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SENATE BILL NO. 34

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Transportation
on January 30, 2020)

(Patrons Prior to Substitute—Senators Surovell and Boysko [SB 643])

A *BILL to amend and reenact §§ 46.2-323, 46.2-324, 46.2-325, 46.2-328.1, 46.2-330, 46.2-332, 46.2-335, 46.2-337, 46.2-341.12, as it is currently effective and as it may become effective, 46.2-341.14, as it is currently effective and as it may become effective, 46.2-345, 46.2-345.2, and 63.2-503.1 of the Code of Virginia and to repeal §§ 46.2-334.1 and 46.2-335.1 of the Code of Virginia, relating to Department of Motor Vehicles; driver documents and reexamination fees.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-323, 46.2-324, 46.2-325, 46.2-328.1, 46.2-330, 46.2-332, 46.2-335, 46.2-337, 46.2-341.12, as it is currently effective and as it may become effective, 46.2-341.14, as it is currently effective and as it may become effective, 46.2-345, 46.2-345.2, and 63.2-503.1 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-323. Application for driver's license; proof of completion of driver education program; penalty.

A. Every application for a driver's license, temporary driver's permit, learner's permit, or motorcycle learner's permit shall be made on a form prescribed by the Department and the applicant shall write his usual signature in ink in the space provided on the form. The form shall include notice to the applicant of the duty to register with the Department of State Police as provided in Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, if the applicant has been convicted of an offense for which registration with the Sex Offender and Crimes Against Minors Registry is required.

B. Every application shall state the full legal name, year, month, and date of birth, *sex, residence address, and social security number; sex, and residence address or Individual Taxpayer Identification Number* of the applicant; whether or not the applicant has previously been licensed as a driver and, if so, when and by what state, and whether or not his license has ever been suspended or revoked and, if so, the date of and reason for such suspension or revocation. *If the applicant has not been issued a social security number or Individual Taxpayer Identification Number, he shall certify that such number has not been issued.* The Department, as a condition for the issuance of any driver's license, temporary driver's permit, learner's permit, or motorcycle learner's permit shall require the surrender of any driver's license or, in the case of a motorcycle learner's permit, a motorcycle license issued by another state and held by the applicant. The applicant shall also answer any questions on the application form or otherwise propounded by the Department incidental to the examination. ~~The~~ *If required to appear in person before the Department to apply, the applicant may also be required to present proof of identity, residency, and social security number or non-work authorized status, if required to appear in person before the Department to apply or Individual Taxpayer Identification Number, or certify that a social security number or Individual Taxpayer Identification Number has not been issued.*

The Commissioner shall require that each application include a certification statement to be signed by the applicant under penalty of perjury, certifying that the information presented on the application is true and correct.

If the applicant fails or refuses to sign the certification statement, the Department shall not issue the applicant a driver's license, temporary driver's permit, learner's permit or motorcycle learner's permit.

Any applicant who knowingly makes a false certification or supplies false or fictitious evidence shall be punished as provided in § 46.2-348.

C. Every application for a driver's license shall include a photograph of the applicant supplied under arrangements made by the Department. The photograph shall be processed by the Department so that the photograph can be made part of the issued license.

D. Notwithstanding the provisions of § 46.2-334, every applicant for a driver's license who is under 18 years of age shall furnish the Department with satisfactory proof of his successful completion of a driver education program approved by the State Department of Education.

E. Every application for a driver's license submitted by a person less than 18 years old and attending a public school in the Commonwealth shall be accompanied by a document, signed by the applicant's parent or legal guardian, authorizing the principal, or his designee, of the school attended by the applicant to notify the juvenile and domestic relations district court within whose jurisdiction the minor resides when the applicant has had 10 or more unexcused absences from school on consecutive school days.

F. The Department shall electronically transmit application information to the Department of State Police, in a format approved by the State Police, for comparison with information contained in the

SENATE SUBSTITUTE

SB34S1

60 Virginia Criminal Information Network and National Crime Information Center Convicted Sexual
61 Offender Registry Files, at the time of issuance of a driver's license, temporary driver's permit, learner's
62 permit, or motorcycle learner's permit. Whenever it appears from the records of the State Police that a
63 person has failed to comply with the duty to register or reregister pursuant to Chapter 9 (§ 9.1-900 et
64 seq.) of Title 9.1, the State Police shall promptly investigate and, if there is probable cause to believe a
65 violation has occurred, obtain a warrant or assist in obtaining an indictment charging a violation of
66 § 18.2-472.1 in the jurisdiction in which the person made application of licensure.

67 **§ 46.2-324. Applicants and license holders to notify Department of change of address; fee.**

68 A. Whenever any person, after applying for or obtaining a driver's license or special identification
69 card shall move from the address shown in the application or on the license or special identification
70 card, he shall, within 30 days, notify the Department of his change of address. If the Department
71 receives notification from the person or any court or law-enforcement agency that a person's residential
72 address has changed to a non-Virginia address, unless the person (i) is on active duty with the armed
73 forces of the United States, (ii) provides proof that he is a U.S. citizen and resides outside the United
74 States because of his employment or the employment of a spouse or parent, or (iii) provides proof
75 satisfactory to the Commissioner that he is a bona fide resident of Virginia, the Department shall (i) (a)
76 mail, by first-class mail, no later than three days after the notice of address change is received by the
77 Department, notice to the person that his license and/or special identification card will be cancelled by
78 the Department and (ii) (b) cancel the driver's license and/or special identification card 30 days after
79 notice of cancellation has been mailed.

80 B. The Department may contract with the United States Postal Service or an authorized agent to use
81 the National Change of Address System for the purpose of obtaining current address information for a
82 person whose name appears in customer records maintained by the Department. If the Department
83 receives information from the National Change of Address System indicating that a person whose name
84 appears in a Department record has submitted a permanent change of address to the Postal Service, the
85 Department may then update its records with the mailing address obtained from the National Change of
86 Address System.

87 C. There may be imposed upon anyone failing to notify the Department of his change of address as
88 required by this section a fee of \$5, which fee shall be used to defray the expenses incurred by the
89 Department. Notwithstanding the foregoing provision of this subsection, no fee shall be imposed on any
90 person whose address is obtained from the National Change of Address System.

91 D. The Department shall electronically transmit change of address information to the Department of
92 State Police, in a format approved by the State Police, for comparison with information contained in the
93 Virginia Criminal Information Network and National Crime Information Center Convicted Sexual
94 Offender Registry Files, at the time of the change of address. Whenever it appears from the records of
95 the State Police that a person has failed to comply with the duty to register or reregister pursuant to
96 Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, the State Police shall promptly investigate and, if there is
97 probable cause to believe a violation has occurred, obtain a warrant or assist in obtaining an indictment
98 charging a violation of § 18.2-472.1 in the jurisdiction in which the person last registered or reregistered
99 or in the jurisdiction where the person made application for change of address.

100 E. For any summons issued for a violation of this section, the court may, in its discretion, dismiss
101 the summons, where proof of compliance with this section is provided to the court on or before the
102 court date.

103 **§ 46.2-325. Examination of applicants; waiver of Department's examination under certain**
104 **circumstances; behind-the-wheel and knowledge examinations.**

105 A. The Department shall examine every applicant for a driver's license before issuing any license to
106 determine (i) his physical and mental qualifications and his ability to drive a motor vehicle without
107 jeopardizing the safety of persons or property and (ii) if any facts exist which would bar the issuance of
108 a license under §§ 46.2-311 through 46.2-316, 46.2-334, or 46.2-335. The examination, however, shall
109 not include investigation of any facts other than those directly pertaining to the ability of the applicant
110 to drive a motor vehicle with safety, or other than those facts declared to be prerequisite to the issuance
111 of a license under this chapter. No applicant otherwise competent shall be required to demonstrate
112 ability to park any motor vehicle except in an adequate parking space between horizontal markers, and
113 not between flags or sticks simulating parked vehicles. Except as provided for in § 46.2-337, applicants
114 for licensure to drive motor vehicles of the classifications referred to in § 46.2-328 shall submit to
115 examinations which relate to the operation of those vehicles. The motor vehicle to be used by the
116 applicant for the behind-the-wheel examination shall meet the safety and equipment requirements
117 specified in Chapter 10 (§ 46.2-1000 et seq.) and possess a valid inspection sticker as required pursuant
118 to § 46.2-1157. An autocycle shall not be used by the applicant for a behind-the-wheel examination.

119 Prior to taking the examination, the applicant shall either (a) present evidence that the applicant has
120 completed a state-approved driver education class pursuant to the provisions of § 46.2-324.1 or 46.2-334
121 or (b) submit to the examiner a behind-the-wheel maneuvers checklist, on a form provided by the

Department, that describes the vehicle maneuvers the applicant may be expected to perform while taking the behind-the-wheel examination, that has been signed by a licensed driver, certifying that the applicant has practiced the driving maneuvers contained and described therein, and that has been signed by the applicant certifying that, at all times while holding a learner's permit, the applicant has complied with the provisions of § 46.2-335 while operating a motor vehicle.

Except for applicants subject to § 46.2-312, if the Commissioner is satisfied that an applicant has demonstrated the same proficiency as required by the Department's examination through successful completion of either (1) the driver education course approved by the Department of Education or (2) a driver training course offered by a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.), he may waive those parts of the Department's examination provided for in this section that require the applicant to drive and park a motor vehicle.

