumed and paid for by the  
 2273 Commonwealth, any political subdivision of the Commonwealth, or the United States; (2) provided by a  
 2274 public or private nonprofit charitable organization or establishment to elderly, infirm, ~~blind, handicapped,~~  
 2275 or needy ~~persons~~ *individuals or individuals with blindness or other disabilities* in their homes, or at  
 2276 central locations; or (3) provided by private establishments that contract with the appropriate agency of  
 2277 the Commonwealth to offer food, food products, or beverages for immediate consumption at concession  
 2278 prices to elderly, infirm, ~~blind, handicapped,~~ or needy ~~persons~~ *individuals or individuals with blindness*  
 2279 *or other disabilities* in their homes or at central locations.

2280 In addition, as set forth in § 51.5-98, no blind person operating a vending stand or other business  
 2281 enterprise under the jurisdiction of the Department for the Blind and Vision Impaired and located on  
 2282 property acquired and used by the United States for any military or naval purpose shall be required to  
 2283 collect and remit meals taxes.

2284 B. Notwithstanding any other provision of this section, no city or town shall levy any tax under this  
 2285 section upon alcoholic beverages sold in factory sealed containers and purchased for off-premises  
 2286 consumption or food purchased for human consumption as "food" is defined in the Food Stamp Act of  
 2287 1977, 7 U.S.C. § 2012, as amended, and federal regulations adopted pursuant to that act, except for the  
 2288 following items: sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads  
 2289 consisting primarily of an assortment of vegetables, and nonfactory sealed beverages.

2290 C. Any city or town that is authorized to levy a tax on admissions may levy the tax on admissions  
 2291 paid for any event held at facilities that are not owned by the city or town at a lower rate than the rate  
 2292 levied on admissions paid for any event held at its city- or town-owned civic centers, stadiums, and  
 2293 amphitheaters.

2294 D. Expired.

#### 2295 § 58.1-4024. Employees of the Department.

2296 Employees of the Department shall be exempt from the provisions of the Virginia Personnel Act,  
 2297 Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2. Personnel actions shall be taken without regard to race, sex,  
 2298 sexual orientation, gender identity, color, national origin, religion, age, ~~handicap~~ *disability*, or political  
 2299 affiliation.

#### 2300 § 63.2-100. Definitions.

2301 As used in this title, unless the context requires a different meaning:

2302 "Abused or neglected child" means any child less than 18 years of age:

2303 1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or  
 2304 inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than  
 2305 accidental means, or creates a substantial risk of death, disfigurement, or impairment of bodily or mental  
 2306 functions, including, but not limited to, a child who is with his parent or other person responsible for his  
 2307 care either (i) during the manufacture or attempted manufacture of a Schedule I or II controlled  
 2308 substance, or (ii) during the unlawful sale of such substance by that child's parents or other person  
 2309 responsible for his care, where such manufacture, or attempted manufacture or unlawful sale would  
 2310 constitute a felony violation of § 18.2-248;

2311 2. Whose parents or other person responsible for his care neglects or refuses to provide care  
 2312 necessary for his health. However, no child who in good faith is under treatment solely by spiritual  
 2313 means through prayer in accordance with the tenets and practices of a recognized church or religious

denomination shall for that reason alone be considered to be an abused or neglected child. Further, a decision by parents who have legal authority for the child or, in the absence of parents with legal authority for the child, any person with legal authority for the child, who refuses a particular medical treatment for a child with a life-threatening condition shall not be deemed a refusal to provide necessary care if (i) such decision is made jointly by the parents or other person with legal authority and the child; (ii) the child has reached 14 years of age and is sufficiently mature to have an informed opinion on the subject of his medical treatment; (iii) the parents or other person with legal authority and the child have considered alternative treatment options; and (iv) the parents or other person with legal authority and the child believe in good faith that such decision is in the child's best interest. Nothing in this subdivision shall be construed to limit the provisions of § 16.1-278.4;

3. Whose parents or other person responsible for his care abandons such child;

4. Whose parents or other person responsible for his care, or an intimate partner of such parent or person, commits or allows to be committed any act of sexual exploitation or any sexual act upon a child in violation of the law;

