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HOUSE BILL NO. 1470

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Roads and Internal Navigation)

(Patron Prior to Substitute—Delegate Mayer)

House Amendments in [] — February 7, 1995

A BILL to amend and reenact §§ 33.1-346 and 46.2-208 of the Code of Virginia, relating to illegal dumping of trash; penalty.

Be it enacted by the General Assembly of Virginia:

1. That §§ 33.1-346 and 46.2-208 of the Code of Virginia are amended and reenacted as follows:

§ 33.1-346. Dumping trash, etc., on highway, right-of-way or private property.

Any person shall be guilty of a Class 1 misdemeanor who dumps or otherwise disposes of trash, garbage, refuse, litter, or other unsightly matter, on public property, including a public highway, right-of-way, property adjacent to such highway or right-of-way, or on private property [~~or in a private refuse receptacle on private property~~] without the written consent of the owner thereof or his agent.

When any person is arrested for a violation of this section, and the matter alleged to have been illegally dumped or disposed of has been ejected from a motor vehicle *or transported to the disposal site in a motor vehicle*, the arresting officer may comply with the provisions of § 46.2-936 in making such arrest.

When a violation of the provisions of this section has been observed by any person, and the matter illegally dumped or disposed of has been ejected *or removed* from a motor vehicle, the owner or operator of such motor vehicle shall be presumed to be the person ejecting *or disposing of* such matter. However, such presumption shall be rebuttable by competent evidence.

For the purposes of issuance of a warrant of arrest of the operator of the vehicle, the magistrate or other authorized officer issuing the warrant may verify ownership of the vehicle through the Department of Motor Vehicles records pursuant to § 46.2-208 if the material alleged to have been dumped or disposed of consists of an item or items typically considered unacceptable for landfill disposal or which a landfill would accept upon the payment of a surcharge including, but not limited to, the following: (i) construction materials, (ii) household appliances, (iii) furniture, (iv) automobile parts, components or accessories, or any other bulky, nonbiodegradable or potentially hazardous material.

Any person convicted of such violation shall be guilty of a Class 1 misdemeanor.

The governing bodies of counties, cities and towns are hereby authorized to adopt ordinances not in conflict with the provisions of this section, and may repeal, amend or modify such ordinances.

The provisions of this section shall not apply to the lawful disposal of such matter in landfills.

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

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

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

2. Driver information, including all data that relates to driver's license status and driver activity; and

3. Vehicle information, including all descriptive vehicle data and title, registration, and vehicle activity data.

B. The Commissioner shall release such information only under the following conditions:

1. Notwithstanding other provisions of this section, medical data included in personal data shall be released only to a physician as provided in § 46.2-322.

2. Insurance data may be released as specified in §§ 46.2-372, 46.2-380, and 46.2-706.

3. Notwithstanding other provisions of this section, information disclosed or furnished shall be assessed a fee as specified in § 46.2-214.

4. When the person requesting the information is (i) the subject of the information, (ii) the parent or guardian of the subject of the information, (iii) the authorized representative of the subject of the information, or (iv) the owner of the vehicle that is the subject of the information, the Commissioner shall provide him with the requested information and a complete explanation of it. Requests for such information need not be made in writing or in person and may be made orally or by telephone, provided that the Department is satisfied that there is adequate verification of the requester's identity. When so requested in writing by (i) the subject of the information, (ii) the parent or guardian of the subject of the information, (iii) the authorized representative of the subject of the information, or (iv) the owner of the vehicle that is the subject of the information, the Commissioner shall verify and, if necessary, correct the personal information provided and furnish driver and vehicle information in the form of an abstract of the record.

5. On the written request of any insurance carrier, surety, or representative of an insurance carrier or surety, the Commissioner shall furnish such insurance carrier, surety, or representative an abstract of the

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60 record of any person subject to the provisions of this title. The abstract shall include any record of any
61 conviction of a violation of any provision of any statute or ordinance relating to the operation or
62 ownership of a motor vehicle or of any injury or damage in which he was involved and a report of
63 which is required by § 46.2-372. No such report of any conviction or accident shall be made after sixty
64 months from the date of the conviction or accident unless the Commissioner or court used the
65 conviction or accident as a reason for the suspension or revocation of a driver's license or driving
66 privilege, in which case the revocation or suspension and any conviction or accident pertaining thereto
67 shall not be reported after sixty months from the date that the driver's license or driving privilege has
68 been reinstated. This abstract shall not be admissible in evidence in any court proceedings.

69 6. On the written request of any business organization or its agent, in the conduct of its business, the
70 Commissioner shall compare personal information supplied by the business organization or agent with
71 that contained in the Department's records and, when the information supplied by the business
72 organization or agent is different from that contained in the Department's records, provide the business
73 organization or agent with correct information as contained in the Department's records. Personal
74 information provided under this subdivision shall be used solely for the purpose of pursuing remedies
75 which require locating an individual.

76 7. The Commissioner shall provide vehicle information to any business organization or agent on such
77 business' or agent's written request. Disclosures made under this subdivision shall not include any
78 personal information and shall not be subject to the limitations contained in subdivision 6 of this
79 subsection.

80 8. On the written request of any motor vehicle rental or leasing company or its designated agent, the
81 Commissioner shall (i) compare personal information supplied by the company or agent with that
82 contained in the Department's records and, when the information supplied by the company or agent is
83 different from that contained in the Department's records, provide the company or agent with correct
84 information as contained in the Department's records and (ii) provide the company or agent with driver
85 information in the form of an abstract of any person subject to the provisions of this title. Such abstract
86 shall include any record of any conviction of a violation of any provision of any statute or ordinance
87 relating to the operation or ownership of a motor vehicle or of any injury or damage in which the
88 subject of the abstract was involved and a report of which is required by § 46.2-372. No such abstract
89 shall include any record of any conviction or accident more than sixty months after the date of such
90 conviction or accident unless the Commissioner or court used the conviction or accident as a reason for
91 the suspension or revocation of a driver's license or driving privilege, in which case the revocation or
92 suspension and any conviction or accident pertaining thereto shall cease to be included in such abstract
93 after sixty months from the date on which the driver's license or driving privilege was reinstated. No
94 abstract released under this subdivision shall be admissible in evidence in any court proceedings.