B. Any person who fails the *knowledge examination* or behind-the-wheel examination for a driver's license administered by *an employee of* the Department shall wait ~~two~~ *five* days before being permitted to take another such examination. No person who fails the behind-the-wheel examination for a driver's license administered by the Department three times shall be permitted to take such examination a fourth time until he successfully completes, subsequent to the third examination failure, the in-vehicle component of driver instruction at a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) or a comparable course approved by the Department or the Department of Education. In addition, no person who fails the driver knowledge examination for a driver's license administered by the Department three times shall be permitted to take such examination a fourth time until he successfully completes, subsequent to the third examination failure, the classroom component of driver instruction at a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) or a comparable course approved by the Department or the Department of Education or, for (i) persons at least 18 years old or (ii) persons less than 18 years old who have previously completed the classroom component of driver instruction, a course of instruction based on the Virginia Driver's Manual, which may be conducted in a classroom or online, offered by a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) or a comparable course approved by the Department or the Department of Education. Any driver training school authorized to provide the Virginia Driver's Manual course online shall be a computer-based driver education provider as defined in § 46.2-1700. Providers of the Virginia Driver's Manual course online shall ensure that the certificate of completion is issued to the same person who took the course in a manner prescribed by the Department. All persons required to complete the in-vehicle component of driver instruction or the classroom component of driver instruction pursuant to this section shall be required after successful completion of the necessary courses to have the applicable examination administered by the Department.

The provisions of this subsection shall not apply to persons ~~placed under medical control who are subject to reexamination~~ by the Department pursuant to § 46.2-322.

§ 46.2-328.1. Certain licenses, permits, and special identification cards to be issued only to applicants who meet the requirements of the REAL ID Act.

A. Notwithstanding any other provision of this title, except as provided in subsection G of § 46.2-345, the Department shall not issue an original license, permit, or special identification card pursuant to the provisions of the REAL ID Act of 2005, as amended, (REAL ID Act) and the REAL ID implementing regulations, 6 C.F.R. Part 37, to any applicant who has not presented to the Department, with the application, valid documentary evidence that the applicant is either (i) a citizen of the United States, (ii) a legal permanent resident of the United States, or (iii) a conditional resident alien of the United States lawfully present in the United States as required pursuant to the REAL ID Act.

B. Notwithstanding the provisions of subsection A and the provisions of §§ 46.2-330 and 46.2-345, an applicant who presents in person valid documentary evidence of (i) a valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry into the United States, (ii) a pending or approved application for asylum in the United States, (iii) entry into the United States in refugee status, (iv) a pending or approved application for temporary protected status in the United States, (v) approved deferred action status, or (vi) a pending application for adjustment of status to legal permanent residence status or conditional resident status, for a REAL ID who provides evidence of temporary lawful status in the United States as required under the REAL ID Act may be issued a temporary license, permit, or special identification card. Such temporary license, permit, or special identification card shall be valid only during the period of time of the applicant's authorized stay in the United States or if there is no definite end to the period of authorized stay a period of one year. No license, permit, or special identification card shall be issued if an applicant's authorized stay in the United States is less than 30 days from the date of application. Any temporary license, permit, or special identification card issued pursuant to this subsection shall clearly indicate that it is temporary and shall state the date that it expires. Such a temporary license, permit or identification card may be renewed only upon presentation of valid documentary evidence that the status by which the applicant qualified for the temporary license, permit

or special identification has been extended by the United States Immigration and Naturalization Service or the Bureau of Citizenship and Immigration Services of the Department of Homeland Security.

C. Any license or special identification card for which an application has been made for renewal, duplication or reissuance shall be presumed to have been issued in accordance with the provisions of subsection A, provided that, at the time the application is made, (i) the license or special identification card has not expired or been cancelled, suspended or revoked or (ii) the license or special identification card has been canceled or suspended as a result of the applicant having been placed under medical review by the Department pursuant to ~~§ 46.2-322~~. The requirements of subsection A shall apply, however, to a renewal, duplication or reissuance if the Department is notified by a local, state or federal government agency that the individual seeking such renewal, duplication or reissuance is neither a citizen of the United States nor legally in the United States.

D. The Department shall cancel any license, permit, or special identification card issued pursuant to the REAL ID Act that it has issued to an individual if it is notified by a federal government agency that the individual is neither a citizen of the United States nor legally present in the United States.

E. For any applicant who presents a document pursuant to this section proving legal presence other than citizenship, the Department shall record and provide to the State Board of Elections monthly the applicant's document number, if any, issued by an agency or court of the United States government.

D. Notwithstanding the provisions of § 46.2-208, the Department shall not release except upon the request by the subject of the information, the parent of a minor who is the subject of the information, the guardian of the subject of the information, or the authorized representative of the subject of the information, or pursuant to a court order, (i) proof documents submitted for the purpose of obtaining a driving credential or a special identification card, (ii) the information in the Department's records indicating the type of proof documentation that was provided, or (iii) applications relating to the issuance of a driving credential or a special identification card.

No photograph may be released upon the request of a federal, state, or local governmental entity, local government group self-insurance pool, law-enforcement officer, attorney for the Commonwealth, court, or the authorized agent of any of the foregoing unless the requester provides an individual's name and other sufficient identifying information contained on the individual's record. No photograph may be released pursuant to this provision unless the requester provides evidence, in a manner prescribed by the Department, showing that the photograph requested is required to carry out the requester's official function, including the legal authority that authorizes the requester's activity for which such photograph will be used and how the requested photograph will be used to carry out the action authorized by such legal authority. If the Commissioner determines that sufficient evidence has not been provided by the requester to show that the purpose for which such photograph will be used is one of the requester's official functions, the Commissioner may deny such request.

§ 46.2-330. Expiration and renewal of licenses; examinations required.

A. Every driver's license shall expire on the applicant's birthday at the end of the period of years for which a driver's license has been issued. At no time shall any driver's license be issued for more than eight years or less than five years, unless otherwise provided by law. Thereafter the driver's license shall be renewed on or before the birthday of the licensee and shall be valid for a period not to exceed eight years except as otherwise provided by law. Any driver's license issued to a person age 75 or older shall be issued for a period not to exceed five years. Notwithstanding these limitations, the Commissioner may extend the validity period of an expiring license if (i) the Department is unable to process an application for renewal due to circumstances beyond its control; and (ii) the extension has been authorized under a directive from the Governor; and (iii) the license was not issued as a temporary driver's license under the provisions of subsection B of ~~§ 46.2-328.1~~. However, in no event shall the validity period be extended more than 90 days per occurrence of such conditions. In determining the number of years for which a driver's license shall be renewed, the Commissioner shall take into consideration the examinations, conditions, requirements, and other criteria provided under this title that relate to the issuance of a license to operate a vehicle. Any driver's license issued to a person required to register pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 shall expire on the applicant's birthday in years which the applicant attains an age equally divisible by five.

B. Within one year prior to the date shown on the driver's license as the date of expiration, the Department shall send notice, to the holder thereof, at the address shown on the records of the Department in its driver's license file, that his license will expire on a date specified therein, whether he must be reexamined, and when he may be reexamined. Nonreceipt of the notice shall not extend the period of validity of the driver's license beyond its expiration date. The license holder may request the Department to send such renewal notice to an email or other electronic address, upon provision of such address to the Department.

Any driver's license may be renewed by application after the applicant has taken and successfully completed those parts of the examination provided for in §§ 46.2-311, 46.2-325, and the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.), including vision and written tests, other than the

parts of the examination requiring the applicant to drive a motor vehicle. All drivers applying in person for renewal of a license shall take and successfully complete the examination each renewal year. Every applicant for a renewal shall appear in person before the Department, unless specifically notified by the Department that renewal may be accomplished in another manner as provided in the notice. Applicants who are required to appear in person before the Department to apply for a renewal may also be required to present proof of identity, ~~legal presence;~~ residency; and social security number ~~or non-work authorized status~~ or Individual Taxpayer Identification Number, or certify that a social security number or Individual Taxpayer Identification Number has not been issued.

C. Notwithstanding any other provision of this section, the Commissioner, in his discretion, may require any applicant for renewal to be fully examined as provided in §§ 46.2-311 and 46.2-325 and the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.). Furthermore, if the applicant is less than 75 years old, the Commissioner may waive the vision examination for any applicant for renewal of a driver's license that is not a commercial driver's license and the requirement for the taking of the written test as provided in subsection B of this section, § 46.2-325, and the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.). However, in no case shall there be any waiver of the vision examination for applicants for renewal of a commercial driver's license or of the knowledge test required by the Virginia Commercial Driver's License Act for the hazardous materials endorsement on a commercial driver's license. No driver's license or learner's permit issued to any person who is 75 years old or older shall be renewed unless the applicant for renewal appears in person and either (i) passes a vision examination or (ii) presents a report of a vision examination, made within 90 days prior thereto by an ophthalmologist or optometrist, indicating that the applicant's vision meets or exceeds the standards contained in § 46.2-311.

D. Every applicant for renewal of a driver's license, whether renewal shall or shall not be dependent on any examination of the applicant, shall appear in person before the Department to apply for renewal, unless specifically notified by the Department that renewal may be accomplished in another manner as provided in the notice.

E. This section shall not modify the provisions of § 46.2-221.2.

F. 1. The Department shall electronically transmit application information, including a photograph, to the Department of State Police, in a format approved by the State Police, for comparison with information contained in the Virginia Criminal Information Network and National Crime Information Center Convicted Sexual Offender Registry files, at the time of the renewal of a driver's license. Whenever it appears from the records of the State Police that a person has failed to comply with the duty to register or reregister pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, the State Police shall promptly investigate and, if there is probable cause to believe a violation has occurred, obtain a warrant or assist in obtaining an indictment charging a violation of § 18.2-472.1 in the jurisdiction in which the person last registered or reregistered or in the jurisdiction where the person made application for licensure. The Department of State Police shall electronically transmit to the Department, in a format approved by the Department, for each person required to register pursuant to Chapter 9 of Title 9.1, registry information consisting of the person's name, all aliases that he has used or under which he may have been known, his date of birth, and his social security number as set out in § 9.1-903.