5. Who is without parental care or guardianship caused by the unreasonable absence or the mental or physical incapacity of the child's parent, guardian, legal custodian or other person standing in loco parentis;

6. Whose parents or other person responsible for his care creates a substantial risk of physical or mental injury by knowingly leaving the child alone in the same dwelling, including an apartment as defined in § 55.1-2000, with a person to whom the child is not related by blood or marriage and who the parent or other person responsible for his care knows has been convicted of an offense against a minor for which registration is required as a Tier III offender pursuant to § 9.1-902; or

7. Who has been identified as a victim of sex trafficking or severe forms of trafficking as defined in the Trafficking Victims Protection Act of 2000, 22 U.S.C § 7102 et seq., and in the Justice for Victims of Trafficking Act of 2015, 42 U.S.C. § 5101 et seq.

If a civil proceeding under this title is based solely on the parent having left the child at a hospital or emergency medical services agency, it shall be an affirmative defense that such parent safely delivered the child within 30 days of the child's birth to (i) a hospital that provides 24-hour emergency services, (ii) an attended emergency medical services agency that employs emergency medical services providers, or (iii) a newborn safety device located at and operated by such hospital or emergency medical services agency. For purposes of terminating parental rights pursuant to § 16.1-283 and placement for adoption, the court may find such a child is a neglected child upon the ground of abandonment.

"Adoptive home" means any family home selected and approved by a parent, local board or a licensed child-placing agency for the placement of a child with the intent of adoption.

"Adoptive placement" means arranging for the care of a child who is in the custody of a child-placing agency in an approved home for the purpose of adoption.

"Adult abuse" means the willful infliction of physical pain, injury or mental anguish or unreasonable confinement of an adult as defined in § 63.2-1603.

"Adult day care center" means any facility that is either operated for profit or that desires licensure and that provides supplementary care and protection during only a part of the day to four or more *adults who are aged, or infirm or disabled adults who have disabilities* and who reside elsewhere, except (i) a facility or portion of a facility licensed by the State Board of Health or the Department of Behavioral Health and Developmental Services, and (ii) the home or residence of an individual who cares for only persons related to him by blood or marriage. Included in this definition are any two or more places, establishments or institutions owned, operated or controlled by a single entity and providing such supplementary care and protection to a combined total of four or more *adults who are aged, or infirm or disabled adults who have disabilities*.

"Adult exploitation" means the illegal, unauthorized, improper, or fraudulent use of an adult as defined in § 63.2-1603 or his funds, property, benefits, resources, or other assets for another's profit, benefit, or advantage, including a caregiver or person serving in a fiduciary capacity, or that deprives the adult of his rightful use of or access to such funds, property, benefits, resources, or other assets. "Adult exploitation" includes (i) an intentional breach of a fiduciary obligation to an adult to his detriment or an intentional failure to use the financial resources of an adult in a manner that results in neglect of such adult; (ii) the acquisition, possession, or control of an adult's financial resources or property through the use of undue influence, coercion, or duress; and (iii) forcing or coercing an adult to pay for goods or services or perform services against his will for another's profit, benefit, or advantage if the adult did not agree, or was tricked, misled, or defrauded into agreeing, to pay for such goods or services or to perform such services.

"Adult foster care" means room and board, supervision, and special services to an adult who has a physical or mental condition. Adult foster care may be provided by a single provider for up to three

2375 adults. "Adult foster care" does not include services or support provided to individuals through the  
 2376 Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9.

2377 "Adult neglect" means that an adult as defined in § 63.2-1603 is living under such circumstances that  
 2378 he is not able to provide for himself or is not being provided services necessary to maintain his physical  
 2379 and mental health and that the failure to receive such necessary services impairs or threatens to impair  
 2380 his well-being. However, no adult shall be considered neglected solely on the basis that such adult is  
 2381 receiving religious nonmedical treatment or religious nonmedical nursing care in lieu of medical care,  
 2382 provided that such treatment or care is performed in good faith and in accordance with the religious  
 2383 practices of the adult and there is a written or oral expression of consent by that adult.

2384 "Adult protective services" means services provided by the local department that are necessary to  
 2385 protect an adult as defined in § 63.2-1603 from abuse, neglect or exploitation.

