SENATE BILL NO. 62
Offered January 9, 2002
Prefiled December 28, 2001

A BILL to amend and reenact §§ 46.2-323, 46.2-341.12, 46.2-341.15, 46.2-342, and 46.2-345 of the Code of Virginia relating to driver's licenses, commercial driver's licenses, and special identification cards; use of thumb prints or other biometric identifiers required.

Patrons—Watkins and Mims

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:
1. That §§ 46.2-323, 46.2-341.12, 46.2-341.15, 46.2-342, and 46.2-345 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 § 19.2-298.1, if the applicant has been convicted of a felony in violation of §§ 18.2-61, 18.2-63, 18.2-64.1, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.5, 18.2-370 or § 18.2-370.1 or, where the victim is a minor or is physically helpless or mentally incapacitated as defined in § 18.2-361 or subsection B of § 18.2-366, including juveniles tried and convicted in the circuit courts pursuant to § 16.1-269.1 whether sentenced as adults or juveniles, or a felony under a substantially similar law of the United States or any other state.
B. Every application shall state the name, year, month and date of birth, social security number, sex, and residence address 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. 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 may 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 applicant may also be required to present to the person conducting the examination a birth certificate or other evidence, reasonably acceptable to the Department, of his name and date of birth.
The applicant shall also certify that he is a resident of the Commonwealth by signing a certification statement, on a form prescribed by the Commissioner, and by providing satisfactory proof that he is a resident of the Commonwealth. The Commissioner may adopt regulations to determine the process by which applicants prove that they are residents of the Commonwealth.
If the applicant either (i) fails or refuses to sign the certification statement or (ii) fails to follow the process determined by the Commissioner for proving residency, 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 of Virginia residency or supplies false or fictitious evidence of Virginia residency shall be punished as provided in § 46.2-348.
The Commissioner may, on a case-by-case basis, waive any provision of such regulations for good cause shown.
C. Every application for a driver's license shall include (i) a color photograph of the applicant supplied under arrangements made by the Department and (ii) a thumbprint or other biometric identifier, as determined by the Commissioner. 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 unlicensed applicant for a driver's license who is under nineteen 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.

§ 46.2-341.12. Application for commercial driver's license.
A. Every application to the Department for a commercial driver's license 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; and
6. Any other information required on the application form.

B. Every applicant for a commercial driver's license 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. Part 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, including but not limited to a birth certificate; and
5. A statement indicating whether the applicant has ever been licensed as a driver and, if so, when and by what state and whether or not he has ever been disqualified, or his license suspended, revoked or cancelled and, if so, the date of and reason therefor.

C. Every application for a commercial driver's license shall include (i) a color photograph of the applicant supplied under arrangements made therefor by the Department in accordance with § 46.2-323 and (ii) a thumbprint or other biometric identifier, as determined by the Commissioner.

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. The Department shall take such action within thirty days after discovering such falsification.

E. The Department shall review the driving record of any person who applies for a Virginia commercial driver's license, for the renewal or reinstatement of such license or for an additional commercial classification or endorsement. The Department's review shall include research through the Commercial Driver License Information System established pursuant to the Commercial Motor Vehicle Safety Act, the National Driver Register, and the driver record maintained by the applicant's state of licensure.

§ 46.2-341.15. Commercial driver's license document.
A. The commercial driver's license issued by the Department shall be identified as a Virginia commercial driver's license and shall include at least the following:

1. Full name, address, and signature of the licensee;
2. A color photograph of the licensee and a thumbprint or other biometric identifier, as determined by the Commissioner;
3. A physical description of the licensee, including sex and height;
4. The licensee's date of birth and Social Security number;
5. A designation of the class and type of commercial motor vehicle or vehicles which the licensee is authorized to drive, together with any restrictions; and
6. The date of license issuance and expiration.
B. The commercial driver's instruction permit shall be identified as such but shall in all other respects conform to subsection A of this section.

§ 46.2-342. What license to contain; organ donor information; Uniform Donor Document.
A. Every license issued under this chapter shall bear:
1. For new, renewal, or replacement licenses issued on or after September 1, 1995, either (i) a license number which shall be the same as the licensee's social security number or (ii) a control number which shall be assigned by the Department to the licensee if he either (i) has no social security number or (ii) requests in writing on a form prescribed by the Commissioner that his social security number not be shown on the license;
2. A color photograph of the licensee and a thumbprint or other biometric identifier, as determined by the Commissioner;
3. The licensee's name, year, month, and date of birth;
4. The licensee's address;
5. A brief description of the licensee for the purpose of identification;
6. A space for the signature of the licensee; and
7. Any other information deemed necessary by the Commissioner for the administration of this title.