2. For each person required to register pursuant to Chapter 9 of Title 9.1, the Department may not waive the requirement that each such person shall appear for each renewal or the requirement to obtain a photograph in accordance with subsection C of § 46.2-323.

§ 46.2-332. Fees.

A. On and after January 1, 1990, the fee for each driver's license other than a commercial driver's license shall be \$2.40 per year. If the license is a commercial driver's license or seasonal restricted commercial driver's license, the fee shall be \$6 per year. Persons 21 years old or older may be issued a scenic driver's license, learner's permit, or commercial driver's license for an additional fee of \$5. For any one or more driver's license endorsements or classifications, except a motorcycle classification, there shall be an additional fee of \$1 per year; for a motorcycle classification, there shall be an additional fee of \$2 per year. For any and all driver's license classifications, there shall be an additional fee of \$1 per year. For any revalidation of a seasonal restricted commercial driver's license, the fee shall be \$5. A fee of \$10 shall be charged to extend the validity period of a driver's license pursuant to subsection B of § 46.2-221.2.

B. In addition to any other fee imposed and collected by the Department, the Department shall impose and collect a service charge of \$5 upon each person who carries out the renewal of a driver's license or special identification card in any of the Department's Customer Service Centers if such renewal can be conducted by mail or telephone or by using an electronic medium in a format prescribed by the Commissioner. Such service charge shall not apply if, concurrently with the renewal of the driver's license or special identification card, the person undertakes another transaction at a Customer Service Center that cannot be conducted by mail or telephone or by using an electronic medium in a

306 format prescribed by the Commissioner. Such service charge shall be paid by the Commissioner into the
307 state treasury and shall be set aside as a special fund to be used to meet the expenses of the
308 Department.

309 C. A reexamination fee of \$2 \$5 shall be charged for each administration of the knowledge portion
310 of the driver's license examination taken by an applicant who is 18 years of age or older if taken more
311 than once within a 15-day period examination for a learner's permit or driver's license or
312 behind-the-wheel examination for a driver's license administered by an employee of the Department,
313 excluding those who are subject to reexamination by the Department pursuant to § 46.2-322. The
314 reexamination fee shall be charged each time the examination is administered until the applicant
315 successfully completes the examination; if taken prior to the fifteenth day.

316 An applicant who is less than 18 years of age who does not successfully complete the knowledge
317 portion of the driver's license examination shall not be permitted to take the knowledge portion more
318 than once in 15 days.

319 D. A fee of \$50 shall be charged each time an applicant for a commercial driver's license fails to
320 keep a scheduled skills test appointment, unless such applicant cancels his appointment with the assigned
321 driver's license examiner at least 24 hours in advance of the scheduled appointment. The Commissioner
322 may, on a case-by-case basis, waive such fee for good cause shown. All such fees shall be paid by the
323 Commissioner into the state treasury and set aside as a special fund to be used to meet the necessary
324 expenses incurred by the Department.

325 E. If the applicant for a driver's license is an employee of the Commonwealth, or of any county, city,
326 or town who drives a motorcycle or a commercial motor vehicle solely in the line of his duty, he shall
327 be exempt from the additional fee otherwise assessable for a motorcycle classification or a commercial
328 motor vehicle endorsement. The Commissioner may prescribe the forms as may be requisite for
329 completion by persons claiming exemption from additional fees imposed by this section.

330 F. No additional fee above \$2.40 per year shall be assessed for the driver's license or commercial
331 driver's license required for the operation of a school bus.

332 G. Excluding the \$2 \$5 reexamination fee, \$1.50 of all fees collected for each original or renewal
333 driver's license shall be paid into the driver education fund of the state treasury and expended as
334 provided by law. Unexpended funds from the driver education fund shall be retained in the fund and be
335 available for expenditure in ensuing years as provided therein.

336 H. All fees for motorcycle classifications shall be distributed as provided in § 46.2-1191.

337 I. This section shall supersede conflicting provisions of this chapter.

338 **§ 46.2-335. Learner's permits; fees; certification required.**

339 A. The Department, on receiving from any Virginia resident over the age of 15 years and six months
340 an application for a learner's permit or motorcycle learner's permit, may, subject to the applicant's
341 satisfactory documentation of meeting the requirements of this chapter and successful completion of the
342 written or automated knowledge and vision examinations and, in the case of a motorcycle learner's
343 permit applicant, the automated motorcycle test, issue a permit entitling the applicant, while having the
344 permit in his immediate possession, to drive a motor vehicle or, if the application is made for a
345 motorcycle learner's permit, a motorcycle, on the highways, when accompanied by any licensed driver
346 21 years of age or older or by his parent or legal guardian, or by a brother, sister, half-brother,
347 half-sister, step-brother, or step-sister 18 years of age or older. The accompanying person shall be (i)
348 alert, able to assist the driver, and actually occupying a seat beside the driver or, for motorcycle
349 instruction, providing immediate supervision from a separate accompanying motor vehicle and (ii)
350 lawfully permitted to operate the motor vehicle or accompanying motorcycle at that time.

351 The Department shall not, however, issue a learner's permit or motorcycle learner's permit to any
352 minor applicant required to provide evidence of compliance with the compulsory school attendance law
353 set forth in Article 1 (§ 22.1-254 et seq.) of Chapter 14 of Title 22.1, unless such applicant is in good
354 academic standing or, if not in such standing or submitting evidence thereof, whose parent or guardian,
355 having custody of such minor, provides written authorization for the minor to obtain a learner's permit
356 or motorcycle learner's permit, which written authorization shall be obtained on forms provided by the
357 Department and indicating the Commonwealth's interest in the good academic standing and regular
358 school attendance of such minors. Any minor providing proper evidence of the solemnization of his
359 marriage or a certified copy of a court order of emancipation shall not be required to provide the
360 certification of good academic standing or any written authorization from his parent or guardian to
361 obtain a learner's permit or motorcycle learner's permit.

362 Such permit, except a motorcycle learner's permit, shall be valid until the holder thereof either is
363 issued a driver's license as provided for in this chapter or no longer meets the qualifications for issuance
364 of a learner's permit as provided in this section. Motorcycle learner's permits shall be valid for 12
365 months. When a motorcycle learner's permit expires, the permittee may, upon submission of an
366 application, payment of the application fee, and successful completion of the examinations, be issued
367 another motorcycle learner's permit valid for 12 months.

Any person 25 years of age or older who is eligible to receive an operator's license in Virginia, but who is required, pursuant to § 46.2-324.1, to be issued a learner's permit for 60 days prior to his first behind-the-wheel exam, may be issued such learner's permit even though restrictions on his driving privilege have been ordered by a court. Any such learner's permit shall be subject to the restrictions ordered by the court.

B. No driver's license shall be issued to any such person who is less than 18 years old unless, while holding a learner's permit, he has driven a motor vehicle for at least 45 hours, at least 15 of which were after sunset, as certified by his parent, foster parent, or legal guardian unless the person is married or otherwise emancipated. Such certification shall be on a form provided by the Commissioner and shall contain the following statement:

"It is illegal for anyone to give false information in connection with obtaining a driver's license. This certification is considered part of the driver's license application, and anyone who certifies to a false statement may be prosecuted. I certify that the statements made and the information submitted by me regarding this certification are true and correct."

Such form shall also include the driver's license or Department of Motor Vehicles-issued identification card number of the person making the certification.

C. No learner's permit shall authorize its holder to operate a motor vehicle with more than one passenger who is less than 21 years old, except when participating in a driver education program approved by the Department of Education or a course offered by a driver training school licensed by the Department. This passenger limitation, however, shall not apply to the members of the driver's family or household as defined in subsection B of § 46.2-334.01.

D. No learner's permit shall authorize its holder to operate a motor vehicle between midnight and four o'clock a.m.

E. Except in a driver emergency or when the vehicle is lawfully parked or stopped, no holder of a learner's permit shall operate a motor vehicle on the highways of the Commonwealth while using any cellular telephone or any other wireless telecommunications device, regardless of whether or not such device is handheld. No citation for a violation of this subsection shall be issued unless the officer issuing such citation has cause to stop or arrest the driver of such motor vehicle for the violation of some other provision of this Code or local ordinance relating to the operation, ownership, or maintenance of a motor vehicle or any criminal statute.

F. A violation of subsection C, D, or E shall not constitute negligence, be considered in mitigation of damages of whatever nature, be admissible in evidence or be the subject of comment by counsel in any action for the recovery of damages arising out of the operation, ownership, or maintenance of a motor vehicle, nor shall anything in this subsection change any existing law, rule, or procedure pertaining to any such civil action.

G. The provisions of §§ 46.2-323 and 46.2-334 relating to evidence and certification of Virginia residence and, in the case of persons of school age, compliance with the compulsory school attendance law shall apply, mutatis mutandis, to applications for learner's permits and motorcycle learner's permits issued under this section.

H. For persons qualifying for a driver's license through driver education courses approved by the Department of Education or courses offered by driver training schools licensed by the Department, the application for the learner's permit shall be used as the application for the driver's license.

