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SENATE BILL NO. 1013

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice)

(Patrons Prior to Substitute—Senators Stanley, Edwards [SB 1310], and Ebbin [SB 1612])

Senate Amendments in [] - January 24, 2019

A BILL to amend and reenact §§ 19.2-258.1, 19.2-354, 19.2-354.1, 33.2-503, 46.2-301, 46.2-361, 46.2-391.1, 46.2-416, 46.2-819.1, 46.2-819.3, 46.2-819.3:1, 46.2-819.5, and 46.2-1200.1 of the Code of Virginia and to repeal § 46.2-395 of the Code of Virginia, relating to suspension of driver's license for nonpayment of fines or costs.

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-258.1, 19.2-354, 19.2-354.1, 33.2-503, 46.2-301, 46.2-361, 46.2-391.1, 46.2-416, 46.2-819.1, 46.2-819.3, 46.2-819.3:1, 46.2-819.5, and 46.2-1200.1 of the Code of Virginia are amended and reenacted as follows:

§ 19.2-258.1. Trial of traffic infractions; measure of proof; failure to appear.

For any traffic infraction cases tried in a district court, the court shall hear and determine the case without the intervention of a jury. For any traffic infraction case appealed to a circuit court, the defendant shall have the right to trial by jury. The defendant shall be presumed innocent until proven guilty beyond a reasonable doubt.

When a person charged with a traffic infraction fails to enter a written or court appearance, he shall be deemed to have waived court hearing and the case may be heard in his absence, after which he shall be notified of the court's finding. He shall be advised that if he fails to comply with any order of the court therein, the court may order suspension of his driver's license as provided in § 46.2-395 but; however, the court shall not issue a warrant for his failure to appear pursuant to § 46.2-938.

§ 19.2-354. Authority of court to order payment of fine, costs, forfeitures, penalties or restitution in installments or upon other terms and conditions; community work in lieu of payment.

A. Whenever (i) a defendant, convicted of a traffic infraction or a violation of any criminal law of the Commonwealth or of any political subdivision thereof, or found not innocent in the case of a juvenile, is sentenced to pay a fine, restitution, forfeiture, or penalty and (ii) the defendant is unable to make payment of the fine, restitution, forfeiture, or penalty and costs within 30 days of sentencing, the court shall order the defendant to pay such fine, restitution, forfeiture, or penalty and any costs which the defendant may be required to pay in deferred payments or installments. The court assessing the fine, restitution, forfeiture, or penalty and costs may authorize the clerk to establish and approve individual deferred or installment payment agreements. If the defendant owes court-ordered restitution and enters into a deferred or installment payment agreement, any money collected pursuant to such agreement shall be used first to satisfy such restitution order and any collection costs associated with restitution prior to being used to satisfy any other fine, forfeiture, penalty, or cost owed. Any payment agreement authorized under this section shall be consistent with the provisions of § 19.2-354.1, including any required minimum payments or other required conditions. The requirements set forth in § 19.2-354.1 shall be posted in the clerk's office and on the court's website, if a website is available. As a condition of every such agreement, a defendant who enters into an installment or deferred payment agreement shall promptly inform the court of any change of mailing address during the term of the agreement. If the defendant is unable to make payment within 90 days of sentencing, the court may assess a one-time fee not to exceed \$10 to cover the costs of management of the defendant's account until such account is paid in full. This one-time fee shall not apply to cases in which costs are assessed pursuant to § 17.1-275.1, 17.1-275.2, 17.1-275.3, 17.1-275.4, 17.1-275.7, 17.1-275.8, or 17.1-275.9. Installment or deferred payment agreements shall include terms for payment if the defendant participates in a program as provided in subsection B or C. The court, if such sum or sums are not paid in full by the date ordered, shall proceed in accordance with § 19.2-358.

B. When a person sentenced to the Department of Corrections or a local correctional facility owes any fines, costs, forfeitures, restitution or penalties, he shall be required as a condition of participating in any work release, home/electronic incarceration or nonconsecutive days program as set forth in § 53.1-60, 53.1-131, 53.1-131.1, or 53.1-131.2 to either make full payment or make payments in accordance with his installment or deferred payment agreement while participating in such program. If, after the person has an installment or deferred payment agreement, the person fails to pay as ordered, his participation in the program may be terminated until all fines, costs, forfeitures, restitution and penalties are satisfied. The Director of the Department of Corrections and any sheriff or other administrative head of any local correctional facility shall withhold such ordered payments from any amounts due to such person. Distribution of the money collected shall be made in the following order of

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60 priority to:

61 1. Meet the obligation of any judicial or administrative order to provide support and such funds shall
62 be disbursed according to the terms of such order;

63 2. Pay any restitution as ordered by the court;

64 3. Pay any fines or costs as ordered by the court;

65 4. Pay travel and other such expenses made necessary by his work release employment or
66 participation in an education or rehabilitative program, including the sums specified in § 53.1-150; and

67 5. Defray the offender's keep.

