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HOUSE BILL NO. 2344

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on January 25, 2019)

(Patron Prior to Substitute—Delegate Bell, Robert B.)

A BILL to amend and reenact §§ 46.2-208 and 46.2-844 of the Code of Virginia, relating to Department of Motor Vehicle records; certain private vendors; penalty.

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-208 and 46.2-844 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 § 2.2-3801;

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, physician assistant, or nurse practitioner 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 (a) the subject of the information, (b) the parent or guardian of the subject of the information, (c) the authorized representative of the subject of the information, or (d) 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 60 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 60 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 that 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.

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 different from that contained in the Department's records, provide the company or agent with correct information as contained in the Department's records and (ii) provide the company or agent with driver

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

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

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. The information shall be provided free of charge.

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

116 13. On the written request of any person who has applied to be a volunteer with a Virginia affiliate
117 of Big Brothers/Big Sisters of America, the Commissioner shall (i) compare personal information
118 supplied by a Virginia affiliate of Big Brothers/Big Sisters of America with that contained in the
119 Department's records and, when the information supplied by a Virginia affiliate of Big Brothers/Big
120 Sisters of America is different from that contained in the Department's records, provide the Virginia
121 affiliate of Big Brothers/Big Sisters of America with correct information as contained in the

Department's records and (ii) provide driver information in the form of 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 at a fee that is one-half the normal charge if the request is accompanied by appropriate written evidence that the person has applied to be a volunteer 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 § 9.1-153, 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 § 9.1-153.

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, or perform rating and underwriting activities, the Commissioner shall provide to such person (i) all vehicle information, including the owner's name and address, descriptive data and title, registration, and vehicle activity data as requested or (ii) all driver information including name, license number and classification, date of birth, and address information for each driver under the age of 22 licensed in the Commonwealth of Virginia meeting the request criteria designated by such person, with such request criteria consisting of driver's license number or address information. No such information shall be used for solicitation of sales, marketing, or other commercial purposes.

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 § 33.2-802 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 § 9.1-138, 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 traffic light photo-monitoring system acting on behalf of a government entity, or of the Dulles Access Highway, or an authorized agent or employee of a toll facility operator or traffic light photo-monitoring system operator acting on behalf of a government entity or the Dulles Access Highway, for the purpose of obtaining vehicle owner data under subsection M of § 46.2-819.1 or subsection H of § 15.2-968.1 or subsection N of § 46.2-819.5. Information released pursuant to this subdivision shall be limited to the name and address of the owner of the vehicle having failed to pay a toll or having failed to comply with a traffic light signal or having improperly used the Dulles Access Highway and the vehicle information, including all descriptive vehicle data and title and registration data of the same vehicle.

22. On the written request of any person who has applied to be a volunteer with a Virginia affiliate of Compeer, the Commissioner shall (i) compare personal information supplied by a Virginia affiliate of Compeer with that contained in the Department's records and, when the information supplied by a Virginia affiliate of Compeer is different from that contained in the Department's records, provide the Virginia affiliate of Compeer with correct information as contained in the Department's records and (ii) provide driver information in the form of 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 at a fee that is one-half the normal charge if the request is accompanied by appropriate written evidence that the person has applied to be a volunteer

183 with a Virginia affiliate of Compeer.

184 23. Upon the request of the Department of Environmental Quality for the purpose of obtaining
185 vehicle owner data in connection with enforcement actions involving on-road testing of motor vehicles,
186 pursuant to § 46.2-1178.1.

187 24. On the written request of any person who has applied to be a volunteer vehicle operator with a
188 Virginia chapter of the American Red Cross, the Commissioner shall (i) compare personal information
189 supplied by a Virginia chapter of the American Red Cross with that contained in the Department's
190 records and, when the information supplied by a Virginia chapter of the American Red Cross is different
191 from that contained in the Department's records, provide the Virginia chapter of the American Red Cross
192 with correct information as contained in the Department's records and (ii) provide driver information in
193 the form of an abstract of the applicant's record showing all convictions, accidents, license suspensions
194 or revocations, and any type of driver's license that the individual currently possesses. Such abstract
195 shall be provided at a fee that is one-half the normal charge if the request is accompanied by
196 appropriate written evidence that the person has applied to be a volunteer vehicle operator with a
197 Virginia chapter of the American Red Cross.

198 25. On the written request of any person who has applied to be a volunteer vehicle operator with a
199 Virginia chapter of the Civil Air Patrol, the Commissioner shall (i) compare personal information
200 supplied by a Virginia chapter of the Civil Air Patrol with that contained in the Department's records
201 and, when the information supplied by a Virginia chapter of the Civil Air Patrol is different from that
202 contained in the Department's records, provide the Virginia chapter of the Civil Air Patrol with correct
203 information as contained in the Department's records and (ii) provide driver information in the form of
204 an abstract of the applicant's record showing all convictions, accidents, license suspensions or
205 revocations, and any type of driver's license that the individual currently possesses. Such abstract shall
206 be provided at a fee that is one-half the normal charge if the request is accompanied by appropriate
207 written evidence that the person has applied to be a volunteer vehicle operator with a Virginia chapter of
208 the Civil Air Patrol.