I. The Department shall charge a fee of \$3 for each learner's permit and motorcycle learner's permit issued under this section. Fees for issuance of learner's permits shall be paid into the driver education fund of the state treasury; fees for issuance of motorcycle learner's permits shall be paid into the state treasury and credited to the Motorcycle Rider Safety Training Program Fund created pursuant to § 46.2-1191. It shall be unlawful for any person, after having received a learner's permit, to drive a motor vehicle without being accompanied by a licensed driver as provided in the foregoing provisions of this section; however, a learner's permit other than a motorcycle learner's permit, accompanied by documentation verifying that the driver is at least 16 years and three months old and has successfully completed an approved driver's education course, signed by the minor's parent, guardian, legal custodian or other person standing in loco parentis, shall constitute a temporary driver's license for the purpose of driving unaccompanied by a licensed driver 18 years of age or older, if all other requirements of this chapter have been met. Such temporary driver's license shall only be valid until the driver has received his permanent license pursuant to § 46.2-336.

J. Any person who applies for a learner's permit and fails the knowledge examination administered by an employee of the Department pursuant to this section shall not be eligible for retesting for at least five days.

K. Nothing in this section shall be construed to permit the issuance of a learner's permit entitling a person to drive a commercial motor vehicle, except as provided by the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.).

429 K. L. The following limitations shall apply to operation of motorcycles by all persons holding
430 motorcycle learner's permits:

431 1. The operator shall wear an approved safety helmet as provided in § 46.2-910.

432 2. Operation shall be under the immediate supervision of a person licensed to operate a motorcycle
433 who is 21 years of age or older.

434 3. No person other than the operator shall occupy the motorcycle.

435 L. M. Any violation of this section shall be punishable as a Class 2 misdemeanor.

436 § 46.2-337. **Knowledge examination and road skills examination required for license to operate**
437 **motorcycle; regulations.**

438 No person shall drive any motorcycle on a highway in the Commonwealth unless he has passed a
439 special examination, including ~~written material~~ *a motorcycle knowledge examination* and a road ~~test~~
440 *skills examination*, pertaining to his ability to drive a motorcycle with reasonable competence and with
441 safety to other persons using the highways. The Department may adopt regulations as may be necessary
442 to provide for the special examination under § 46.2-325 of persons desiring to qualify to drive
443 motorcycles in the Commonwealth and for the granting of licenses or permits suitably endorsed for
444 qualified applicants. The road test for two-wheeled motorcycles and the road test for three-wheeled
445 motorcycles shall be separate and distinct examinations emphasizing the skills and maneuvers necessary
446 to operate each type of motorcycle.

447 No person applying for a classification to authorize the driving of a motorcycle who fails the road
448 test portion of the special examination two times shall be eligible for such classification until he
449 successfully completes a motorcycle rider safety training course offered by a provider licensed under
450 Article 23 (§ 46.2-1188 et seq.) of Chapter 10.

451 *A reexamination fee of \$5 shall be charged for each administration of the knowledge examination or*
452 *road skills examination for a motorcycle license administered by an employee of the Department,*
453 *excluding those who are subject to reexamination by the Department pursuant to § 46.2-322. The*
454 *reexamination fee shall be charged each time the examination is administered until the applicant*
455 *successfully completes the examination. Any person who applies for a motorcycle license and fails the*
456 *motorcycle knowledge examination or road skills examination administered by an employee of the*
457 *Department pursuant to this section shall not be eligible for retesting for at least five days, excluding*
458 *those who are subject to reexamination by the Department pursuant to § 46.2-322.*

459 If the Commissioner is satisfied that a person intending to operate a motorcycle has demonstrated the
460 same proficiency as required by the special examination through successful completion of a motorcycle
461 rider safety training course offered by a provider licensed under Article 23 (§ 46.2-1188 et seq.) of
462 Chapter 10, he may waive the written material or road test portion or both portions of the special
463 examination. The Commissioner may also waive the written material or road test portion or both
464 portions of the special examination if the person intending to operate a motorcycle holds a valid
465 Virginia driver's license and is a member, the spouse of a member, or a dependent of a member of the
466 United States Armed Services, and the license holder has successfully completed a basic motorcycle
467 rider course approved by the United States Armed Services.

468 § 46.2-341.12. (For expiration date, see Acts 2019, c. 750, cl. 3) **Application for commercial**
469 **driver's license or commercial learner's permit.**

470 A. Every application to the Department for a commercial driver's license or commercial learner's
471 permit shall be made upon a form approved and furnished by the Department, and the applicant shall
472 write his usual signature in ink in the space provided. The applicant shall provide the following
473 information:

474 1. Full legal name;

475 2. Current mailing and residential addresses;

476 3. Physical description including sex, height, weight, and eye and hair color;

477 4. Year, month, and date of birth;

478 5. Social security number;

479 6. Domicile or, if not domiciled in the Commonwealth, proof of status as a member of the active
480 duty military, military reserves, National Guard, active duty United States Coast Guard, or Coast Guard
481 Auxiliary pursuant to 49 U.S.C. § 31311(a)(12); and

482 7. Any other information required on the application form.

483 The applicant's social security number shall be provided to the Commercial Driver's License
484 Information System as required by 49 C.F.R. § 383.153.

485 B. Every applicant for a commercial driver's license or commercial learner's permit shall also submit
486 to the Department the following:

487 1. A consent to release driving record information;

488 2. Certifications that:

489 a. He either meets the federal qualification requirements of 49 C.F.R. Parts 383 and 391, or he is
490 exempt from or is not subject to such federal requirements;

b. He either meets the state qualification requirements established pursuant to § 52-8.4, or he is exempt from or is not subject to such requirements;

c. The motor vehicle in which the applicant takes the skills test is representative of the class and, if applicable, the type of motor vehicle for which the applicant seeks to be licensed;

d. He is not subject to any disqualification, suspension, revocation or cancellation of his driving privileges;

e. He does not have more than one driver's license;

3. Other certifications required by the Department;

4. Any evidence required by the Department to establish proof of identity, citizenship or lawful permanent residency, domicile, and social security number notwithstanding the provisions of § 46.2-328.1 and pursuant to 49 C.F.R. Part 383;

5. A statement indicating whether (i) the applicant has previously been licensed to drive any type of motor vehicle during the previous 10 years and, if so, all states that licensed the applicant and the dates he was licensed, and (ii) whether or not he has ever been disqualified, or his license suspended, revoked or canceled and, if so, the date of and reason therefor; and

6. An unexpired employment authorization document (EAD) issued by the U.S. Citizenship and Immigration Services (USCIS) or an unexpired foreign passport accompanied by an approved Form I-94 documenting the applicant's most recent admittance into the United States for persons applying for a nondomiciled commercial driver's license or nondomiciled commercial learner's permit.

C. Every application for a commercial driver's license shall include a photograph of the applicant supplied under arrangements made therefor by the Department in accordance with § 46.2-323.

D. The Department shall disqualify any commercial driver for a period of one year when the records of the Department clearly show to the satisfaction of the Commissioner that such person has made a material false statement on any application or certification made for a commercial driver's license or commercial learner's permit. The Department shall take such action within 30 days after discovering such falsification.

E. (For expiration date, see Acts 2019, c. 750, cl. 2) The Department shall review the driving record of any person who applies for a Virginia commercial driver's license or commercial learner's permit, for the renewal or reinstatement of such license or permit or for an additional commercial classification or endorsement, including the driving record from all jurisdictions where, during the previous 10 years, the applicant was licensed to drive any type of motor vehicle. Such review shall include checking the photograph on record whenever the applicant or holder appears in person to renew, upgrade, transfer, reinstate, or obtain a duplicate commercial driver's license or to renew, upgrade, reinstate, or obtain a duplicate commercial learner's permit. If appropriate, the Department shall incorporate information from such other jurisdictions' records into the applicant's Virginia driving record, and shall make a notation on the applicant's driving record confirming that such review has been completed and the date it was completed. The Department's review shall include research through the Commercial Driver License Information System established pursuant to the Commercial Motor Vehicle Safety Act and the National Driver Register Problem Driver Pointer System in addition to the driver record maintained by the applicant's previous jurisdictions of licensure. This research shall be completed prior to the issuance, renewal, transfer, or reinstatement of a commercial driver's license or additional commercial classification or endorsement.

The Department shall verify the name, date of birth, and social security number provided by the applicant with the information on file with the Social Security Administration for initial issuance of a commercial learner's permit or transfer of a commercial driver's license from another state. The Department shall make a notation in the driver's record confirming that the necessary verification has been completed and noting the date it was done. The Department shall also make a notation confirming that proof of citizenship or lawful permanent residency has been presented and the date it was done.

E. (For effective date, see Acts 2019, c. 750, cl. 2) The Department shall review the driving record of any person who applies for a Virginia commercial driver's license or commercial learner's permit, for the renewal or reinstatement of such license or permit or for an additional commercial classification or endorsement, including the driving record from all jurisdictions where, during the previous 10 years, the applicant was licensed to drive any type of motor vehicle. Such review shall include checking the photograph on record whenever the applicant or holder appears in person to renew, upgrade, transfer, reinstate, or obtain a duplicate commercial driver's license or to renew, upgrade, reinstate, or obtain a duplicate commercial learner's permit. If appropriate, the Department shall incorporate information from such other jurisdictions' records into the applicant's Virginia driving record, and shall make a notation on the applicant's driving record confirming that such review has been completed and the date it was completed. The Department's review shall include (i) research through the Commercial Driver License Information System established pursuant to the Commercial Motor Vehicle Safety Act and the National Driver Register Problem Driver Pointer System in addition to the driver record maintained by the

552 applicant's previous jurisdictions of licensure and (ii) requesting information from the Drug and Alcohol
553 Clearinghouse in accordance with 49 C.F.R. § 382.725. This research shall be completed prior to the
554 issuance, renewal, transfer, or reinstatement of a commercial driver's license or additional commercial
555 classification or endorsement.