68 The balance shall be credited to the offender's account or sent to his family in an amount the
69 offender so chooses.

70 The Board of Corrections shall promulgate regulations governing the receipt of wages paid to
71 persons participating in such programs, the withholding of payments and the disbursement of appropriate
72 funds.

73 C. The court shall establish a program and may provide an option to any person upon whom a fine
74 and costs have been imposed to discharge all or part of the fine or costs by earning credits for the
75 performance of community service work before or after imprisonment. The program shall specify the
76 rate at which credits are earned and provide for the manner of applying earned credits against the fine
77 or costs. The court assessing the fine or costs against a person shall inform such person of the
78 availability of earning credit toward discharge of the fine or costs through the performance of
79 community service work under this program and provide such person with written notice of terms and
80 conditions of this program. The court shall have such other authority as is reasonably necessary for or
81 incidental to carrying out this program.

82 D. When the court has authorized deferred payment or installment payments, the clerk shall give
83 notice to the defendant that upon his failure to pay as ordered he may be fined or imprisoned pursuant
84 to § 19.2-358 and his privilege to operate a motor vehicle will be suspended pursuant to § 46.2-395.

85 E. The failure of the defendant to enter into a deferred payment or installment payment agreement
86 with the court or the failure of the defendant to make payments as ordered by the agreement shall allow
87 the Tax Commissioner to act in accordance with § 19.2-349 to collect all fines, costs, forfeitures and
88 penalties.

89 **§ 19.2-354.1. Deferred or installment payment agreements.**

90 A. For purposes of this section:

91 "Deferred payment agreement" means an agreement in which no installment payments are required
92 and the defendant agrees to pay the full amount of the fines and costs at the end of the agreement's
93 stated term.

94 "Fines and costs" means all fines, court costs, forfeitures, and penalties assessed in any case by a
95 single court against a defendant for the commission of any crime or traffic infraction. "Fines and costs"
96 includes restitution unless the court orders a separate payment schedule for restitution.

97 "Installment payment agreement" means an agreement in which the defendant agrees to make
98 monthly or other periodic payments until the fines and costs are paid in full.

99 "Modified deferred payment agreement" means a deferred payment agreement in which the defendant
100 also agrees to use best efforts to make monthly or other periodic payments.

101 B. The court shall give a defendant ordered to pay fines and costs written notice of the availability
102 of deferred, modified deferred, and installment payment agreements and, if a community service
103 program has been established, the availability of earning credit toward discharge of fines and costs
104 through the performance of community service work. The court shall offer any defendant who is unable
105 to pay in full the fines and costs within 30 days of sentencing the opportunity to enter into a deferred
106 payment agreement, modified deferred payment agreement, or installment payment agreement.

107 C. The court shall not deny a defendant the opportunity to enter into a deferred, modified deferred,
108 or installment payment agreement solely (i) because of the category of offense for which the defendant
109 was convicted or found not innocent, (ii) because of the total amount of all fines and costs, (iii) because
110 the defendant previously defaulted under the terms of a payment agreement, (iv) because the fines and
111 costs have been referred for collections pursuant to § 19.2-349, or (v) because the defendant has not
112 established a payment history; or (vi) because the defendant is eligible for a restricted driver's license
113 under subsection E of § 46.2-395.

114 D. In determining the length of time to pay under a deferred, modified deferred, or installment
115 payment agreement and the amount of the payments, a court shall take into account the defendant's
116 financial resources and obligations, including any fines and costs owed by the defendant in other courts.
117 In assessing the defendant's ability to pay, the court shall use a written financial statement, on a form
118 developed by the Executive Secretary of the Supreme Court, setting forth the defendant's financial
119 resources and obligations or conduct an oral examination of the defendant to determine his financial
120 resources and obligations. The court may require the defendant to present a summary prepared by the
121 Department of Motor Vehicles of the other courts in which the defendant also owes fines and costs. The

length of a payment agreement and the amount of the payments shall be reasonable in light of the defendant's financial resources and obligations and shall not be based solely on the amount of fines and costs. The court may offer a payment agreement combining an initial period during which no payment of fines and costs is required followed by a period of installment payments.