209 26. On the written request of any person who has applied to be a volunteer vehicle operator with
210 Faith in Action, the Commissioner shall (i) compare personal information supplied by Faith in Action
211 with that contained in the Department's records and, when the information supplied by Faith in Action is
212 different from that contained in the Department's records, provide Faith in Action with correct
213 information as contained in the Department's records and (ii) provide driver information in the form of
214 an abstract of the applicant's record showing all convictions, accidents, license suspensions or
215 revocations, and any type of driver's license that the individual currently possesses. Such abstract shall
216 be provided at a fee that is one-half the normal charge if the request is accompanied by appropriate
217 written evidence that the person has applied to be a volunteer vehicle operator with Faith in Action.

218 27. On the written request of the surviving spouse or child of a deceased person or the executor or
219 administrator of a deceased person's estate, the Department shall, if the deceased person had been issued
220 a driver's license or special identification card by the Department, supply the requestor with a hard copy
221 image of any photograph of the deceased person kept in the Department's records.

222 28. On the written request of any person who has applied to be a volunteer with a Virginia Council
223 of the Girl Scouts of the USA, the Commissioner shall (i) compare personal information supplied by a
224 Virginia Council of the Girl Scouts of the USA with that contained in the Department's records and,
225 when the information supplied by a Virginia Council of the Girl Scouts of the USA is different from
226 that contained in the Department's records, provide a Virginia Council of the Girl Scouts of the USA
227 with correct information as contained in the Department's records and (ii) provide driver information in
228 the form of an abstract of the applicant's record showing all convictions, accidents, license suspensions
229 or revocations, and any type of driver's license that the individual currently possesses. Such abstract
230 shall be provided at a fee that is one-half the normal charge if the request is accompanied by
231 appropriate written evidence that the person has applied to be a volunteer with the Virginia Council of
232 the Girl Scouts of the USA.

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

237 30. *Upon the request of the operator of a video-monitoring system as defined in § 46.2-844 acting on*
238 *behalf of a government entity, the Commissioner shall provide vehicle owner data pursuant to*
239 *subsection B of § 46.2-844. Information released pursuant to this subdivision shall be limited to the*
240 *name and address of the owner of the vehicle having passed a stopped school bus and the vehicle*
241 *information, including all descriptive vehicle data and title and registration data for such vehicle.*

242 C. Whenever the Commissioner issues an order to suspend or revoke the driver's license or driving
243 privilege of any individual, he may notify the National Driver Register Service operated by the United
244 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 §§ 46.2-633, 46.2-644.02, 46.2-644.03, 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 § 18.2-36.2, 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.

J. Whenever the Commissioner issues a certificate of title for a motor vehicle, he may notify the National Motor Vehicle Title Information System, or any other nationally recognized system providing similar information, or any entity contracted to collect information for such system, and may provide whatever classes of information are required by such system.

§ 46.2-844. Passing stopped school buses; penalty; 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, or mentally or physically handicapped persons, who, in violation of § 46.2-859, fails to stop and remain stopped until all such persons are clear of the highway, private road, or school driveway 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. 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

306 person fails to appear on the date of return set out in the summons mailed pursuant to this section, the
307 summons shall be executed in the manner set out in § 19.2-76.3. No proceedings for contempt or arrest
308 of a person summoned by mailing shall be instituted for failure to appear on the return date of the
309 summons. Any summons executed for violation of this section shall provide to the person summoned at
310 least 30 business days from the mailing of the summons to inspect information collected by a
311 video-monitoring system in connection with the violation.

312 2. *Any private vendor contracting with a school division pursuant to this subsection may enter into*
313 *an agreement with the Department of Motor Vehicles, in accordance with the provisions of subdivision*
314 *B 30 of § 46.2-208, to obtain vehicle owner information regarding the registered owners of vehicles that*
315 *improperly pass stopped school buses. Information provided to such private vendor shall be protected in*
316 *a database with security comparable to that of the Department of Motor Vehicle's system and used only*
317 *for enforcement against individuals who violate the provisions of this section. The school division shall*
318 *annually certify compliance with this subdivision and make all records pertaining to such system*
319 *available for inspection and audit by the Commissioner of Highways or the Commissioner of the*
320 *Department of Motor Vehicles or their designee. Any person who discloses personal information in*
321 *violation of the provisions of this subdivision shall be subject to a civil penalty of \$1,000 per disclosure.*
322 *Any unauthorized use or disclosure of such personal information shall be grounds for termination of the*
323 *agreement between the Department of Motor Vehicles and the private vendor.*

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