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**SENATE BILL NO. 588**  
**FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE**  
(Proposed by Delegate Grayson  
on March 9, 1998)

(Patron Prior to Substitute-Senator Forbes)

*A BILL to amend and reenact §§ 46.2-208, 46.2-819, and 46.2-878.1 of the Code of Virginia and to amend the Code of Virginia by adding in Article 1 of Chapter 8 of Title 46.2 a section numbered 46.2-819.1, relating to records of the Department of Motor Vehicles; use of toll facility without payment of required toll; enforcement of toll payments through use of photo-monitoring equipment; penalty.*

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

**1. That §§ 46.2-208, 46.2-819 and 46.2-878.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 1 of Chapter 8 of Title 46.2 a section numbered 46.2-819.1 as follows:**

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

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

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

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

60 subsection.

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

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

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

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

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

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

with a Virginia affiliate of Big Brothers/Big Sisters of America.

14. On the written request of any person who has applied to be a volunteer with a court-appointed special advocate program pursuant to § 9-173.8, 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 operator of a toll facility, or an authorized agent or employee of a toll facility operator, for the purpose of obtaining vehicle owner data under subsection H of § 46.2-819.1.*

*22. 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.

§ 46.2-819. Use of toll facility without payment of toll; circumstances to be considered in assessing penalty.

Except for those permitted free use of toll facilities under § 33.1-252, it shall be unlawful for the driver of a motor vehicle to use a toll facility without payment of the specified toll.

However, in considering the case of anyone accused of violating this section, the court shall take into

183 consideration (i) *except for lanes equipped for payment of tolls through an automatic vehicle*  
184 *identification system*, whether the toll booth or collection facility at which the defendant failed to pay  
185 the toll was manned at the time, (ii) whether the defendant was required to pay the toll with the exact  
186 amount in change, (iii) whether the defendant had change to make the payment, and (iv) whether the  
187 defendant had been afforded appropriate advance notice, by signs or other means, that he would be  
188 required to pay a toll and pay it with the exact change.

189 § 46.2-819.1. *Installation and use of photo-monitoring system in conjunction with certain toll*  
190 *facilities; penalty.*

191 A. *The operator of any toll facility or the locality within which such toll facility is located may*  
192 *install and operate or cause to be installed and operated a photo-monitoring system at locations where*  
193 *tolls are collected for the use of such toll facility.*

194 B. *The operator of a vehicle shall be liable for a monetary penalty of no more than fifty dollars for*  
195 *a first offense or more than \$100 for any subsequent offense if the vehicle is found, as evidenced by*  
196 *information obtained from a photo-monitoring system as provided in this section, to have used such a*  
197 *toll facility without payment of the required toll.*

198 C. *Proof of a violation of this section shall be evidenced by information obtained from a*  
199 *photo-monitoring system as provided in this section. A certificate, sworn to or affirmed by a technician*  
200 *employed or authorized by the operator of a toll facility or by the locality wherein the toll facility is*  
201 *located, or a facsimile of such a certificate, based on inspection of photographs, microphotographs,*  
202 *videotapes, or other recorded images produced by a photo-monitoring system, shall be prima facie*  
203 *evidence of the facts contained therein. Any photographs, microphotographs, videotape, or other*  
204 *recorded images evidencing such a violation shall be available for inspection in any proceeding to*  
205 *adjudicate the liability for such violation under this section.*

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

218 E. *For purposes of this section, "owner" means the registered owner of such vehicle on record with*  
219 *the Department of Motor Vehicles. For purposes of this section, "owner" does not mean a vehicle rental*  
220 *or vehicle leasing company. For purposes of this section, "photo-monitoring system" means a vehicle*  
221 *sensor installed to work in conjunction with a toll collection device that automatically produces one or*  
222 *more photographs, one or more microphotographs, a videotape, or other recorded images of each*  
223 *vehicle at the time it is used or operated in violation of this section.*

224 F. *Imposition of a penalty pursuant to this section shall not be deemed a conviction as an operator*  
225 *and shall not be made part of the operating record of the person upon whom such penalty is imposed*  
226 *nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage.*