2386 "Assisted living care" means a level of service provided by an assisted living facility for adults who  
 2387 may have physical or mental impairments and require at least a moderate level of assistance with  
 2388 activities of daily living.

2389 "Assisted living facility" means any congregate residential setting that provides or coordinates  
 2390 personal and health care services, 24-hour supervision, and assistance (scheduled and unscheduled) for  
 2391 the maintenance or care of four or more adults who are aged, or infirm or ~~disabled~~ *who have disabilities*  
 2392 and who are cared for in a primarily residential setting, except (i) a facility or portion of a facility  
 2393 licensed by the State Board of Health or the Department of Behavioral Health and Developmental  
 2394 Services, but including any portion of such facility not so licensed; (ii) the home or residence of an  
 2395 individual who cares for or maintains only persons related to him by blood or marriage; (iii) a facility or  
 2396 portion of a facility serving *individuals who are* infirm or ~~disabled~~ *persons who have disabilities*  
 2397 between the ages of 18 and 21, or 22 if enrolled in an educational program for ~~the handicapped~~  
 2398 *individuals with disabilities* pursuant to § 22.1-214, when such facility is licensed by the Department as  
 2399 a children's residential facility under Chapter 17 (§ 63.2-1700 et seq.), but including any portion of the  
 2400 facility not so licensed; and (iv) any housing project for ~~persons~~ *individuals who are* 62 years of age or  
 2401 older or ~~the disabled individuals with disabilities~~ that provides no more than basic coordination of care  
 2402 services and is funded by the U.S. Department of Housing and Urban Development, by the U.S.  
 2403 Department of Agriculture, or by the Virginia Housing Development Authority. Included in this  
 2404 definition are any two or more places, establishments or institutions owned or operated by a single  
 2405 entity and providing maintenance or care to a combined total of four or more *adults who are aged, or*  
 2406 *infirm or disabled adults or who have disabilities*. Maintenance or care means the protection, general  
 2407 supervision and oversight of the physical and mental well-being of an *individual who is aged, or infirm*  
 2408 *or disabled individual who has a disability*.

2409 "Auxiliary grants" means cash payments made to certain aged, blind or disabled individuals who  
 2410 receive benefits under Title XVI of the Social Security Act, as amended, or would be eligible to receive  
 2411 these benefits except for excess income.

2412 "Birth family" or "birth sibling" means the child's biological family or biological sibling.

2413 "Birth parent" means the child's biological parent and, for purposes of adoptive placement, means  
 2414 parent(s) by previous adoption.

2415 "Board" means the State Board of Social Services.

2416 "Child" means any natural person who is (i) under 18 years of age or (ii) for purposes of the  
 2417 Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9, under 21 years of age  
 2418 and meets the eligibility criteria set forth in § 63.2-919.

2419 "Child-placing agency" means (i) any person who places children in foster homes, adoptive homes or  
 2420 independent living arrangements pursuant to § 63.2-1819, (ii) a local board that places children in foster  
 2421 homes or adoptive homes pursuant to §§ 63.2-900, 63.2-903, and 63.2-1221, or (iii) an entity that assists  
 2422 parents with the process of delegating parental and legal custodial powers of their children pursuant to  
 2423 Chapter 10 (§ 20-166 et seq.) of Title 20. "Child-placing agency" does not include the persons to whom  
 2424 such parental or legal custodial powers are delegated pursuant to Chapter 10 (§ 20-166 et seq.) of Title  
 2425 20. Officers, employees, or agents of the Commonwealth, or any locality acting within the scope of their  
 2426 authority as such, who serve as or maintain a child-placing agency, shall not be required to be licensed.

2427 "Child-protective services" means the identification, receipt and immediate response to complaints  
 2428 and reports of alleged child abuse or neglect for children under 18 years of age. It also includes  
 2429 assessment, and arranging for and providing necessary protective and rehabilitative services for a child  
 2430 and his family when the child has been found to have been abused or neglected or is at risk of being  
 2431 abused or neglected.

2432 "Child support services" means any civil, criminal or administrative action taken by the Division of  
 2433 Child Support Enforcement to locate parents; establish paternity; and establish, modify, enforce, or  
 2434 collect child support, or child and spousal support.