E. A court may require a down payment as a condition of a defendant entering a deferred, modified deferred, or installment payment agreement. Any down payment shall be a minimal amount to demonstrate the defendant's commitment to paying the fines and costs. In the case of an installment payment agreement, the required down payment may not exceed (i) if the fines and costs owed are \$500 or less, 10 percent of such amount or (ii) if the fines and costs owed are more than \$500, five percent of such amount or \$50, whichever is greater. A defendant may make a larger down payment than what is provided by this subsection.

F. All fines and costs that a defendant owes for all cases in any single court may be incorporated into one payment agreement, unless otherwise ordered by the court in specific cases. A payment agreement shall include only those outstanding fines and costs for which the limitations period set forth in § 19.2-341 has not run.

G. Any payment received within 10 days of its due date shall be considered to be timely made.

H. At any time during the duration of a payment agreement, the defendant may request a modification of the agreement in writing on a form provided by the Executive Secretary of the Supreme Court, and the court may grant such modification based on a good faith showing of need.

I. A court shall consider a request by a defendant who has defaulted on a payment agreement to enter into a subsequent payment agreement. In determining whether to approve the request for a subsequent payment agreement, the court shall consider any change in the defendant's circumstances. A court shall require a down payment to enter into a subsequent payment agreement, provided that the down payment required to enter into a subsequent payment agreement shall not exceed (i) if the fines and costs owed are \$500 or less, 10 percent of such amount or (ii) if the fines and costs owed are more than \$500, five percent of such amount or \$50, whichever is greater. When a defendant enters into a subsequent payment agreement, a court shall not require a defendant to establish a payment history on the subsequent payment agreement before restoring the defendant's driver's license.

§ 33.2-503. HOT lanes enforcement.

Any person operating a motor vehicle on designated HOT lanes shall make arrangements with the HOT lanes operator for payment of the required toll prior to entering such HOT lanes. The operator of a vehicle who enters the HOT lanes in an unauthorized vehicle, in violation of the conditions for use of such HOT lanes established pursuant to § 33.2-502, without payment of the required toll or without having made arrangements with the HOT lanes operator for payment of the required toll shall have committed a violation of this section, which may be enforced in the following manner:

1. On a form prescribed by the Supreme Court, a summons for a violation of this section may be executed by a law-enforcement officer, when such violation is observed by such officer. The form shall contain the option for the operator of the vehicle to prepay the unpaid toll and all penalties, administrative fees, and costs.

2. a. A HOT lanes operator shall install and operate, or cause to be installed or operated, a photo-enforcement system at locations where tolls are collected for the use of such HOT lanes.

b. A summons for a violation of this section may be executed when such violation is evidenced by information obtained from a photo-enforcement system as defined in this chapter. A certificate, sworn to or affirmed by a technician employed or authorized by the HOT lanes operator, or a facsimile of such a certificate, based on inspection of photographs, microphotographs, videotapes, or other recorded images produced by a photo-enforcement system, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape, or other recorded images evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such violation under this subdivision 2. Any vehicle rental or vehicle leasing company, if named in a summons, shall be released as a party to the action if it provides to the HOT lanes operator a copy of the vehicle rental agreement or lease or an affidavit identifying the renter or lessee prior to the date of hearing set forth in the summons. Upon receipt of such rental agreement, lease, or affidavit, a summons shall be issued for the renter or lessee identified therein. Release of this information shall not be deemed a violation of any provision of the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.) or the Insurance Information and Privacy Protection Act (§ 38.2-600 et seq.).

c. On a form prescribed by the Supreme Court, a summons issued under this subdivision 2 may be executed as provided in § 19.2-76.2. Such form shall contain the option for the owner or operator to prepay the unpaid toll and all penalties, administrative fees, and costs. A summons for a violation of this section may set forth multiple violations occurring within one jurisdiction. Notwithstanding the provisions of § 19.2-76, a summons for a violation of this section may be executed by mailing by first-class mail a copy thereof to the address of the owner or, if the owner has named and provided a

183 valid address for the operator of the vehicle at the time of the violation in an affidavit executed pursuant
184 to subdivision e, such named operator of the vehicle. Such summons shall be signed either originally or
185 by electronic signature. If the summoned person fails to appear on the date of return set out in the
186 summons mailed pursuant to this section, the summons shall be executed in the manner set out in
187 § 19.2-76.3.