556 The Department shall verify the name, date of birth, and social security number provided by the
557 applicant with the information on file with the Social Security Administration for initial issuance of a
558 commercial learner's permit or transfer of a commercial driver's license from another state. The
559 Department shall make a notation in the driver's record confirming that the necessary verification has
560 been completed and noting the date it was done. The Department shall also make a notation confirming
561 that proof of citizenship or lawful permanent residency has been presented and the date it was done.

562 F. Every new applicant for a commercial driver's license or commercial learner's permit, including
563 any person applying for a commercial driver's license or permit after revocation of his driving privileges,
564 who certifies that he will operate a commercial motor vehicle in non-excepted interstate or intrastate
565 commerce shall provide the Department with an original or certified copy of a medical examiner's
566 certificate prepared by a medical examiner as defined in 49 C.F.R. § 390.5. Upon receipt of an
567 appropriate medical examiner's certificate, the Department shall post a certification status of "certified"
568 on the record of the driver on the Commercial Driver's License Information System. Any new applicant
569 for a commercial driver's license or commercial learner's permit who fails to comply with the
570 requirements of this subsection shall be denied the issuance of a commercial driver's license or
571 commercial learner's permit by the Department.

572 G. Every existing holder of a commercial driver's license or commercial learner's permit who certifies
573 that he will operate a commercial motor vehicle in non-excepted interstate or intrastate commerce shall
574 provide the Department with an original or certified copy of a medical examiner's certificate prepared by
575 a medical examiner as defined in 49 C.F.R. § 390.5. Upon receipt of an appropriate medical examiner's
576 certificate, the Department shall post a certification status of "certified" and any other necessary
577 information on the record of the driver on the Commercial Driver's License Information System. If an
578 existing holder of a commercial driver's license fails to provide the Department with a medical
579 certificate as required by this subsection, the Department shall post a certification status of "noncertified"
580 on the record of the driver on the Commercial Driver's License Information System and initiate a
581 downgrade of his commercial driver's license as defined in 49 C.F.R. § 383.5.

582 H. Any person who provides a medical certificate to the Department pursuant to the requirements of
583 subsections F and G shall keep the medical certificate information current and shall notify the
584 Department of any change in the status of the medical certificate. If the Department determines that the
585 medical certificate is no longer valid, the Department shall initiate a downgrade of the driver's
586 commercial driver's license as defined in 49 C.F.R. § 383.5.

587 I. If the Department receives notice that the holder of a commercial driver's license has been issued a
588 medical variance as defined in 49 C.F.R. § 390.5, the Department shall indicate the existence of such
589 medical variance on the commercial driver's license document of the driver and on the record of the
590 driver on the Commercial Driver's License Information System using the restriction code "V."

591 J. Any holder of a commercial driver's license who has been issued a medical variance shall keep the
592 medical variance information current and shall notify the Department of any change in the status of the
593 medical variance. If the Department determines that the medical variance is no longer valid, the
594 Department shall initiate a downgrade of the driver's commercial driver's license as defined in 49 C.F.R.
595 § 383.5.

596 K. Any applicant applying for a hazardous materials endorsement must comply with Transportation
597 Security Administration requirements in 49 C.F.R. Part 1572. A lawful permanent resident of the United
598 States requesting a hazardous materials endorsement must additionally provide his U.S. Citizenship and
599 Immigration Services (USCIS) alien registration number.

600 *L. The Department shall cancel any commercial driver's license or commercial learner's permit that*
601 *it has issued if the Department is notified by an agency of the federal government that the individual to*
602 *whom the license or permit was issued is not in compliance with the citizenship, lawful permanent*
603 *residency, or domicile requirements pursuant to 49 C.F.R. Part 383.*

604 **§ 46.2-341.12. (For effective date, see Acts 2019, c. 750, cl. 3) Application for commercial**
605 **driver's license or commercial learner's permit.**

606 A. No entry-level driver shall be eligible to (i) apply for a Virginia Class A or Class B commercial
607 driver's license for the first time, (ii) upgrade to a Class A or Class B commercial driver's license for the
608 first time, or (iii) apply for a hazardous materials, passenger, or school bus endorsement for the first
609 time, unless he has completed an entry-level driver training course related to the license, classification,
610 or endorsement he is applying for and the training is provided by a training provider. An individual is
611 not required to complete an entry-level driver training course related to the license, classification, or
612 endorsement he is applying for if he is exempted from such requirements under 49 C.F.R. § 380.603.

613 B. Every application to the Department for a commercial driver's license or commercial learner's

permit shall be made upon a form approved and furnished by the Department, and the applicant shall write his usual signature in ink in the space provided. The applicant shall provide the following information:

1. Full legal name;
2. Current mailing and residential addresses;
3. Physical description including sex, height, weight, and eye and hair color;
4. Year, month, and date of birth;
5. Social security number;
6. Domicile or, if not domiciled in the Commonwealth, proof of status as a member of the active duty military, military reserves, National Guard, active duty United States Coast Guard, or Coast Guard Auxiliary pursuant to 49 U.S.C. § 31311(a)(12); and

7. Any other information required on the application form.

The applicant's social security number shall be provided to the Commercial Driver's License Information System as required by 49 C.F.R. § 383.153.

C. Every applicant for a commercial driver's license or commercial learner's permit shall also submit to the Department the following:

1. A consent to release driving record information;
2. Certifications that:
 - a. He either meets the federal qualification requirements of 49 C.F.R. Parts 383 and 391, or he is exempt from or is not subject to such federal requirements;
 - b. He either meets the state qualification requirements established pursuant to § 52-8.4, or he is exempt from or is not subject to such requirements;
 - c. The motor vehicle in which the applicant takes the skills test is representative of the class and, if applicable, the type of motor vehicle for which the applicant seeks to be licensed;
 - d. He is not subject to any disqualification, suspension, revocation or cancellation of his driving privileges;
 - e. He does not have more than one driver's license;

3. Other certifications required by the Department;

4. Any evidence required by the Department to establish proof of identity, citizenship or lawful permanent residency, domicile, and social security number notwithstanding the provisions of § 46.2-328.1 and pursuant to 49 C.F.R. Part 383;

5. A statement indicating whether (i) the applicant has previously been licensed to drive any type of motor vehicle during the previous 10 years and, if so, all states that licensed the applicant and the dates he was licensed, and (ii) whether or not he has ever been disqualified, or his license suspended, revoked or canceled and, if so, the date of and reason therefor; and

6. An unexpired employment authorization document (EAD) issued by the U.S. Citizenship and Immigration Services (USCIS) or an unexpired foreign passport accompanied by an approved Form I-94 documenting the applicant's most recent admittance into the United States for persons applying for a nondomiciled commercial driver's license or nondomiciled commercial learner's permit.

D. Every application for a commercial driver's license shall include a photograph of the applicant supplied under arrangements made therefor by the Department in accordance with § 46.2-323.

E. The Department shall disqualify any commercial driver for a period of one year when the records of the Department clearly show to the satisfaction of the Commissioner that such person has made a material false statement on any application or certification made for a commercial driver's license or commercial learner's permit. The Department shall take such action within 30 days after discovering such falsification.

F. (For expiration date, see Acts 2019, c. 750, cl. 2) The Department shall review the driving record of any person who applies for a Virginia commercial driver's license or commercial learner's permit, for the renewal or reinstatement of such license or permit or for an additional commercial classification or endorsement, including the driving record from all jurisdictions where, during the previous 10 years, the applicant was licensed to drive any type of motor vehicle. Such review shall include checking the photograph on record whenever the applicant or holder appears in person to renew, upgrade, transfer, reinstate, or obtain a duplicate commercial driver's license or to renew, upgrade, reinstate, or obtain a duplicate commercial learner's permit. If appropriate, the Department shall incorporate information from such other jurisdictions' records into the applicant's Virginia driving record, and shall make a notation on the applicant's driving record confirming that such review has been completed and the date it was completed. The Department's review shall include research through the Commercial Driver License Information System established pursuant to the Commercial Motor Vehicle Safety Act and the National Driver Register Problem Driver Pointer System in addition to the driver record maintained by the applicant's previous jurisdictions of licensure. This research shall be completed prior to the issuance, renewal, transfer, or reinstatement of a commercial driver's license or additional commercial

675 classification or endorsement.

676 The Department shall verify the name, date of birth, and social security number provided by the
677 applicant with the information on file with the Social Security Administration for initial issuance of a
678 commercial learner's permit or transfer of a commercial driver's license from another state. The
679 Department shall make a notation in the driver's record confirming that the necessary verification has
680 been completed and noting the date it was done. The Department shall also make a notation confirming
681 that proof of citizenship or lawful permanent residency has been presented and the date it was done.

682 F. (For effective date, see Acts 2019, c. 750, cl. 2) The Department shall review the driving record
683 of any person who applies for a Virginia commercial driver's license or commercial learner's permit, for
684 the renewal or reinstatement of such license or permit or for an additional commercial classification or
685 endorsement, including the driving record from all jurisdictions where, during the previous 10 years, the
686 applicant was licensed to drive any type of motor vehicle. Such review shall include checking the
687 photograph on record whenever the applicant or holder appears in person to renew, upgrade, transfer,
688 reinstate, or obtain a duplicate commercial driver's license or to renew, upgrade, reinstate, or obtain a
689 duplicate commercial learner's permit. If appropriate, the Department shall incorporate information from
690 such other jurisdictions' records into the applicant's Virginia driving record, and shall make a notation on
691 the applicant's driving record confirming that such review has been completed and the date it was
692 completed. The Department's review shall include (i) research through the Commercial Driver License
693 Information System established pursuant to the Commercial Motor Vehicle Safety Act and the National
694 Driver Register Problem Driver Pointer System in addition to the driver record maintained by the
695 applicant's previous jurisdictions of licensure and (ii) requesting information from the Drug and Alcohol
696 Clearinghouse in accordance with 49 C.F.R. § 382.725. This research shall be completed prior to the
697 issuance, renewal, transfer, or reinstatement of a commercial driver's license or additional commercial
698 classification or endorsement.