2435 "Child-welfare agency" means a child-placing agency, children's residential facility, or independent



foster home.

"Children's residential facility" means any facility, child-caring institution, or group home that is maintained for the purpose of receiving children separated from their parents or guardians for full-time care, maintenance, protection and guidance, or for the purpose of providing independent living services to persons between 18 and 21 years of age who are in the process of transitioning out of foster care. Children's residential facility shall not include:

1. A licensed or accredited educational institution whose pupils, in the ordinary course of events, return annually to the homes of their parents or guardians for not less than two months of summer vacation;

2. An establishment required to be licensed as a summer camp by § 35.1-18; and

3. A licensed or accredited hospital legally maintained as such.

"Commissioner" means the Commissioner of the Department, his designee or authorized representative.

"Department" means the State Department of Social Services.

"Department of Health and Human Services" means the Department of Health and Human Services of the United States government or any department or agency thereof that may hereafter be designated as the agency to administer the Social Security Act, as amended.

"Disposable income" means that part of the income due and payable of any individual remaining after the deduction of any amount required by law to be withheld.

"Energy assistance" means benefits to assist low-income households with their home heating and cooling needs, including, but not limited to, purchase of materials or substances used for home heating, repair or replacement of heating equipment, emergency intervention in no-heat situations, purchase or repair of cooling equipment, and payment of electric bills to operate cooling equipment, in accordance with § 63.2-805, or provided under the Virginia Energy Assistance Program established pursuant to the Low-Income Home Energy Assistance Act of 1981 (Title XXVI of Public Law P.L. 97-35), as amended.

"Family and permanency team" means the group of individuals assembled by the local department to assist with determining planning and placement options for a child, which shall include, as appropriate, all biological relatives and fictive kin of the child, as well as any professionals who have served as a resource to the child or his family, such as teachers, medical or mental health providers, and clergy members. In the case of a child who is 14 years of age or older, the family and permanency team shall also include any members of the child's case planning team that were selected by the child in accordance with subsection A of § 16.1-281.

"Federal-Funded Kinship Guardianship Assistance program" means a program consistent with 42 U.S.C. § 673 that provides, subject to a kinship guardianship assistance agreement developed in accordance with § 63.2-1305, payments to eligible individuals who have received custody of a child of whom they had been the foster parents.

"Fictive kin" means persons who are not related to a child by blood or adoption but have an established relationship with the child or his family.

"Foster care placement" means placement of a child through (i) an agreement between the parents or guardians and the local board where legal custody remains with the parents or guardians or (ii) an entrustment or commitment of the child to the local board or licensed child-placing agency. "Foster care placement" does not include placement of a child in accordance with a power of attorney pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20.

"Foster home" means a residence approved by a child-placing agency or local board in which any child, other than a child by birth or adoption of such person or a child who is the subject of a power of attorney to delegate parental or legal custodial powers by his parents or legal custodian to the natural person who has been designated the child's legal guardian pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20 and who exercises legal authority over the child on a continuous basis for at least 24 hours without compensation, resides as a member of the household.

"General relief" means money payments and other forms of relief made to those persons mentioned in § 63.2-802 in accordance with the regulations of the Board and reimbursable in accordance with § 63.2-401.

"Independent foster home" means a private family home in which any child, other than a child by birth or adoption of such person, resides as a member of the household and has been placed therein independently of a child-placing agency except (i) a home in which are received only children related by birth or adoption of the person who maintains such home and children of personal friends of such person; (ii) a home in which is received a child or children committed under the provisions of subdivision A 4 of § 16.1-278.2, subdivision 6 of § 16.1-278.4, or subdivision A 13 of § 16.1-278.8; and (iii) a home in which are received only children who are the subject of a properly executed power of attorney pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20.

"Independent living" means a planned program of services designed to assist a child age 16 and over

2497 and persons who are former foster care children or were formerly committed to the Department of  
 2498 Juvenile Justice and are between the ages of 18 and 21 in transitioning to self-sufficiency.

2499 "Independent living arrangement" means placement of (i) a child at least 16 years of age who is in  
 2500 the custody of a local board or licensed child-placing agency by the local board or licensed child-placing  
 2501 agency or (ii) a child at least 16 years of age or a person between the ages of 18 and 21 who was  
 2502 committed to the Department of Juvenile Justice immediately prior to placement by the Department of  
 2503 Juvenile Justice, in a living arrangement in which such child or person does not have daily substitute  
 2504 parental supervision.