188 d. No summons may be issued by a HOT lanes operator for a violation of this section unless the
189 HOT lanes operator can demonstrate that (i) there was an attempt to collect the unpaid tolls and
190 applicable administrative fees through debt collection not less than 30 days prior to issuance of the
191 summons and (ii) 120 days have elapsed since the unpaid toll or, in a summons for multiple violations,
192 120 days have elapsed since the most recent unpaid toll noticed on the summons. For purposes of this
193 subdivision, "debt collection" means the collection of unpaid tolls and applicable administrative fees by
194 (a) retention of a third-party debt collector or (b) collection practices undertaken by employees of a
195 HOT lanes operator that are materially similar to a third-party debt collector.

196 e. The owner of such vehicle shall be given reasonable notice by way of a summons as provided in
197 this subdivision 2 that his vehicle had been used in violation of this section, and such owner shall be
198 given notice of the time and place of the hearing and notice of the civil penalty and costs for such
199 offense.

200 It shall be prima facie evidence that the vehicle described in the summons issued pursuant to
201 subdivision 2 was operated in violation of this section. Records obtained from the Department of Motor
202 Vehicles pursuant to § 33.2-504 and certified in accordance with § 46.2-215 or from the equivalent
203 agency in another state and certified as true and correct copies by the head of such agency or his
204 designee identifying the owner of such vehicle shall give rise to a rebuttable presumption that the owner
205 of the vehicle is the person named in the summons.

206 Upon the filing of an affidavit with the court at least 14 days prior to the hearing date by the owner
207 of the vehicle stating that he was not the operator of the vehicle on the date of the violation and
208 providing the legal name and address of the operator of the vehicle at the time of the violation, a
209 summons will also be issued to the alleged operator of the vehicle at the time of the offense. The
210 affidavit shall constitute prima facie evidence that the person named in the affidavit was driving the
211 vehicle at all the relevant times relating to the matter named in the affidavit.

212 If the owner of the vehicle produces a certified copy of a police report showing that the vehicle had
213 been reported to the police as stolen prior to the time of the alleged offense and remained stolen at the
214 time of the alleged offense, then the court shall dismiss the summons issued to the owner of the vehicle.

215 3. a. The HOT lanes operator may impose and collect an administrative fee in addition to the unpaid
216 toll so as to recover the expenses of collecting the unpaid toll, which administrative fee shall be
217 reasonably related to the actual cost of collecting the unpaid toll and not exceed \$100 per violation. The
218 operator of the vehicle shall pay the unpaid tolls and any administrative fee detailed in a notice or
219 invoice issued by a HOT lanes operator. If paid within 60 days of notification, the administrative fee
220 shall not exceed \$25. The HOT lanes operator shall notify the owner of the vehicle of any unpaid tolls
221 and administrative fees by mailing an invoice pursuant to § 46.2-819.6.

222 b. Upon a finding by a court of competent jurisdiction that the operator of the vehicle observed by a
223 law-enforcement officer under subdivision 1 or the vehicle described in the summons for a violation
224 issued pursuant to evidence obtained by a photo-enforcement system under subdivision 2 was in
225 violation of this section, the court shall impose a civil penalty upon the operator of such vehicle issued
226 a summons under subdivision 1, or upon the operator or owner of such vehicle issued a summons under
227 subdivision 2, payable to the HOT lanes operator as follows: for a first offense, \$50; for a second
228 offense, \$100; for a third offense within a period of two years of the second offense, \$250; and for a
229 fourth and subsequent offense within a period of three years of the second offense, \$500, together with,
230 in each case, the unpaid toll, all accrued administrative fees imposed by the HOT lanes operator as
231 authorized by this section, and applicable court costs. The court shall remand penalties, the unpaid toll,
232 and administrative fees assessed for violation of this section to the treasurer or director of finance of the
233 county or city in which the violation occurred for payment to the HOT lanes operator for expenses
234 associated with operation of the HOT lanes and payments against any bonds or other liens issued as a
235 result of the construction of the HOT lanes. No person shall be subject to prosecution under both
236 subdivisions 1 and 2 for actions arising out of the same transaction or occurrence.

237 c. Notwithstanding subdivisions a and b, for a first conviction of an operator or owner of a vehicle
238 under this section, the total amount for the first conviction shall not exceed \$2,200, including civil
239 penalties and administrative fees regardless of the total number of offenses the operator or owner of a
240 vehicle is convicted of on that date.