95 9. On the request of any federal, state, or local governmental entity, law-enforcement officer, attorney
96 for the Commonwealth, or court, the Commissioner shall (i) compare personal information supplied by
97 the governmental entity, officer, attorney for the Commonwealth, or court with that contained in the
98 Department's records and, when the information supplied by the governmental entity, officer, attorney
99 for the Commonwealth, or court is different from that contained in the Department's records, provide the
100 governmental entity, officer, attorney for the Commonwealth, or court with correct information as
101 contained in the Department's records and (ii) provide driver and vehicle information in the form of an
102 abstract of the record showing all convictions, accidents, driver's license suspensions or revocations, and
103 other appropriate information as the governmental entity, officer, attorney for the Commonwealth, or
104 court may require in order to carry out its official functions.

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

108 11. On the written request of any employer, prospective employer, or authorized agent of either, and
109 with the written consent of the individual concerned, the Commissioner shall (i) compare personal
110 information supplied by the employer, prospective employer, or agent with that contained in the
111 Department's records and, when the information supplied by the employer, prospective employer, or
112 agent is different from that contained in the Department's records, provide the employer, prospective
113 employer, or agent with correct information as contained in the Department's records and (ii) provide the
114 employer, prospective employer, or agent with driver information in the form of an abstract of an
115 individual's record showing all convictions, accidents, driver's license suspensions or revocations, and
116 any type of driver's license that the individual currently possesses, provided that the individual's position
117 or the position that the individual is being considered for involves the operation of a motor vehicle.

118 12. On the written request of any member of or applicant for membership in a volunteer fire
119 company or volunteer rescue squad, the Commissioner shall (i) compare personal information supplied
120 by the volunteer fire company or volunteer rescue squad with that contained in the Department's records
121 and, when the information supplied by the volunteer fire company or volunteer rescue squad is different

from that contained in the Department's records, provide the volunteer fire company or volunteer rescue squad with correct information as contained in the Department's records and (ii) provide driver information in the form of an abstract of the member's or applicant's record showing all convictions, accidents, license suspensions or revocations, and any type of driver's license that the individual currently possesses. Such abstract shall be provided free of charge if the request is accompanied by appropriate written evidence that the person is a member of or applicant for membership in a volunteer fire company or volunteer rescue squad and the abstract is needed by a volunteer fire company or volunteer rescue squad to establish the qualifications of the member or applicant to operate equipment owned by the volunteer fire company or volunteer rescue squad.

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

On the written request of any person who has applied to be a volunteer with a court-appointed special advocate program pursuant to § 9-173.8, the Commissioner shall provide an abstract of the applicant's record showing all convictions, accidents, license suspensions or revocations, and any type of driver's license that the individual currently possesses. Such abstract shall be provided free of charge if the request is accompanied by appropriate written evidence that the person has applied to be a volunteer with a court-appointed special advocate program pursuant to § 9-173.8.

14. Whenever the Commissioner issues an order to suspend or revoke the driver's license or driving privilege of any individual, he may notify the National Driver Register Service operated by the United States Department of Transportation and any similar national driver information system and provide whatever classes of information the authority may require.

15. Accident reports may be inspected under the provisions of §§ 46.2-379 and 46.2-380.

16. Whenever the Commissioner takes any licensing action pursuant to the provisions of the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.), he may provide information to the Commercial Driver License Information System, or any similar national commercial driver information system, regarding such action.

17. Upon the request of any employer, prospective employer, or authorized representative of either, the Commissioner shall (i) compare personal information supplied by the employer, prospective employer, or agent with that contained in the Department's records and, when the information supplied by the employer, prospective employer, or agent is different from that contained in the Department's records, provide the employer, prospective employer, or agent with correct information as contained in the Department's records and (ii) provide driver information in the form of an abstract of the driving record of any individual who has been issued a commercial driver's license, provided that the individual's position or the position that the individual is being considered for involves the operation of a commercial motor vehicle. Such abstract shall show all convictions, accidents, license suspensions, revocations, or disqualifications, and any type of driver's license that the individual currently possesses.

18. Upon the receipt of a completed application and payment of applicable processing fees, the Commissioner may enter into an agreement with any governmental authority or business to exchange information specified in this section by electronic or other means.

19. In addition to the foregoing provisions of this section, vehicle information may also be inspected under the provisions of §§ 43-33, 43-34, 46.2-633, and 46.2-1200.1 through 46.2-1237.

20. Upon the request of an attorney representing a person in a motor vehicle accident, the Commissioner shall provide vehicle information, including the owner's name and address, to the attorney.

21. *Upon the request of an officer authorized to issue criminal warrants, for the purpose of issuing a warrant for arrest for unlawful disposal of trash or refuse in violation of § 33.1-346, the Commissioner shall provide vehicle information, including the owner's name and address.*

C. The Department may promulgate regulations to govern the means by which personal, vehicle, and driver information is requested and disseminated.

D. Driving records of any person accused of an offense involving the operation of a motor vehicle shall be provided by the Commissioner upon request to any person acting as counsel for the accused. If such counsel is from the public defender's office or has been appointed by the court, such records shall

183 be provided free of charge.