2505 "Independent living services" means services and activities provided to a child in foster care 14 years  
 2506 of age or older who was committed or entrusted to a local board of social services, child welfare  
 2507 agency, or private child-placing agency. "Independent living services" may also mean services and  
 2508 activities provided to a person who (i) was in foster care on his 18th birthday and has not yet reached  
 2509 the age of 21 years; (ii) is between the ages of 18 and 21 and who, immediately prior to his  
 2510 commitment to the Department of Juvenile Justice, was in the custody of a local board of social  
 2511 services; or (iii) is a child at least 16 years of age or a person between the ages of 18 and 21 who was  
 2512 committed to the Department of Juvenile Justice immediately prior to placement in an independent  
 2513 living arrangement. Such services shall include counseling, education, housing, employment, and money  
 2514 management skills development, access to essential documents, and other appropriate services to help  
 2515 children or persons prepare for self-sufficiency.

2516 "Independent physician" means a physician who is chosen by the resident of the assisted living  
 2517 facility and who has no financial interest in the assisted living facility, directly or indirectly, as an  
 2518 owner, officer, or employee or as an independent contractor with the residence.

2519 "Intercountry placement" means the arrangement for the care of a child in an adoptive home or foster  
 2520 care placement into or out of the Commonwealth by a licensed child-placing agency, court, or other  
 2521 entity authorized to make such placements in accordance with the laws of the foreign country under  
 2522 which it operates.

2523 "Interstate placement" means the arrangement for the care of a child in an adoptive home, foster care  
 2524 placement or in the home of the child's parent or with a relative or nonagency guardian, into or out of  
 2525 the Commonwealth, by a child-placing agency or court when the full legal right of the child's parent or  
 2526 nonagency guardian to plan for the child has been voluntarily terminated or limited or severed by the  
 2527 action of any court.

2528 "Kinship care" means the full-time care, nurturing, and protection of children by relatives.

2529 "Kinship guardian" means the adult relative of a child in a kinship guardianship established in  
 2530 accordance with § 63.2-1305 or 63.2-1306 who has been awarded custody of the child by the court after  
 2531 acting as the child's foster parent.

2532 "Kinship guardianship" means a relationship established in accordance with § 63.2-1305 or 63.2-1306  
 2533 between a child and an adult relative of the child who has formerly acted as the child's foster parent that  
 2534 is intended to be permanent and self-sustaining as evidenced by the transfer by the court to the adult  
 2535 relative of the child of the authority necessary to ensure the protection, education, care and control, and  
 2536 custody of the child and the authority for decision making for the child.

2537 "Local board" means the local board of social services representing one or more counties or cities.

2538 "Local department" means the local department of social services of any county or city in ~~this~~ the  
 2539 Commonwealth.

2540 "Local director" means the director or his designated representative of the local department of the  
 2541 city or county.

2542 "Merit system plan" means those regulations adopted by the Board in the development and operation  
 2543 of a system of personnel administration meeting requirements of the federal Office of Personnel  
 2544 Management.

2545 "Parental placement" means locating or effecting the placement of a child or the placing of a child in  
 2546 a family home by the child's parent or legal guardian for the purpose of foster care or adoption.

2547 "Public assistance" means Temporary Assistance for Needy Families (TANF); auxiliary grants to the  
 2548 aged, blind and disabled; medical assistance; energy assistance; food stamps; employment services; child  
 2549 care; and general relief.

2550 "Qualified assessor" means an entity contracting with the Department of Medical Assistance Services  
 2551 to perform nursing facility pre-admission screening or to complete the uniform assessment instrument for  
 2552 a home and community-based waiver program, including an independent physician contracting with the  
 2553 Department of Medical Assistance Services to complete the uniform assessment instrument for residents  
 2554 of assisted living facilities, or any hospital that has contracted with the Department of Medical  
 2555 Assistance Services to perform nursing facility pre-admission screenings.