699 The Department shall verify the name, date of birth, and social security number provided by the
700 applicant with the information on file with the Social Security Administration for initial issuance of a
701 commercial learner's permit or transfer of a commercial driver's license from another state. The
702 Department shall make a notation in the driver's record confirming that the necessary verification has
703 been completed and noting the date it was done. The Department shall also make a notation confirming
704 that proof of citizenship or lawful permanent residency has been presented and the date it was done.

705 G. Every new applicant for a commercial driver's license or commercial learner's permit, including
706 any person applying for a commercial driver's license or permit after revocation of his driving privileges,
707 who certifies that he will operate a commercial motor vehicle in non-excepted interstate or intrastate
708 commerce shall provide the Department with an original or certified copy of a medical examiner's
709 certificate prepared by a medical examiner as defined in 49 C.F.R. § 390.5. Upon receipt of an
710 appropriate medical examiner's certificate, the Department shall post a certification status of "certified"
711 on the record of the driver on the Commercial Driver's License Information System. Any new applicant
712 for a commercial driver's license or commercial learner's permit who fails to comply with the
713 requirements of this subsection shall be denied the issuance of a commercial driver's license or
714 commercial learner's permit by the Department.

715 H. Every existing holder of a commercial driver's license or commercial learner's permit who certifies
716 that he will operate a commercial motor vehicle in non-excepted interstate or intrastate commerce shall
717 provide the Department with an original or certified copy of a medical examiner's certificate prepared by
718 a medical examiner as defined in 49 C.F.R. § 390.5. Upon receipt of an appropriate medical examiner's
719 certificate, the Department shall post a certification status of "certified" and any other necessary
720 information on the record of the driver on the Commercial Driver's License Information System. If an
721 existing holder of a commercial driver's license fails to provide the Department with a medical
722 certificate as required by this subsection, the Department shall post a certification status of "noncertified"
723 on the record of the driver on the Commercial Driver's License Information System and initiate a
724 downgrade of his commercial driver's license as defined in 49 C.F.R. § 383.5.

725 I. Any person who provides a medical certificate to the Department pursuant to the requirements of
726 subsections G and H shall keep the medical certificate information current and shall notify the
727 Department of any change in the status of the medical certificate. If the Department determines that the
728 medical certificate is no longer valid, the Department shall initiate a downgrade of the driver's
729 commercial driver's license as defined in 49 C.F.R. § 383.5.

730 J. If the Department receives notice that the holder of a commercial driver's license has been issued a
731 medical variance as defined in 49 C.F.R. § 390.5, the Department shall indicate the existence of such
732 medical variance on the commercial driver's license document of the driver and on the record of the
733 driver on the Commercial Driver's License Information System using the restriction code "V."

734 K. Any holder of a commercial driver's license who has been issued a medical variance shall keep
735 the medical variance information current and shall notify the Department of any change in the status of
736 the medical variance. If the Department determines that the medical variance is no longer valid, the

Department shall initiate a downgrade of the driver's commercial driver's license as defined in 49 C.F.R. § 383.5.

L. Any applicant applying for a hazardous materials endorsement must comply with Transportation Security Administration requirements in 49 C.F.R. Part 1572. A lawful permanent resident of the United States requesting a hazardous materials endorsement must additionally provide his U.S. Citizenship and Immigration Services (USCIS) alien registration number.

M. The Department shall cancel any commercial driver's license or commercial learner's permit that it has issued if the Department is notified by an agency of the federal government that the individual to whom the license or permit was issued is not in compliance with the citizenship, lawful permanent residency, or domicile requirements pursuant to 49 C.F.R. Part 383.

§ 46.2-341.14. (For expiration date — see Acts 2019, c. 750, cl. 3) Testing requirements for commercial driver's license; behind-the-wheel and knowledge examinations.

A. The Department shall conduct an examination of every applicant for a commercial driver's license, which examination shall comply with the minimum federal standards established pursuant to the federal Commercial Motor Vehicle Safety Act. The examination shall be designed to test the vision, knowledge, and skills required for the safe operation of the class and type of commercial motor vehicle for which the applicant seeks a license.

B. An applicant's skills test shall be conducted in a vehicle that is representative of or meets the description of the class of vehicle for which the applicant seeks to be licensed. In addition, applicants who seek to be licensed to drive vehicles with air brakes, passenger-carrying vehicles, or school buses must take the skills test in a vehicle that is representative of such vehicle type. Such vehicle shall be furnished by the applicant and shall be properly licensed, inspected and insured.

C. The Commissioner may designate such persons as he deems fit, including private or governmental entities, including comprehensive community colleges in the Virginia Community College System, to administer the knowledge and skills tests required of applicants for a commercial driver's license. Any person so designated shall comply with all statutes and regulations with respect to the administration of such tests.

The Commissioner shall require all state and third party test examiners to successfully complete a formal commercial driver's license test examiner training course and examination before certifying them to administer commercial driver's license knowledge and skills tests. All state and third party test examiners shall complete a refresher training course and examination every four years to maintain their commercial driver's license test examiner certification. The refresher training course shall comply with 49 C.F.R. § 384.228. At least once every two years, the Department shall conduct covert and overt monitoring of examinations performed by state and third party commercial driver's license test examiners.

The Commissioner shall require a nationwide criminal background check of all test examiners at the time of hiring or prior to certifying them to administer commercial driver's license testing. The Commissioner shall complete a nationwide criminal background check for any state or third party test examiners who are current examiners and who have not had a nationwide criminal background check.

The Commissioner shall revoke the certification to administer commercial driver's license tests for any test examiner who (i) does not successfully complete the required refresher training every four years or (ii) does not pass the required nationwide criminal background check. Criteria for not passing the criminal background check include but are not limited to having a felony conviction within the past 10 years or any conviction involving fraudulent activities.

D. Every applicant for a commercial driver's license who is required by the Commissioner to take a vision test shall either (i) appear before a license examiner of the Department of Motor Vehicles to demonstrate his visual acuity and horizontal field of vision; or (ii) submit with his application a copy of the vision examination report which was used as the basis for such examination made within 90 days of the application date by an ophthalmologist or optometrist. The Commissioner may, by regulation, determine whether any other visual tests will satisfy the requirements of this title for commercial drivers.

E. No person who fails the behind-the-wheel examination for a commercial driver's license administered by the Department three times shall be permitted to take such examination a fourth time until he successfully completes, subsequent to the third examination failure, the in-vehicle component of driver instruction at a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) or a comprehensive community college in the Virginia Community College System, or a comparable course approved by the Department or the Department of Education. In addition, no person who fails the general knowledge examination for a commercial driver's license administered by the Department three times shall be permitted to take such examination a fourth time until he successfully completes, subsequent to the third examination failure, the knowledge component of driver instruction at a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) or a comprehensive community college in the Virginia Community College System, or a comparable course approved by the Department or the

798 Department of Education. All persons required to attend a driver training school, a comprehensive
799 community college, or a comparable course pursuant to this section shall be required, after successful
800 completion of necessary courses, to have the applicable examination administered by the Department.

801 Comprehensive community colleges offering courses pursuant to this section shall meet course
802 curriculum requirements established and made available by the Department and be comparable to the
803 curriculum offered by Class A licensed schools. A course curriculum meeting the established
804 requirements shall be submitted to the Department and shall be approved by the Department prior to the
805 beginning of course instruction.

806 The Department shall provide and update the list of course curriculum requirements from time to
807 time, as deemed appropriate and necessary by the Department. The Department shall notify the affected
808 schools and comprehensive community colleges if new relevant topics are added to the course
809 curriculum. Schools and comprehensive community colleges shall have 45 calendar days after such
810 notice is issued to update their course curriculum and to certify to the Department in a format prescribed
811 by the Department that the school or comprehensive community college has added the new topics to the
812 course curriculum.

813 *A reexamination fee of \$5 shall be charged for each administration of the general knowledge*
814 *examination or behind-the-wheel examination for a commercial driver's license administered by an*
815 *employee of the Department. The reexamination fee shall be charged each time the examination is*
816 *administered until the applicant successfully completes the examination. Any person who applies for a*
817 *commercial driver's license and fails the general knowledge examination or behind-the-wheel*
818 *examination administered by an employee of the Department pursuant to this section shall not be*
819 *eligible for retesting for at least five days.*

820 The provisions of this subsection shall not apply to persons ~~placed under medical control who are~~
821 *subject to reexamination by the Department pursuant to § 46.2-322.*

822 F. Knowledge tests may be administered in written form, verbally, or in automated format and can
823 be administered in a foreign language, provided no interpreter is used in administering the test.

824 G. Interpreters are prohibited during the administration of the skills tests. Applicants must be able to
825 understand and respond to verbal commands and instructions in English by a skills test examiner.
826 Neither the applicant nor the examiner may communicate in a language other than English during the
827 skills test.

828 H. Skills tests may be administered to an applicant who has taken training in the Commonwealth at a
829 driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) or a comprehensive community
830 college in the Virginia Community College System, or a comparable course approved by the Department
831 or the Department of Education, and is to be licensed in another state. Such test results shall be
832 electronically transmitted directly from the Commonwealth to the licensing state in an efficient and
833 secure manner. The Department may charge a fee of not more than \$85 to any such applicant.