241 d. Upon a finding by a court that a resident of the Commonwealth has violated this section, in the
242 event such person fails to pay the required penalties, fees, and costs, the court shall notify the
243 Commissioner of the Department of Motor Vehicles, who shall suspend all of the registration certificates
244 and license plates issued for any motor vehicles registered solely in the name of such person and shall

245 not issue any registration certificate or license plate for any other vehicle that such person seeks to
 246 register solely in his name until the court has notified the Commissioner of the Department of Motor
 247 Vehicles that such penalties, fees, and costs have been paid. Upon a finding by a court that a
 248 nonresident of the Commonwealth has violated this section, in the event that such person fails to pay the
 249 required penalties, fees, and costs, the court shall notify the Commissioner of the Department of Motor
 250 Vehicles, who shall, when the vehicle is registered in a state with which the Commonwealth has entered
 251 into an agreement to enforce tolling violations pursuant to § 46.2-819.9, provide to the entity authorized
 252 to issue vehicle registration certificates or license plates in the state in which the vehicle is registered
 253 sufficient evidence of the court's finding to take action against the vehicle registration certificate or
 254 license plates in accordance with the terms of the agreement, until the court has notified the
 255 Commissioner of the Department of Motor Vehicles that such penalties, fees, and costs have been paid.
 256 Upon receipt of such notification from the court, the Commissioner of the Department of Motor
 257 Vehicles shall notify the state where the vehicle is registered of such payment. The HOT lanes operator
 258 and the Commissioner of the Department of Motor Vehicles may enter into an agreement whereby the
 259 HOT lanes operator may reimburse the Department of Motor Vehicles for its reasonable costs to
 260 develop, implement, and maintain this enforcement mechanism, and that specifies that the Commissioner
 261 of the Department of Motor Vehicles shall have an obligation to suspend such registration certificates or
 262 to provide notice to such entities in other states so long as the HOT lanes operator makes the required
 263 reimbursements in a timely manner in accordance with the agreement.

264 e. An action brought under subdivision 1 or 2 shall be commenced within two years of the
 265 commission of the offense and shall be considered a traffic infraction. Except as provided in
 266 subdivisions 4 and 5, imposition of a civil penalty pursuant to this section shall not be deemed a
 267 conviction as an operator of a motor vehicle under Title 46.2 and shall not be made part of the driving
 268 record of the person upon whom such civil penalty is imposed, nor shall it be used for insurance
 269 purposes in the provision of motor vehicle insurance coverage. ~~The provisions of § 46.2-395 shall not be~~
 270 ~~applicable to any civil penalty, fee, unpaid toll, fine, or cost imposed or ordered paid under this section~~
 271 ~~for a violation of subdivision 4 or 2.~~

272 4. a. The HOT lanes operator may restrict the usage of the HOT lanes to designated vehicle
 273 classifications pursuant to an interim or final comprehensive agreement executed pursuant to § 33.2-1808
 274 or 33.2-1809. Notice of any such vehicle classification restrictions shall be provided through the
 275 placement of signs or other markers prior to and at all HOT lanes entrances.

276 b. Any person driving an unauthorized vehicle on the designated HOT lanes is guilty of a traffic
 277 infraction, which shall not be a moving violation, and shall be punishable as follows: for a first offense,
 278 by a fine of \$125; for a second offense within a period of five years from a first offense, by a fine of
 279 \$250; for a third offense within a period of five years from a first offense, by a fine of \$500; and for a
 280 fourth and subsequent offense within a period of five years from a first offense, by a fine of \$1,000. No
 281 person shall be subject to prosecution under both this subdivision and subdivision 1 or 2 for actions
 282 arising out of the same transaction or occurrence.

283 Upon a conviction under this subdivision, the court shall furnish to the Commissioner of the
 284 Department of Motor Vehicles, in accordance with § 46.2-383, an abstract of the record of such
 285 conviction, which shall become a part of the person's driving record. Notwithstanding the provisions of
 286 § 46.2-492, no driver demerit points shall be assessed for any violation of this subdivision, except that
 287 persons convicted of a second, third, fourth, or subsequent violation within five years of a first offense
 288 shall be assessed three demerit points for each such violation.

289 5. The operator of a vehicle who enters the HOT lanes by crossing through any barrier, buffer, or
 290 other area separating the HOT lanes from other lanes of travel is guilty of a violation of § 46.2-852,
 291 unless the vehicle is a state or local law-enforcement vehicle, firefighting truck, or emergency medical
 292 services vehicle used in the performance of its official duties. No person shall be subject to prosecution
 293 both under this subdivision and under subdivision 1, 2, or 4 for actions arising out of the same
 294 transaction or occurrence.

295 Upon a conviction under this subdivision, the court shall furnish to the Commissioner of the
 296 Department of Motor Vehicles in accordance with § 46.2-383 an abstract of the record of such
 297 conviction, which shall become a part of the convicted person's driving record.