2556 "Qualified individual" means a trained professional or licensed clinician who is not an employee of  
 2557 the local board of social services or licensed child-placing agency that placed the child in a qualified

residential treatment program and is not affiliated with any placement setting in which children are placed by such local board of social services or licensed child-placing agency.

"Qualified residential treatment program" means a program that (i) provides 24-hour residential placement services for children in foster care; (ii) has adopted a trauma-informed treatment model that meets the clinical and other needs of children with serious emotional or behavioral disorders, including any clinical or other needs identified through assessments conducted pursuant to clause (viii) of this definition; (iii) employs registered or licensed nursing and other clinical staff who provide care, on site and within the scope of their practice, and are available 24 hours a day, 7 days a week; (iv) conducts outreach with the child's family members, including efforts to maintain connections between the child and his siblings and other family; documents and maintains records of such outreach efforts; and maintains contact information for any known biological family and fictive kin of the child; (v) whenever appropriate and in the best interest of the child, facilitates participation by family members in the child's treatment program before and after discharge and documents the manner in which such participation is facilitated; (vi) provides discharge planning and family-based aftercare support for at least six months after discharge; (vii) is licensed in accordance with 42 U.S.C. § 671(a)(10) and accredited by an organization approved by the federal Secretary of Health and Human Services; and (viii) requires that any child placed in the program receive an assessment within 30 days of such placement by a qualified individual that (a) assesses the strengths and needs of the child using an age-appropriate, evidence-based, validated, and functional assessment tool approved by the Commissioner of Social Services; (b) identifies whether the needs of the child can be met through placement with a family member or in a foster home or, if not, in a placement setting authorized by 42 U.S.C. § 672(k)(2), including a qualified residential treatment program, that would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short-term and long-term goals established for the child in his foster care or permanency plan; (c) establishes a list of short-term and long-term mental and behavioral health goals for the child; and (d) is documented in a written report to be filed with the court prior to any hearing on the child's placement pursuant to § 16.1-281, 16.1-282, 16.1-282.1, or 16.1-282.2.

"Residential living care" means a level of service provided by an assisted living facility for adults who may have physical or mental impairments and require only minimal assistance with the activities of daily living. The definition of "residential living care" includes the services provided by independent living facilities that voluntarily become licensed.

"Sibling" means each of two or more children having one or more parents in common.

"Social services" means foster care, adoption, adoption assistance, child-protective services, domestic violence services, or any other services program implemented in accordance with regulations adopted by the Board. Social services also includes adult services pursuant to Article 4 (§ 51.5-144 et seq.) of Chapter 14 of Title 51.5 and adult protective services pursuant to Article 5 (§ 51.5-148) of Chapter 14 of Title 51.5 provided by local departments of social services in accordance with regulations and under the supervision of the Commissioner for Aging and Rehabilitative Services.

"Special order" means an order imposing an administrative sanction issued to any party licensed pursuant to this title by the Commissioner that has a stated duration of not more than 12 months. A special order shall be considered a case decision as defined in § 2.2-4001.

"State-Funded Kinship Guardianship Assistance program" means a program that provides payments to eligible individuals who have received custody of a relative child subject to a kinship guardianship assistance agreement developed in accordance with § 63.2-1306.

"Supervised independent living setting" means the residence of a person 18 years of age or older who is participating in the Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9 where supervision includes a monthly visit with a service worker or, when appropriate, contracted supervision. "Supervised independent living setting" does not include residential facilities or group homes.

"Temporary Assistance for Needy Families" or "TANF" means the program administered by the Department through which a relative can receive monthly cash assistance for the support of his eligible children.

"Temporary Assistance for Needy Families-Unemployed Parent" or "TANF-UP" means the Temporary Assistance for Needy Families program for families in which both natural or adoptive parents of a child reside in the home and neither parent is exempt from Virginia Initiative for Education and Work (VIEW) participation under § 63.2-609.

"Title IV-E Foster Care" means a federal program authorized under §§ 472 and 473 of the Social Security Act, as amended, and administered by the Department through which foster care is provided on behalf of qualifying children.