834 I. The Department shall accept the results of skills tests administered to applicants by any other state
835 in fulfillment of the applicant's testing requirements for commercial licensure in the Commonwealth.

836 **§ 46.2-341.14. (For effective date — see Acts 2019, c. 750, cl. 3) Testing requirements for**
837 **commercial driver's license; behind-the-wheel and knowledge examinations.**

838 A. The Department shall conduct an examination of every applicant for a commercial driver's license,
839 which examination shall comply with the minimum federal standards established pursuant to the federal
840 Commercial Motor Vehicle Safety Act. The examination shall be designed to test the vision, knowledge,
841 and skills required for the safe operation of the class and type of commercial motor vehicle for which
842 the applicant seeks a license.

843 No skills test shall be conducted by the Department for a first-time applicant for a Class A or Class
844 B commercial driver's license, a passenger endorsement, or a school bus endorsement, or knowledge test
845 for a first-time applicant for a hazardous materials endorsement, until (i) the Department has verified
846 that the applicant has completed the appropriate entry-level driver training course administered by a
847 training provider required for that skills or knowledge test, if the applicant is so required, or (ii) the
848 applicant has certified that he is exempted from such requirement under § 46.2-341.12.

849 B. An applicant's skills test shall be conducted in a vehicle that is representative of or meets the
850 description of the class of vehicle for which the applicant seeks to be licensed. In addition, applicants
851 who seek to be licensed to drive vehicles with air brakes, passenger-carrying vehicles, or school buses
852 must take the skills test in a vehicle that is representative of such vehicle type. Such vehicle shall be
853 furnished by the applicant and shall be properly licensed, inspected and insured.

854 C. The Commissioner may designate such persons as he deems fit, including private or governmental
855 entities, including comprehensive community colleges in the Virginia Community College System, to
856 administer the knowledge and skills tests required of applicants for a commercial driver's license. Any
857 person so designated shall comply with all statutes and regulations with respect to the administration of
858 such tests.

859 The Commissioner shall require all state and third party test examiners to successfully complete a

formal commercial driver's license test examiner training course and examination before certifying them to administer commercial driver's license knowledge and skills tests. All state and third party test examiners shall complete a refresher training course and examination every four years to maintain their commercial driver's license test examiner certification. The refresher training course shall comply with 49 C.F.R. § 384.228. At least once every two years, the Department shall conduct covert and overt monitoring of examinations performed by state and third party commercial driver's license test examiners.

The Commissioner shall require a nationwide criminal background check of all test examiners at the time of hiring or prior to certifying them to administer commercial driver's license testing. The Commissioner shall complete a nationwide criminal background check for any state or third party test examiners who are current examiners and who have not had a nationwide criminal background check.

The Commissioner shall revoke the certification to administer commercial driver's license tests for any test examiner who (i) does not successfully complete the required refresher training every four years or (ii) does not pass the required nationwide criminal background check. Criteria for not passing the criminal background check include but are not limited to having a felony conviction within the past 10 years or any conviction involving fraudulent activities.

D. Every applicant for a commercial driver's license who is required by the Commissioner to take a vision test shall either (i) appear before a license examiner of the Department of Motor Vehicles to demonstrate his visual acuity and horizontal field of vision or (ii) submit with his application a copy of the vision examination report that was used as the basis for such examination made within 90 days of the application date by an ophthalmologist or optometrist. The Commissioner may, by regulation, determine whether any other visual tests will satisfy the requirements of this title for commercial drivers.

E. No person who fails the behind-the-wheel examination for a commercial driver's license administered by the Department three times shall be permitted to take such examination a fourth time until he successfully completes, subsequent to the third examination failure, the in-vehicle component of driver instruction at a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) or a comprehensive community college in the Virginia Community College System, or a comparable course approved by the Department or the Department of Education. In addition, no person who fails the general knowledge examination for a commercial driver's license administered by the Department three times shall be permitted to take such examination a fourth time until he successfully completes, subsequent to the third examination failure, the knowledge component of driver instruction at a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) or a comprehensive community college in the Virginia Community College System, or a comparable course approved by the Department or the Department of Education. All persons required to attend a driver training school, a comprehensive community college, or a comparable course pursuant to this section shall be required, after successful completion of necessary courses, to have the applicable examination administered by the Department.

Comprehensive community colleges offering courses pursuant to this section shall meet course curriculum requirements established and made available by the Department and be comparable to the curriculum offered by Class A licensed schools. A course curriculum meeting the established requirements shall be submitted to the Department and shall be approved by the Department prior to the beginning of course instruction.

The Department shall provide and update the list of course curriculum requirements from time to time, as deemed appropriate and necessary by the Department. The Department shall notify the affected schools and comprehensive community colleges if new relevant topics are added to the course curriculum. Schools and comprehensive community colleges shall have 45 calendar days after such notice is issued to update their course curriculum and to certify to the Department in a format prescribed by the Department that the school or comprehensive community college has added the new topics to the course curriculum.

A reexamination fee of \$5 shall be charged for each administration of the general knowledge examination or behind-the-wheel examination for a commercial driver's license administered by an employee of the Department. The reexamination fee shall be charged each time the examination is administered until the applicant successfully completes the examination. Any person who applies for a commercial driver's license and fails the general knowledge examination or behind-the-wheel examination administered by an employee of the Department pursuant to this section shall not be eligible for retesting for at least five days.

The provisions of this subsection shall not apply to persons ~~placed under medical control who are subject to reexamination by the Department~~ pursuant to § 46.2-322.

F. Knowledge tests may be administered in written form, verbally, or in automated format and can be administered in a foreign language, provided no interpreter is used in administering the test.

G. Interpreters are prohibited during the administration of the skills tests. Applicants must be able to understand and respond to verbal commands and instructions in English by a skills test examiner.

921 Neither the applicant nor the examiner may communicate in a language other than English during the
922 skills test.

923 H. Skills tests may be administered to an applicant who has taken training in the Commonwealth at a
924 driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) or a comprehensive community
925 college in the Virginia Community College System, or a comparable course approved by the Department
926 or the Department of Education, and is to be licensed in another state. Such test results shall be
927 electronically transmitted directly from the Commonwealth to the licensing state in an efficient and
928 secure manner. The Department may charge a fee of not more than \$85 to any such applicant.

929 I. The Department shall accept the results of skills tests administered to applicants by any other state
930 in fulfillment of the applicant's testing requirements for commercial licensure in the Commonwealth.

931 J. The Department may administer skills performance evaluations in accordance with its agreement
932 with the FMCSA. Notwithstanding the provisions of § 46.2-208, any medical information that is
933 collected as part of the evaluation may be released to and inspected by the FMCSA.

934 **§ 46.2-345. Issuance of special identification cards; fee; confidentiality; penalties.**

935 A. On the application of any person who is a resident of the Commonwealth or the parent or legal
936 guardian of any such person who is under the age of 15, the Department shall issue a special
937 identification card to the person, provided that:

938 1. Application is made on a form prescribed by the Department and includes the applicant's full legal
939 name; year, month, and date of birth; social security number *or Individual Taxpayer Identification*
940 *Number, or certification that a social security number or Individual Taxpayer Identification Number has*
941 *not been issued*; sex; and residence address;

942 2. The applicant presents, when required by the Department, proof of identity, ~~legal presence,~~
943 residency, and social security number or ~~non-work authorized status~~ *Individual Taxpayer Identification*
944 *Number, or certification that a social security number or Individual Taxpayer Identification Number has*
945 *not been issued*;

946 3. The Department is satisfied that the applicant needs an identification card or the applicant shows
947 he has a bona fide need for such a card; and

948 4. The applicant does not hold a driver's license, commercial driver's license, temporary driver's
949 permit, learner's permit, motorcycle learner's permit, or special identification card without a photograph.

950 Persons 70 years of age or older may exchange a valid Virginia driver's license for a special
951 identification card at no fee. Special identification cards subsequently issued to such persons shall be
952 subject to the regular fees for special identification cards.

953 B. The fee for the issuance of an original, duplicate, reissue, or renewal special identification card is
954 \$2 per year, with a \$10 minimum fee. Persons 21 years old or older may be issued a scenic special
955 identification card for an additional fee of \$5.

956 C. Every special identification card shall expire on the applicant's birthday at the end of the period of
957 years for which a special identification card has been issued. At no time shall any special identification
958 card be issued for less than three nor more than eight years, except under the provisions of subsection B
959 of § 46.2-328.1 and except that those cards issued to children under the age of 15 shall expire on the
960 child's sixteenth birthday. Notwithstanding these limitations, the Commissioner may extend the validity
961 period of an expiring card if (i) the Department is unable to process an application for renewal due to
962 circumstances beyond its control, *and* (ii) the extension has been authorized under a directive from the
963 Governor, ~~and (iii) the card was not issued as a temporary special identification card under the~~
964 ~~provisions of subsection B of § 46.2-328.1.~~ However, in no event shall the validity period be extended
965 more than 90 days per occurrence of such conditions. Any special identification card issued to a person
966 required to register pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 shall expire on the applicant's
967 birthday in years which the applicant attains an age equally divisible by five. For each person required
968 to register pursuant to Chapter 9 of Title 9.1, the Department may not waive the requirement that each
969 such person shall appear for each renewal or the requirement to obtain a photograph in accordance with
970 subsection C of § 46.2-323.