227 G. *A summons for a violation of this section may be executed pursuant to § 19.2-76.2.*  
228 *Notwithstanding the provisions of § 19.2-76, a summons for a violation of this section may be executed*  
229 *by mailing by first-class mail a copy thereof to the address of the owner of the vehicle as shown on the*  
230 *records of the Department of Motor Vehicles. If the summoned person fails to appear on the date of*  
231 *return set out in the summons mailed pursuant to this section, the summons shall be executed in the*  
232 *manner set out in § 19.2-76.3. No proceedings for contempt or arrest of a person summoned by mailing*  
233 *shall be instituted for failure to appear on the return date of the summons.*

234 H. *The operator of a toll facility may enter into an agreement with the Department of Motor*  
235 *Vehicles, in accordance with the provisions of subdivision 21 of subsection B of § 46.2-208, to obtain*  
236 *vehicle owner information regarding the registered owners of vehicles that fail to pay tolls required for*  
237 *the use of toll facilities.*

238 § 46.2-878.1. *Maximum speed limits in highway work zones; penalty.*

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

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

245 devices indicating that work is in progress.

246 Nothing in this section shall preclude the prosecution or conviction for reckless driving of any motor  
247 vehicle operator whose operation of any motor vehicle in a highway work zone, apart from speed,  
248 demonstrates a reckless disregard for life, limb, or property.

249 *B. The Department of Transportation and the governing body of any city or town for highways under  
250 their exclusive jurisdiction, may install and operate or cause to be installed and operated a  
251 photo-monitoring system in, at, or along highway work zones on toll facilities.*

252 *The operator of a vehicle shall be liable for the penalty provided in subsection A of this section for  
253 any violation of subsection A of this section on a toll facility if the vehicle is found, as evidenced by  
254 information obtained from a photo-monitoring system as provided in this subsection, to have violated the  
255 provisions of subsection A of this section on a toll facility.*

256 *Proof of a violation of this section on a toll facility shall be evidenced by information obtained from  
257 a photo-monitoring system as provided in this subsection. A certificate, sworn to or affirmed by a  
258 technician employed or authorized by the Department or the city or town wherein the highway work  
259 zone on a toll facility is located, as the case may be, or a facsimile of such a certificate, based on  
260 inspection of photographs, microphotographs, videotapes, or other recorded images produced by a  
261 photo-monitoring system, shall be prima facie evidence of the facts contained therein. Any photographs,  
262 microphotographs, videotape, or other recorded images evidencing such a violation shall be available  
263 for inspection in any proceeding to adjudicate the liability for such violation on a toll facility under this  
264 section.*

265 *In the prosecution of an offense under this section, prima facie evidence that the vehicle described in  
266 the summons issued pursuant to this section was operated in violation of this section on a toll facility,  
267 together with proof that the defendant was at the time of such violation the registered owner of the  
268 vehicle, shall constitute in evidence a rebuttable presumption that such registered owner of the vehicle  
269 was the person who committed the violation. Such presumption shall be rebutted if the registered owner  
270 of the vehicle (i) files an affidavit by regular mail with the clerk of the general district court that he or  
271 she was not the operator of the vehicle at the time of the alleged violation or (ii) testifies in open court  
272 under oath that he or she was not the operator of the vehicle at the time of the alleged violation. Such  
273 presumption shall also be rebutted if a certified copy of a police report, showing that the vehicle had  
274 been reported to the police as stolen prior to the time of the alleged violation of this section, is  
275 presented, prior to the return date established on the summons issued pursuant to this section, to the  
276 court adjudicating the alleged violation.*

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

284 *A summons for a violation of this section may be executed pursuant to § 19.2-76.2. Notwithstanding  
285 the provisions of § 19.2-76, a summons for a violation of this section may be executed by mailing by  
286 first-class mail a copy thereof to the address of the owner of the vehicle as shown on the records of the  
287 Department of Motor Vehicles. If the summoned person fails to appear on the date of return set out in  
288 the summons mailed pursuant to this section, the summons shall be executed in the manner set out in  
289 § 19.2-76.3.*

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

294 *The provisions of the subsection shall apply only to violations committed in highway work zones on  
295 toll facilities.*