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## HOUSE BILL NO. 1025

Offered January 26, 1998

*A BILL to amend and reenact §§ 46.2-208 and 46.2-878.1 of the Code of Virginia, relating to records of the Department of Motor Vehicles; speeding in highway work zones; enforcement of speed limits in highway work zones through use of photo-monitoring equipment; penalty.*

Patron—Grayson

Referred to Committee on Transportation

**Be it enacted by the General Assembly of Virginia:****1. That §§ 46.2-208 and 46.2-878.1 of the Code of Virginia are amended and reenacted as follows:**

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

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

1. Personal information, including all data defined as "personal information" in § 2.1-379;

2. Driver information, including all data that relates to driver's license status and driver activity; and

3. Vehicle information, including all descriptive vehicle data and title, registration, and vehicle activity data.

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

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

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

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

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

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

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

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

8. On the written request of any motor vehicle rental or leasing company or its designated agent, the

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

74 9. On the request of any federal, state, or local governmental entity, law-enforcement officer, attorney  
75 for the Commonwealth, or court, the Commissioner shall (i) compare personal information supplied by  
76 the governmental entity, officer, attorney for the Commonwealth, or court with that contained in the  
77 Department's records and, when the information supplied by the governmental entity, officer, attorney  
78 for the Commonwealth, or court is different from that contained in the Department's records, provide the  
79 governmental entity, officer, attorney for the Commonwealth, or court with correct information as  
80 contained in the Department's records and (ii) provide driver and vehicle information in the form of an  
81 abstract of the record showing all convictions, accidents, driver's license suspensions or revocations, and  
82 other appropriate information as the governmental entity, officer, attorney for the Commonwealth, or  
83 court may require in order to carry out its official functions.

84 10. On request of the driver licensing authority in any other state or foreign country, the  
85 Commissioner shall provide whatever classes of information the requesting authority shall require in  
86 order to carry out its official functions.

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

97 12. On the written request of any member of or applicant for membership in a volunteer fire  
98 company or volunteer rescue squad, the Commissioner shall (i) compare personal information supplied  
99 by the volunteer fire company or volunteer rescue squad with that contained in the Department's records  
100 and, when the information supplied by the volunteer fire company or volunteer rescue squad is different  
101 from that contained in the Department's records, provide the volunteer fire company or volunteer rescue  
102 squad with correct information as contained in the Department's records and (ii) provide driver  
103 information in the form of an abstract of the member's or applicant's record showing all convictions,  
104 accidents, license suspensions or revocations, and any type of driver's license that the individual  
105 currently possesses. Such abstract shall be provided free of charge if the request is accompanied by  
106 appropriate written evidence that the person is a member of or applicant for membership in a volunteer  
107 fire company or volunteer rescue squad and the abstract is needed by a volunteer fire company or  
108 volunteer rescue squad to establish the qualifications of the member or applicant to operate equipment  
109 owned by the volunteer fire company or volunteer rescue squad.

110 13. On the written request of any person who has applied to be a volunteer with a Virginia affiliate  
111 of Big Brothers/Big Sisters of America, the Commissioner shall (i) compare personal information  
112 supplied by a Virginia affiliate of Big Brothers/Big Sisters of America with that contained in the  
113 Department's records and, when the information supplied by a Virginia affiliate of Big Brothers/Big  
114 Sisters of America is different from that contained in the Department's records, provide the Virginia  
115 affiliate of Big Brothers/Big Sisters of America with correct information as contained in the  
116 Department's records and (ii) provide driver information in the form of an abstract of the applicant's  
117 record showing all convictions, accidents, license suspensions or revocations, and any type of driver's  
118 license that the individual currently possesses. Such abstract shall be provided free of charge if the  
119 request is accompanied by appropriate written evidence that the person has applied to be a volunteer  
120 with a Virginia affiliate of Big Brothers/Big Sisters of America.

121 14. On the written request of any person who has applied to be a volunteer with a court-appointed

special advocate program pursuant to § 9-173.8, the Commissioner shall provide an abstract of the applicant's record showing all convictions, accidents, license suspensions or revocations, and any type of driver's license that the individual currently possesses. Such abstract shall be provided free of charge if the request is accompanied by appropriate written evidence that the person has applied to be a volunteer with a court-appointed special advocate program pursuant to § 9-173.8.

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

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

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

18. Upon the request, in the course of business, of any authorized representative of an insurance company or of any not-for-profit entity organized to prevent and detect insurance fraud, the Commissioner shall provide all vehicle information, including the owner's name and address, descriptive data and title, registration, and vehicle activity data to such person.

19. Upon the request of an officer authorized to issue criminal warrants, for the purpose of issuing a warrant for arrest for unlawful disposal of trash or refuse in violation of § 33.1-346, the Commissioner shall provide vehicle information, including the owner's name and address.

20. Upon written request of the compliance agent of a private security services business, as defined in § 9-183.1, which is licensed by the Department of Criminal Justice Services, the Commissioner shall provide the name and address of the owner of the vehicle under procedures determined by the Commissioner.