298 6. No person shall be subject to prosecution both under this section and under § 33.2-501, 46.2-819,
 299 or 46.2-819.1 for actions arising out of the same transaction or occurrence.

300 7. Any action under this section shall be brought in the general district court of the county or city in
 301 which the violation occurred.

302 **§ 46.2-301. Driving while license, permit, or privilege to drive suspended or revoked.**

303 A. In addition to any other penalty provided by this section, any motor vehicle administratively
 304 impounded or immobilized under the provisions of § 46.2-301.1 may, in the discretion of the court, be
 305 impounded or immobilized for an additional period of up to 90 days upon conviction of an offender for

306 driving while his driver's license, learner's permit, or privilege to drive a motor vehicle has been
307 suspended or revoked for (i) a violation of § 18.2-36.1, 18.2-51.4, 18.2-266, 18.2-272, or 46.2-341.24 or
308 a substantially similar ordinance or law in any other jurisdiction or (ii) driving after adjudication as an
309 habitual offender, where such adjudication was based in whole or in part on an alcohol-related offense,
310 or where such person's license has been administratively suspended under the provisions of § 46.2-391.2.
311 However, if, at the time of the violation, the offender was driving a motor vehicle owned by another
312 person, the court shall have no jurisdiction over such motor vehicle but may order the impoundment or
313 immobilization of a motor vehicle owned solely by the offender at the time of arrest. All costs of
314 impoundment or immobilization, including removal or storage expenses, shall be paid by the offender
315 prior to the release of his motor vehicle.

316 B. Except as provided in §§ 46.2-304 and 46.2-357, no resident or nonresident (i) whose driver's
317 license, learner's permit, or privilege to drive a motor vehicle has been suspended or revoked or (ii) who
318 has been directed not to drive by any court or by the Commissioner, or (iii) who has been forbidden, as
319 prescribed by operation of any statute of the Commonwealth or a substantially similar ordinance of any
320 county, city or town, to operate a motor vehicle in the Commonwealth shall thereafter drive any motor
321 vehicle or any self-propelled machinery or equipment on any highway in the Commonwealth until the
322 period of such suspension or revocation has terminated or the privilege has been reinstated or a
323 restricted license is issued pursuant to subsection E. ~~A clerk's notice of suspension of license for failure~~
324 ~~to pay fines or costs given in accordance with § 46.2-395 shall be sufficient notice for the purpose of~~
325 ~~maintaining a conviction under this section.~~ For the purposes of this section, the phrase "motor vehicle
326 or any self-propelled machinery or equipment" shall not include mopeds.

327 C. A violation of subsection B is a Class 1 misdemeanor. A third or subsequent offense occurring
328 within a 10-year period shall include a mandatory minimum term of confinement in jail of 10 days.
329 However, the court shall not be required to impose a mandatory minimum term of confinement in any
330 case where a motor vehicle is operated in violation of this section in a situation of apparent extreme
331 emergency which requires such operation to save life or limb.

332 D. Upon a violation of subsection B, the court shall suspend the person's license or privilege to drive
333 a motor vehicle for the same period for which it had been previously suspended or revoked. In the event
334 the person violated subsection B by driving during a period of suspension or revocation which was not
335 for a definite period of time, the court shall suspend the person's license, permit or privilege to drive for
336 an additional period not to exceed 90 days, to commence upon the expiration of the previous suspension
337 or revocation or to commence immediately if the previous suspension or revocation has expired;
338 ~~however, in the event that the person violated subsection B by driving during a period of suspension~~
339 ~~imposed pursuant to § 46.2-395, the additional 90-day suspension imposed pursuant to this subsection~~
340 ~~shall run concurrently with the suspension imposed pursuant to § 46.2-395 in accordance with subsection~~
341 ~~F of § 46.2-395.~~