#### **§ 63.2-319. Child welfare and other services.**

Each local board shall provide, either directly or through the purchase of services subject to the

supervision of the Commissioner and in accordance with regulations adopted by the Board, any or all child welfare services herein described when such services are not available through other agencies serving residents in the locality. For purposes of this section, the term "child welfare services" means public social services that are directed toward:

1. Protecting the welfare of all children including ~~handicapped~~, homeless, dependent, or neglected children *or children with disabilities*;

2. Preventing or remedying, or assisting in the solution of problems that may result in the neglect, abuse, exploitation or delinquency of children;

3. Preventing the unnecessary separation of children from their families by identifying family problems, assisting families in resolving these problems and preventing the break up of the family where preventing the removal of a child is desirable and possible;

4. Restoring to their families children who have been removed by providing services to the families and children;

5. Placing children in suitable adoptive homes in cases where restoration to the biological family is not possible or appropriate; and

6. Assuring adequate care of children away from their homes in cases where they cannot be returned home or placed for adoption.

Each local board is also authorized and, as may be provided by regulations of the Board, shall provide rehabilitation and other services to help individuals attain or retain self-care or self-support and such services as are likely to prevent or reduce dependency and, in the case of dependent children, to maintain and strengthen family life.

**§ 63.2-1301. Types of adoption assistance payments.**

A. Title IV-E maintenance payments shall be made to the adoptive parents on behalf of an adopted child placed if it is determined that the child is a child with special needs as set forth in § 63.2-1300 and the child meets the requirements set forth in § 473 of Title IV-E of the Social Security Act (42 U.S.C. § 673).

B. State-funded maintenance payments may be made to the adoptive parents on behalf of an adopted child if it is determined that the child does not meet the requirements set forth in § 473 of Title IV-E of the Social Security Act (42 U.S.C. § 673) but the child is a child with special needs as set forth in § 63.2-1300. A child with special needs shall receive state-funded maintenance payments if he:

1. Was in the custody of a local board or a licensed child-placing agency at the time of the adoptive placement;

2. Was in the custody of a local board or a licensed child-placing agency at the time of the adoptive placement and met the factors set forth in subdivision B 1 or 2 of § 63.2-1300 at the time of adoption but such factors were not diagnosed until after the final order of adoption and no more than one year has elapsed from the date of diagnosis; or

3. Lived with his foster parents for at least 12 months and has developed significant emotional ties with his foster parents while in their care and the foster parents wish to adopt the child and state-funded maintenance payments are necessary to enable the adoption.

C. Special services payments may be made for the provision of services to the child that are not covered by insurance, Medicaid, or otherwise. Special services include (i) medical, surgical, and dental care; (ii) hospitalization; (iii) individual remedial education services; (iv) psychological and psychiatric treatment; (v) speech and physical therapy; and (vi) special equipment, treatment, and training for physical and mental ~~handicaps~~ *disabilities*. A child is eligible for special services payments if:

1. The child is a child with special needs as set forth in § 63.2-1300;

2. The child is receiving adoption assistance payments pursuant to subsection A or B; and

3. The adoptive parents are capable of providing the permanent family relationships needed by the child in all respects except financial.

D. Nonrecurring expense payments shall be made to the adoptive parents for expenses related to the adoption, including reasonable and necessary adoption fees, court costs, attorney fees and other legal service fees, as well as any other expenses that are directly related to the legal adoption of a child with special needs, including costs related to the adoption study, any health and psychological examinations, supervision of the placement prior to adoption and any transportation costs and reasonable costs of lodging and food for the child and the adoptive parents when necessary to complete the placement or adoption process for which the adoptive parents carry ultimate liability for payment and that have not been reimbursed from any other source, as set forth in 45 C.F.R. § 1356.41. However, the total amount of nonrecurring expense payments made to adoptive parents for the adoption of a child shall not exceed \$2,000 or an amount established by federal law.

**§ 63.2-1302. Adoption assistance payments; maintenance; special needs; payment agreements; continuation of payments when adoptive parents move to another jurisdiction; procedural requirements.**

A. Adoption assistance payments may include Title IV-E or state-funded maintenance payments; however, such payments shall not exceed the foster care payment that would otherwise be made for the child at the time the adoption assistance agreement is signed.

