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SENATE BILL NO. 775

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Transportation
on February 4, 1999)

(Patron Prior to Substitute—Senator Barry)

A BILL to amend and reenact §§ 46.2-208 and 46.2-833.01 of the Code of Virginia, relating to records of the Department of Motor Vehicles and use of photo-monitoring equipment to enforce traffic light signals.

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-208 and 46.2-833.01 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 Commissioner shall (i) compare personal information supplied by the company or agent with that contained in the Department's records and, when the information supplied by the company or agent is

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

72 9. On the request of any federal, state, or local governmental entity, law-enforcement officer, attorney
73 for the Commonwealth, court, or the authorized agent of any of the foregoing, the Commissioner shall
74 (i) compare personal information supplied by the governmental entity, officer, attorney for the
75 Commonwealth, court, or the authorized agent of any of the foregoing, with that contained in the
76 Department's records and, when the information supplied by the governmental entity, officer, attorney
77 for the Commonwealth, court, or the authorized agent of any of the foregoing, is different from that
78 contained in the Department's records, provide the governmental entity, officer, attorney for the
79 Commonwealth, court, or the authorized agent of any of the foregoing, 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, court,
83 or the authorized agent of any of the foregoing, 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 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 a locality authorized to operate a traffic light signal enforcement program under § 46.2-833.01, or an authorized agent or employee of any such locality, for the purpose of obtaining vehicle owner data for use in connection with such traffic light signal enforcement program.

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.

I. The Department shall maintain the records of persons convicted of violations of subsection B of § 29.1-738, and §§ 29.1-738.02, 29.1-738.2, and 29.1-738.4 which shall be forwarded by every general district court or circuit court or the clerk thereof, pursuant to § 46.2-383. Such records shall be electronically available to any law-enforcement officer as provided for under clause (ii) of subdivision B 9 of this section.

§ 46.2-833.01. Use of photo-monitoring systems to enforce traffic light signals; penalty.

A. The governing body of any city having a population of more than 390,000, any city having a

183 population of at least 200,000 but less than 225,000, any county having the urban county executive form
184 of government, any county adjacent to such county, and any city or town adjacent to or surrounded by
185 such county except any county having the county executive form of government and the cities
186 surrounded by such county may provide by ordinance for the establishment of a demonstration program
187 imposing monetary liability on the operator of a motor vehicle for failure to comply with traffic light
188 signals in such locality in accordance with the provisions of this section. Each such locality may install
189 and operate traffic light signal photo-monitoring systems at no more than twenty-five intersections
190 within each locality at any one time.

191 B. The operator of a vehicle shall be liable for a monetary penalty imposed pursuant to this section
192 if such vehicle is found, as evidenced by information obtained from a traffic light signal violation
193 monitoring system, to have failed to comply with a traffic light signal within such locality.

194 C. Proof of a violation of this section shall be evidenced by information obtained from a traffic light
195 signal violation monitoring system authorized pursuant to this section. A certificate, ~~sworn to or affirmed~~
196 ~~by a technician employed by a locality authorized to impose penalties pursuant to this section,~~ or a
197 facsimile thereof, based upon inspection of photographs, microphotographs, videotape, or other recorded
198 images produced by a traffic light signal violation monitoring system, shall be prima facie evidence of
199 the facts contained therein. Any photographs, microphotographs, videotape, or other recorded images
200 evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability
201 for such violation pursuant to an ordinance adopted pursuant to this section.

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

214 E. For purposes of this section "owner" means the registered owner of such vehicle on record with
215 the Department of Motor Vehicles. ~~For purposes of this section "owner" does not mean a vehicle rental~~
216 ~~or vehicle leasing company.~~ For purposes of this section, "traffic light signal violation-monitoring
217 system" means a vehicle sensor installed to work in conjunction with a traffic light that automatically
218 produces two or more photographs, two or more microphotographs, a videotape, or other recorded
219 images of each vehicle at the time it is used or operated in violation of this section.

220 F. Imposition of a penalty pursuant to this section shall not be deemed a conviction as an operator
221 and shall not be made part of the operating record of the person upon whom such liability is imposed
222 nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage. No
223 monetary penalty imposed under this section shall exceed fifty dollars nor shall it include court costs.

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

233 H. In any action at law brought by any person or entity as the result of personal injury or death or
234 damage to property, such evidence derived from a photo-monitoring system shall be admissible in the
235 same method prescribed as required in the prosecution of an offense established under this section
236 without the requirements of authentication as otherwise required by law.

237 I. ~~On behalf of a locality, a private entity may not obtain records regarding the registered owners of~~
238 ~~vehicles which fail to comply with traffic light signals.~~ A private entity may enter into an agreement
239 with a locality to be compensated for providing the traffic light signal violation ~~monitor~~ monitoring
240 system or equipment, and all related support services, to include consulting, operations and
241 administration. ~~However, only an employee of the locality may swear to or affirm the certificate~~
242 ~~required by subsection C.~~

243 J. The provisions of this section shall expire on July 1, 2005.