

VIRGINIA ACTS OF ASSEMBLY -- 2021 SPECIAL SESSION I

CHAPTER 258

An Act to amend and reenact §§ 2.2-436 and 2.2-437 of the Code of Virginia, relating to Secretary of Commerce and Trade; Identity Management Standards Advisory Council.

[S 1458]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-436 and 2.2-437 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-436. Approval of electronic identity standards.

A. The Secretary of ~~Administration~~ *Commerce and Trade*, in consultation with the Secretary of ~~Transportation~~ *Administration*, shall review and approve or disapprove, upon the recommendation of the Identity Management Standards Advisory Council pursuant to § 2.2-437, guidance documents that adopt (i) nationally recognized technical and data standards regarding the verification and authentication of identity in digital and online transactions; (ii) the minimum specifications and standards that should be included in an identity trust framework, as defined in § 59.1-550, so as to warrant liability protection pursuant to the Electronic Identity Management Act (§ 59.1-550 et seq.); and (iii) any other related data standards or specifications concerning reliance by third parties on identity credentials, as defined in § 59.1-550.

B. Final guidance documents approved pursuant to subsection A shall be posted on the Virginia Regulatory Town Hall and published in the Virginia Register of Regulations as a general notice. The Secretary of ~~Administration~~ *Commerce and Trade* shall send a copy of the final guidance documents to the Joint Commission on Administrative Rules established pursuant to § 30-73.1 at least 90 days prior to the effective date of such guidance documents. The Secretary of ~~Administration~~ *Commerce and Trade* shall also annually file a list of available guidance documents developed pursuant to this chapter pursuant to § 2.2-4103.1 of the Virginia Administrative Process Act (§ 2.2-4000 et seq.) and shall send a copy of such list to the Joint Commission on Administrative Rules.

§ 2.2-437. Identity Management Standards Advisory Council.

A. The Identity Management Standards Advisory Council (the Advisory Council) is established to advise the Secretary of ~~Administration~~ *Commerce and Trade* on the adoption of identity management standards and the creation of guidance documents pursuant to § 2.2-436.

B. The Advisory Council shall consist of seven members, to be appointed by and serve at the pleasure of the Governor, with expertise in electronic identity management and information technology. Members shall include a ~~representative of the Department of Motor Vehicles~~, a representative of the ~~Commonwealth of Virginia Innovation Partnership Authority~~ *Virginia Information Technologies Agency*, and five representatives of the business community with appropriate experience and expertise, ~~and one representative of Virginia consumers~~. In addition to the seven appointed members, ~~the Commissioner of the Department of Motor Vehicles, or his designee, and the Chief Information Officer of the Commonwealth, or his designee, may also serve as an ex officio member~~ *members with voting privileges on of the Advisory Council. Beginning July 1, 2019, appointments shall be staggered as follows: one member for a term of one year, two members for a term of two years, two members for a term of three years, and two members for a term of four years. After the initial staggering of terms, members shall be appointed for terms of four years. Members may be reappointed.*

The Advisory Council shall designate one of its members as chairman.

Members shall serve without compensation but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in § 2.2-2825.

Staff to the Advisory Council shall be provided by the Office of the Secretary of ~~Administration~~ *Commerce and Trade*.

C. Proposed guidance documents and general opportunity for oral or written submittals as to those guidance documents shall be posted on the Virginia Regulatory Town Hall and published in the Virginia Register of Regulations as a general notice following the processes and procedures set forth in subsection B of § 2.2-4031 of the Virginia Administrative Process Act (§ 2.2-4000 et seq.). The Advisory Council shall allow at least 30 days for the submission of written comments following the posting and publication and shall hold at least one meeting dedicated to the receipt of oral comment no less than 15 days after the posting and publication. The Advisory Council shall also develop methods for the identification and notification of interested parties and specific means of seeking input from interested persons and groups. The Advisory Council shall send a copy of such notices, comments, and other background material relative to the development of the recommended guidance documents to the Joint Commission on Administrative Rules.