B. Adoption assistance payments shall cease when the child with special needs reaches 18 years of age. However, assistance payments may continue until the child reaches 21 years of age under the following circumstances:

1. The local department determines on or within six months prior to the child's eighteenth birthday that the child has a mental or physical ~~handicap~~ disability, or an educational delay resulting from such ~~handicap~~ disability, warranting the continuation of assistance; or

2. The initial adoption assistance agreement became effective on or after the child's sixteenth birthday and the child is (i) completing secondary education or an equivalent thereof; (ii) enrolled in an institution that provides postsecondary or vocational education; (iii) employed for at least 80 hours per month; (iv) participating in a program or activity designed to promote employment or remove barriers to employment; or (v) incapable of doing any of the activities set forth in clauses (i) through (iv) due to a medical condition.

C. Adoption assistance payments shall be made on the basis of an adoption assistance agreement entered into by the local board and the adoptive parents or, in cases in which the child is in the custody of a licensed child-placing agency, an agreement between the local board, the licensed child-placing agency and the adoptive parents. A representative of the Department shall negotiate all adoption assistance agreements with both existing and prospective adoptive parents on behalf of local departments.

Prior to entering into an adoption assistance agreement, the local board or licensed child-placing agency shall ensure that adoptive parents have received information about their child's eligibility for adoption assistance; about their child's special needs and, to the extent possible, the current and potential impact of those special needs. The local board or licensed child-placing agency shall also ensure that adoptive parents receive information about the process for appeal in the event of a disagreement between the adoptive parent and the local board or the adoptive parent and the child-placing agency and information about the procedures for renegotiating the adoption assistance agreement.

Adoptive parents shall submit annually to the local board within 30 days of the anniversary date of the approved agreement an affidavit which certifies that (i) the child on whose behalf they are receiving adoption assistance payments remains in their care, (ii) the child's condition requiring adoption assistance continues to exist, and (iii) whether or not changes to the adoption assistance agreement are requested.

Title IV-E maintenance payments made pursuant to this section shall be changed only in accordance with the provisions of § 473 of Title IV-E of the Social Security Act (42 U.S.C. § 673).

D. Responsibility for adoption assistance payments for a child placed for adoption shall be continued by the local board that initiated the agreement in the event that the adoptive parents live in or move to another jurisdiction.

E. Payments may be made under this chapter from appropriations for foster care services for the maintenance and medical or other services for children who have special needs in accordance with § 63.2-1301. Within the limitations of the appropriations to the Department, the Commissioner shall reimburse any agency making payments under this chapter. Any such agency may seek and accept funds from other sources, including federal, state, local, and private sources, to carry out the purposes of this chapter.

#### **§ 64.2-745. Certain claims for reimbursement for public assistance.**

A. Notwithstanding any contrary provision in the trust instrument, if a statute or regulation of the United States or Commonwealth requires a beneficiary to reimburse the Commonwealth or any agency or instrumentality thereof, for public assistance, including medical assistance, furnished or to be furnished to the beneficiary, the Attorney General or an attorney acting on behalf of the state agency responsible for the program may file a petition in the circuit court having jurisdiction over the trustee requesting reimbursement. The petition may be filed prior to obtaining a judgment. The beneficiary, the guardian of his estate, his conservator, or his committee shall be made a party.

B. Following its review of the circumstances of the case, the court may:

1. Order the trustee to satisfy all or part of the liability out of all or part of the amounts to which the beneficiary is entitled, whether presently or in the future, to the extent the beneficiary has the right under the trust to compel the trustee to pay income or principal to or for the benefit of the beneficiary; or

2. Regardless of whether the beneficiary has the right to compel the trustee to pay income or principal to or for the benefit of the beneficiary, order the trustee to satisfy all or part of the liability out of all or part of any future payments that the trustee chooses to make to or for the benefit of the beneficiary in the exercise of discretion under the trust.

C. A duty in the trustee under the instrument to make disbursements in a manner designed to avoid

**2741** rendering the beneficiary ineligible for public assistance to which he might otherwise be entitled,  
**2742** however, shall not be construed as a right possessed by the beneficiary to compel such payments.  
**2743** D. The court shall not issue an order pursuant to this section if the beneficiary is a person who has a  
**2744** medically determined physical or mental disability that substantially impairs his ability to provide for his  
**2745** care or custody, and constitutes a substantial ~~handicap~~ *disability*.