971 D. A special identification card issued under this section may be similar in size, shape, and design to
972 a driver's license, and include a photograph of its holder, but the card shall be readily distinguishable
973 from a driver's license and shall clearly state that it does not authorize the person to whom it is issued
974 to drive a motor vehicle. Every applicant for a special identification card shall appear in person before
975 the Department to apply for a renewal, duplicate or reissue unless specifically permitted by the
976 Department to apply in another manner.

977 E. Special identification cards, for persons at least 15 years old but less than 21 years old, shall be
978 immediately and readily distinguishable from those issued to persons 21 years old or older.
979 Distinguishing characteristics shall include unique design elements of the document and descriptors
980 within the photograph area to identify persons who are at least 15 years old but less than 21 years old.
981 These descriptors shall include the month, day, and year when the person will become 21 years old.

982 F. Special identification cards for persons under age 15 shall bear a full face photograph. The special

identification card issued to persons under age 15 shall be readily distinguishable from a driver's license and from other special identification cards issued by the Department. Such cards shall clearly indicate that it does not authorize the person to whom it is issued to drive a motor vehicle.

G. Unless otherwise prohibited by law, a valid Virginia driver's license shall be surrendered upon application for a special identification card ~~without the applicant's having to present proof of legal presence as required by § 46.2-328.1~~ if the Virginia driver's license is unexpired and it has not been revoked, suspended, or ~~cancelled~~ *canceled*. The special identification card shall be considered a reissue and the expiration date shall be the ~~last day of the month~~ *same date as that* of the surrendered driver's license's ~~month of expiration~~ *license*.

H. Any personal information, as identified in § 2.2-3801, which is retained by the Department from an application for the issuance of a special identification card is confidential and shall not be divulged to any person, association, corporation, or organization, public or private, except to the legal guardian or the attorney of the applicant or to a person, association, corporation, or organization nominated in writing by the applicant, his legal guardian, or his attorney. This subsection shall not prevent the Department from furnishing the application or any information thereon to any law-enforcement agency.

I. Any person who uses a false or fictitious name or gives a false or fictitious address in any application for an identification card or knowingly makes a false statement or conceals a material fact or otherwise commits a fraud in any such application shall be guilty of a Class 2 misdemeanor. However, where the name or address is given, or false statement is made, or fact is concealed, or fraud committed, with the intent to purchase a firearm or where the identification card is obtained for the purpose of committing any offense punishable as a felony, a violation of this section shall constitute a Class 4 felony.

J. The Department shall utilize the various communications media throughout the Commonwealth to inform Virginia residents of the provisions of this section and to promote and encourage the public to take advantage of its provisions.

K. The Department shall electronically transmit application information to the Department of State Police, in a format approved by the State Police, for comparison with information contained in the Virginia Criminal Information Network and National Crime Information Center Convicted Sexual Offender Registry Files, at the time of issuance of a special identification card. Whenever it appears from the records of the State Police that a person has failed to comply with the duty to register or reregister pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, the State Police shall promptly investigate and, if there is probable cause to believe a violation has occurred, obtain a warrant or assist in obtaining an indictment charging a violation of § 18.2-472.1 in the jurisdiction in which the person made application for the special identification card.

L. When requested by the applicant, the applicant's parent if the applicant is a minor, or the applicant's guardian, and upon presentation of a signed statement by a licensed physician confirming the applicant's condition, the Department shall indicate on the applicant's special identification card that the applicant has any condition listed in subsection K of § 46.2-342 or that the applicant is blind or vision impaired.

§ 46.2-345.2. Issuance of special identification cards without photographs; fee; confidentiality; penalties.

A. On the application of any person with a sincerely held religious belief prohibiting the taking of a photograph who is a resident of the Commonwealth and who is at least 15 years of age, the Department shall issue a special identification card without a photograph to the person, provided that:

1. Application is made on a form prescribed by the Department and includes the applicant's full legal name; year, month, and date of birth; social security number *or Individual Taxpayer Identification Number, or certification that a social security number or Individual Taxpayer Identification Number has not been issued*; sex; and residence address;

2. The applicant presents, when required by the Department, proof of identity, ~~legal presence~~, residency, and social security number ~~or non-work authorized status~~ *Individual Taxpayer Identification Number, or certifies that a social security number or Individual Taxpayer Identification Number has not been issued*;

3. The applicant presents an approved and signed U.S. Department of the Treasury Internal Revenue Service (IRS) Form 4029 or if such applicant is a minor, the applicant's parent or legal guardian presents an approved and signed IRS Form 4029; and

4. The applicant does not hold a driver's license, commercial driver's license, temporary driver's permit, learner's permit, motorcycle learner's permit, or special identification card.

B. The fee for the issuance of an original, duplicate, or reissue special identification card without a photograph is \$10 per year, with a \$20 minimum fee.

C. Every special identification card without a photograph shall expire on the applicant's birthday at the end of the period of years for which a special identification card without a photograph has been

issued. At no time shall any special identification card without a photograph be issued for more than eight years. Notwithstanding these limitations, the Commissioner may extend the validity period of an expiring card if (i) the Department is unable to process an application for re-issue due to circumstances beyond its control or (ii) the extension has been authorized under a directive from the Governor. However, in no event shall the validity period be extended more than 90 days per occurrence of such conditions.

D. A special identification card without a photograph issued under this section may be similar in size, shape, and design to a driver's license and shall not include a photograph of its holder. The card shall be readily distinguishable from a driver's license and shall clearly state that federal limits apply, that the card is not valid identification to vote, and that the card does not authorize the person to whom it is issued to drive a motor vehicle. Every applicant for a special identification card without a photograph shall appear in person before the Department to apply for a duplicate or reissue unless specifically permitted by the Department to apply in another manner.

E. Unless otherwise prohibited by law, a valid Virginia driver's license or special identification card shall be surrendered for a special identification card without a photograph ~~without the applicant's having to present proof of legal presence as required by § 46.2-328.1~~ if the Virginia driver's license or special identification card is unexpired and has not been revoked, suspended, or canceled. The special identification card without a photograph shall be considered a reissue, and the expiration date shall be the last day of the month ~~same date as that of the surrendered driver's license's license or special identification card's month of expiration card.~~

F. Any personal information, as identified in § 2.2-3801, that is retained by the Department from an application for the issuance of a special identification card without a photograph is confidential and shall not be divulged to any person, association, corporation, or organization, public or private, except to the legal guardian or the attorney of the applicant or to a person, association, corporation, or organization nominated in writing by the applicant, his legal guardian, or his attorney. This subsection shall not prevent the Department from furnishing the application or any information thereon to any law-enforcement agency.

G. Any person who uses a false or fictitious name or gives a false or fictitious address in any application for a special identification card without a photograph or knowingly makes a false statement or conceals a material fact or otherwise commits a fraud in any such application is guilty of a Class 2 misdemeanor. However, where the special identification card without a photograph is obtained for the purpose of committing any offense punishable as a felony, a violation of this section shall constitute a Class 4 felony.

H. When requested by the applicant, the applicant's parent if the applicant is a minor, or the applicant's guardian, and upon presentation of a signed statement by a licensed physician confirming the applicant's condition, the Department shall indicate on the applicant's special identification card without a photograph that the applicant has any condition listed in subsection K of § 46.2-342.

I. Unless the Code specifies that a photograph is required, a special identification card without a photograph shall be treated as a special identification card.

§ 63.2-503.1. Legal presence required for public assistance; exceptions; proof of legal presence.

A. In addition to meeting the existing eligibility requirements of the benefits applied for, no person who is not a United States Citizen or legally present in the United States shall receive state or local public assistance pursuant to this subtitle, except for state or local public assistance that is mandated by Federal Law pursuant to 8 U.S.C. § 1621.

B. In addition to providing proof of other eligibility requirements, at the time of application for any state or local public benefit, an applicant who is 19 years of age or older shall provide affirmative proof that he is a U.S. citizen or is legally present in the United States. Such affirmative proof shall consist of documentary evidence as required pursuant to ~~§ 46.2-328.1~~ *that the applicant is legally present in the United States* or a social security number as verified by the Social Security Administration. An applicant who is under the age of 19 years shall not be required to provide such affirmative proof; however, such person upon reaching the age of 19 years shall comply with the provisions of this section.

An applicant who cannot provide proof that he is a citizen or legally present at the time of application shall sign an affidavit under oath attesting that he is a U.S. citizen or legally present in the United States in order to receive temporary benefits as provided in this section. The affidavit shall be on or consistent with forms prepared by the Commissioner, and shall be subject to and include an explanation of the provisions of § 63.2-502 relating to penalties for knowingly providing false information on a public document. The agency shall report in writing to the appropriate attorney for the Commonwealth those who are determined to have falsely attested to lawful presence.

Once an applicant has provided the sworn affidavit required by this subsection, he shall be eligible to receive temporary benefits for either:

1. Ninety days or until such time that it is determined that he is not legally present in the United States, whichever is earlier, or

1106 2. Indefinitely if the applicant provides a copy of a completed application for a birth certificate that
1107 has been filed and is pending and being actively pursued in accordance with § 32.1-259 or 32.1-260 or
1108 any substantially similar law of another state, the District of Columbia, or United States territory or
1109 commonwealth. Such extension shall terminate upon the applicant's receipt of a birth certificate or a
1110 determination that a birth certificate does not exist because the applicant is not a United States citizen.
1111 C. The provisions of subsection B shall not apply to persons applying for benefits exempted by
1112 subsection A of this section and subsection A of § 32.1-325.03.
1113 2. That §§ 46.2-334.1 and 46.2-335.1 of the Code of Virginia are repealed.
1114 3. That the provisions of this act shall become effective on January 1, 2021.