342 E. Any person who is otherwise eligible for a restricted license may petition each court that
343 suspended his license pursuant to subsection D for authorization for a restricted license, provided that
344 the period of time for which the license was suspended by the court pursuant to subsection D, if
345 measured from the date of conviction, has expired, even though the suspension itself has not expired. A
346 court may, for good cause shown, authorize the Department of Motor Vehicles to issue a restricted
347 license for any of the purposes set forth in subsection E of § 18.2-271.1. No restricted license shall be
348 issued unless each court that issued a suspension of the person's license pursuant to subsection D
349 authorizes the Department to issue a restricted license. Any restricted license issued pursuant to this
350 subsection shall be in effect until the expiration of any and all suspensions issued pursuant to subsection
351 D, except that it shall automatically terminate upon the expiration, cancellation, suspension, or
352 revocation of the person's license or privilege to drive for any other cause. No restricted license issued
353 pursuant to this subsection shall permit a person to operate a commercial motor vehicle as defined in the
354 Commercial Driver's License Act (§ 46.2-341.1 et seq.). The court shall forward to the Commissioner a
355 copy of its authorization entered pursuant to this subsection, which shall specifically enumerate the
356 restrictions imposed and contain such information regarding the person to whom such a license is issued
357 as is reasonably necessary to identify the person. The court shall also provide a copy of its authorization
358 to the person, who may not operate a motor vehicle until receipt from the Commissioner of a restricted
359 license. A copy of the restricted license issued by the Commissioner shall be carried at all times while
360 operating a motor vehicle.

361 F. Any person who operates a motor vehicle or any self-propelled machinery or equipment in
362 violation of the terms of a restricted license issued pursuant to subsection E of § 18.2-271.1 is not guilty
363 of a violation of this section but is guilty of a violation of § 18.2-272.

364 **§ 46.2-361. Restoration of privilege after driving while license revoked or suspended for failure**
365 **to furnish proof of financial responsibility or pay uninsured motorist fee.**

366 A. Any person who has been found to be an habitual offender, where the determination or
367 adjudication was based in part and dependent on a conviction as set out in subdivision 1 c of former

368 § 46.2-351, may, after three years from the date of the final order of a court entered under this article,
 369 or if no such order was entered then the notice of the determination or adjudication by the
 370 Commissioner, petition the court in which he was found to be an habitual offender, or the circuit court
 371 in the political subdivision in which he then resides, for restoration of his privilege to drive a motor
 372 vehicle in the Commonwealth. In no event, however, shall the provisions of this subsection apply when
 373 such person's determination or adjudication was also based in part and dependent on a conviction as set
 374 out in subdivision 1 b of former § 46.2-351. In such case license restoration shall be in compliance with
 375 the provisions of § 46.2-360.

376 B. Any person who has been found to be an habitual offender, where the determination or
 377 adjudication was based entirely upon a combination of convictions of § 46.2-707 and convictions as set
 378 out in subdivision 1 c of former § 46.2-351, may, after payment in full of all outstanding fines, costs
 379 and judgments relating to his determination, and furnishing proof of (i) financial responsibility and (ii)
 380 compliance with the provisions of Article 8 (§ 46.2-705 et seq.) of Chapter 6 of this title or both, if
 381 applicable, petition the court in which he was found to be an habitual offender, or the circuit court in
 382 the political subdivision in which he then resides, for restoration of his privilege to drive a motor
 383 vehicle in the Commonwealth.

384 C. This section shall apply only where the conviction or convictions as set out in subdivision 1 c of
 385 former § 46.2-351 resulted from a suspension or revocation ordered pursuant to (i) ~~§ 46.2-395 for failure~~
 386 ~~to pay fines and costs, (ii) § 46.2-459 for failure to furnish proof of financial responsibility, or (iii) (i)~~
 387 § 46.2-417 for failure to satisfy a judgment, provided *that* the judgment has been paid in full prior to the
 388 time of filing the petition or was a conviction under § 46.2-302 or former § 46.1-351.

389 D. On any such petition, the court, in its discretion, may restore to the person his privilege to drive a
 390 motor vehicle, on whatever conditions the court may prescribe, if the court is satisfied from the evidence
 391 presented that the petitioner does not constitute a threat to the safety and welfare of himself or others
 392 with respect to the operation of a motor vehicle, and that he has satisfied in full all outstanding court
 393 costs, court fines and judgments relating to determination as an habitual offender and furnished proof of
 394 financial responsibility, if applicable.

395 E. A copy of any petition filed hereunder shall be served on the attorney for the Commonwealth for
 396 the jurisdiction wherein the petition was filed, and shall also be served on the Commissioner of the
 397 Department of Motor Vehicles, who shall provide to the attorney for the Commonwealth a certified copy
 398 of the petitioner's driving record. The Commissioner shall also advise the attorney for the
 399 Commonwealth whether there is anything in the records maintained by the Department that might make
 400 the petitioner ineligible for restoration, and may also provide notice of any potential ineligibility to the
 401 Attorney General's Office, which may join in representing the interests of the Commonwealth where it
 402 appears that the petitioner is not eligible for restoration. The hearing on a petition filed pursuant to this
 403 article shall not be set for a date sooner than ~~thirty~~ 30 days after the petition is filed and served as
 404 provided herein.