21. *Upon the request of the Department of Transportation or the governing body of any affected city or town, or an authorized agent or employee of the Department or affected city or town, for the purpose of obtaining vehicle owner data under subsection B § 46.2-878.1.*

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

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

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

F. In addition to the foregoing provisions of this section, vehicle information may also be inspected under the provisions of §§ 43-33, 43-34, 46.2-633, and 46.2-1200.1 through 46.2-1237.

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

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

§ 46.2-878.1. Maximum speed limits in highway work zones; penalty.

A. Operation of any motor vehicle in excess of a maximum speed limit established specifically for a highway work zone, when workers are present and when such highway work zone is indicated by appropriately placed signs displaying the maximum speed limit and the penalty for violations, shall be unlawful and constitute a traffic infraction punishable by a fine of not more than \$250.

For the purposes of this section, "highway work zone" means a construction or maintenance area that is located on or beside a highway and marked by appropriate warning signs or other traffic control devices indicating that work is in progress.

Nothing in this section shall preclude the prosecution or conviction for reckless driving of any motor

183 vehicle operator whose operation of any motor vehicle in a highway work zone, apart from speed,  
184 demonstrates a reckless disregard for life, limb, or property.

185 *B. The Department of Transportation and the governing body of any city or town for highways under*  
186 *its exclusive jurisdiction, may install and operate or cause to be installed and operated a*  
187 *photo-monitoring system in, at, or along highway work zones.*

188 *The operator of a vehicle shall be liable for the penalty provided in subsection A of this section for*  
189 *any violation of subsection A of this section if the vehicle is found, as evidenced by information obtained*  
190 *from a photo-monitoring system as provided in this subsection, to have violated the provisions of*  
191 *subsection A of this section.*

192 *Proof of a violation of this section shall be evidenced by information obtained from a*  
193 *photo-monitoring system as provided in this subsection. A certificate, sworn to or affirmed by a*  
194 *technician employed or authorized by the Department or the city or town wherein the highway work*  
195 *zone is located, as the case may be, or a facsimile of such a certificate, based on inspection of*  
196 *photographs, microphotographs, videotapes, or other recorded images produced by a photo-monitoring*  
197 *system, shall be prima facie evidence of the facts contained therein. Any photographs,*  
198 *microphotographs, videotape, or other recorded images evidencing such a violation shall be available*  
199 *for inspection in any proceeding to adjudicate the liability for such violation under this section.*

200 *In the prosecution of an offense under this section, prima facie evidence that the vehicle described in*  
201 *the summons issued pursuant to this section was operated in violation of this section, together with*  
202 *proof that the defendant was at the time of such violation the registered owner of the vehicle, shall*  
203 *constitute in evidence a rebuttable presumption that such registered owner of the vehicle was the person*  
204 *who committed the violation. Such presumption shall be rebutted if the registered owner of the vehicle*  
205 *(i) files an affidavit by regular mail with the clerk of the general district court that he or she was not*  
206 *the operator of the vehicle at the time of the alleged violation or (ii) testifies in open court under oath*  
207 *that he or she was not the operator of the vehicle at the time of the alleged violation. Such presumption*  
208 *shall also be rebutted if a certified copy of a police report, showing that the vehicle had been reported*  
209 *to the police as stolen prior to the time of the alleged violation of this section, is presented, prior to the*  
210 *return date established on the summons issued pursuant to this section, to the court adjudicating the*  
211 *alleged violation.*

212 *For purposes of this section, "owner" means the registered owner of such vehicle on record with the*  
213 *Department of Motor Vehicles. For purposes of this section, "owner" does not mean a vehicle rental or*  
214 *vehicle leasing company. For purposes of this section, "photo-monitoring system" means a vehicle*  
215 *sensor installed to work in conjunction with radar, or other speed detection or determination device*  
216 *authorized under § 46.2-882, that automatically produces one or more photographs, one or more*  
217 *microphotographs, a videotape, or other recorded images of each vehicle at the time it is used or*  
218 *operated in violation of this section.*

219 *A summons for a violation of this section may be executed pursuant to § 19.2-76.2. Notwithstanding*  
220 *the provisions of § 19.2-76, a summons for a violation of this section may be executed by mailing by*  
221 *first-class mail a copy thereof to the address of the owner of the vehicle as shown on the records of the*  
222 *Department of Motor Vehicles. If the summoned person fails to appear on the date of return set out in*  
223 *the summons mailed pursuant to this section, the summons shall be executed in the manner set out in*  
224 *§ 19.2-76.3.*

225 *The Department and the local governing body of any affected city or town may enter into an*  
226 *agreement with the Department of Motor Vehicles, in accordance with the provisions of subdivision 21*  
227 *of subsection B of § 46.2-208, to obtain vehicle owner information regarding the registered owners of*  
228 *vehicles that violate the provision of subsection A of this section.*