No abbreviated names or nicknames shall be shown on any license.
A1. At the option of the licensee, the address shown on the license may be either the post office box, business, or residence address of the licensee. However, regardless of which address is shown on the license, the licensee shall supply the Department with his residence address. This residence address shall be maintained in the Department's records. Whenever the licensee's address shown either on his license or in the Department's records changes, he shall notify the Department of such change as required by § 46.2-324.
B. The license shall be made of a material and in a form to be determined by the Commissioner.
C. Licenses issued to persons less than twenty-one years old shall be immediately and readily distinguishable from those issued to persons twenty-one years old or older. Distinguishing characteristics shall include unique design elements of the document and descriptors within the photograph area to identify persons who are at least fifteen years old but less than twenty-one years old. These descriptors shall include the month, day, and year when the person will become twenty-one years old.
D. The Department shall establish a method by which an applicant for a driver's license or an identification card may designate his willingness to be an organ donor as provided in Article 2 (§ 32.1-289 et seq.) of Chapter 8 of Title 32.1 and shall cooperate with the Virginia Transplant Council to ensure that such method is designed to encourage organ donation with a minimum of effort on the part of the donor and the Department.
E. If an applicant designates his willingness to be a donor pursuant to subsection D, the Department may make a notation of this designation on his license or card and shall make a notation of this designation in his driver record.
F. The donor designation authorized in subsection E shall be sufficient legal authority for the removal, following death, of the subject's organs or tissues without additional authority from the donor, or his family or estate. No family member, guardian, agent named pursuant to an advance directive or person responsible for the decedent's estate shall refuse to honor the donor designation or, in any way, seek to avoid honoring the donor designation.
G. The donor designation provided pursuant to subsection D may be rescinded by notifying the Department.

H. With the written consent of his parent or legal guardian, a minor may make a donor designation.
I. When requested by the applicant, and upon presentation of a signed statement by a licensed physician confirming the applicant's condition, the Department shall indicate on the applicant's driver's license that the applicant is an insulin-dependent diabetic.
J. In the absence of gross negligence or willful misconduct, the Department and its employees shall be immune from any civil or criminal liability in connection with the making of or failure to make a notation of donor designation on any license or card or in any person's driver record.
K. Notwithstanding the foregoing provisions of this section, the Department shall continue to use the uniform donor document, as formerly set forth in subsection D above, for organ donation designation until such time as a new method is fully implemented, which shall be no later than July 1, 1994. Any such uniform donor document, shall, when properly executed, remain valid and shall continue to be subject to all conditions for execution, delivery, amendment, and revocation as set out in Article 2 (§ 32.1-289 et seq.) of Chapter 8 of Title 32.1.

L. The Department shall, in coordination with the Virginia Transplant Council, prepare an organ donor information brochure describing the organ donor program and providing instructions for completion of the uniform donor document information describing the bone marrow donation program and instructions for registration in the National Bone Marrow Registry. The Department shall include a copy of such brochure with every driver's license renewal notice or application mailed to licensed drivers in Virginia.

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

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

1. Application is made on a form prescribed by the Department;
2. The applicant presents a birth certificate or other evidence acceptable to the Department of his name and date of birth; and
3. The Department is satisfied that the applicant needs an identification card or the applicant shows he has a bona fide need for such a card.

B. The fee for the issuance of a special identification card is five dollars. Persons twenty-one years old or older may be issued a scenic special identification card for an additional fee of five dollars.

C. A special identification card shall expire five years from its date of issuance except that those cards issued to children under the age of fifteen shall expire on the child's fifteenth birthday or five years from the date of issuance, whichever occurs first.

D. A special identification card issued under this section may be similar in size, shape, and design to a driver's license, and include a color photograph of its holder and thumbprint or other biometric identifier, as determined by the Commissioner, but the card shall be readily distinguishable from a driver's license and shall clearly state that it does not authorize the person to whom it is issued to drive a motor vehicle.

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

F. Special identification cards for persons under age fifteen shall bear a full face photograph. The special identification card issued to persons under age fifteen 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. 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.

H. 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
I. The Department may promulgate regulations necessary for the effective implementation of the provisions of this section.

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.

2. That the provisions of this act shall apply to all driver's licenses, commercial driver's licenses, special identification cards, and applications therefor issued or submitted on or after January 1, 2003.