405 **§ 46.2-391.1. Suspension of registration certificates and plates upon suspension or revocation of**
 406 **driver's license.**

407 Whenever the Commissioner, under the authority of law of the Commonwealth, suspends or revokes
 408 the driver's license of any person upon receiving record of that person's conviction, ~~or whenever the~~
 409 ~~Commissioner is notified that a court has suspended a person's driving privilege pursuant to § 46.2-395,~~
 410 the Commissioner shall also suspend all of the registration certificates and license plates issued for any
 411 motor vehicles registered solely in the name of such person and shall not issue any registration
 412 certificate or license plate for any other vehicle that such person seeks to register solely in his name.
 413 ~~Except for persons whose privileges have been suspended by a court pursuant to § 46.2-395, the~~ *The*
 414 Commissioner shall not suspend such registration certificates or license plates in the event *that* such
 415 person has previously given or gives and thereafter maintains proof of his financial responsibility in the
 416 future, in the manner specified in this chapter, with respect to each and every motor vehicle owned and
 417 registered by such person. In this event it shall be lawful for said vehicle or vehicles to be operated
 418 during this period of suspension by any duly licensed driver when so authorized by the owner.

419 **§ 46.2-416. Notice of suspension or revocation of license.**

420 A. Whenever it is provided in this title that a driver's license may or shall be suspended or revoked
 421 either by the Commissioner or by a court, notice of the suspension or revocation or any certified copy
 422 of the decision or order of the Commissioner may be sent by the Department by certified mail to the
 423 driver at the most recent address of the driver on file at the Department. ~~If the driver has previously~~
 424 ~~been notified by mail or in person of the suspension or revocation or of an impending suspension for~~
 425 ~~failure to pay fines and costs pursuant to § 46.2-395, whether notice is given by the court or~~
 426 ~~law-enforcement officials as provided by law, and the Department has been notified by the court that~~
 427 ~~notice was so given and the fines and costs were not paid within 30 days, no notice of suspension shall~~
 428 ~~be sent by the Department to the driver.~~ If the certificate of the Commissioner or someone designated

429 by him for that purpose shows that the notice or copy has been so sent or provided, it shall be deemed
430 prima facie evidence that the notice or copy has been sent and delivered or otherwise provided to the
431 driver for all purposes involving the application of the provisions of this title. In the discretion of the
432 Commissioner, service may be made as provided in § 8.01-296, which service on the driver shall be
433 made by delivery in writing to the driver in person in accordance with subdivision 1 of § 8.01-296 by a
434 sheriff or deputy sheriff in the county or city in which the address is located, who shall, as directed by
435 the Commissioner, take possession of any suspended or revoked license, registration card, or set of
436 license plates or decals and return them to the office of the Commissioner. No such service shall be
437 made if, prior to service, the driver has complied with the requirement which caused the issuance of the
438 decision or order. In any such case, return shall be made to the Commissioner.

439 B. In lieu of making a direct payment to sheriffs as a fee for delivery of the Department's processes,
440 the Commissioner shall effect a transfer of funds, on a monthly basis, to the Compensation Board to be
441 used to provide additional support to sheriffs' departments. The amount of funds so transferred shall be
442 as provided in the general appropriation act.

443 C. The Department may contract with the United States Postal Service or an authorized agent to use
444 the National Change of Address System for the purpose of obtaining current address information for a
445 person whose name appears in customer records maintained by the Department. If the Department
446 receives information from the National Change of Address System indicating that a person whose name
447 appears in a Department record has submitted a permanent change of address to the Postal Service, the
448 Department may then update its records with the mailing address obtained from the National Change of
449 Address System.

450 **§ 46.2-819.1. Installation and use of photo-monitoring system or automatic vehicle identification**
451 **system in conjunction with electronic or manual toll facilities; penalty.**

452 A. For purposes of this section:

453 "Automatic vehicle identification device" means an electronic device that communicates by wireless
454 transmission with an automatic vehicle identification system.

455 "Automatic vehicle identification system" means an electronic vehicle identification system installed
456 to work in conjunction with a toll collection device that automatically produces an electronic record of
457 each vehicle equipped with an automatic vehicle identification device that uses a toll facility.

458 "Debt collection" means the collection of unpaid tolls and applicable administrative fees by (i)
459 retention of a third-party debt collector or (ii) collection practices undertaken by employees of a toll
460 facility operator that are materially similar to a third-party debt collector.

461 "Operator of a toll facility other than the Department of Transportation" means any agency, political
462 subdivision, authority, or other entity that operates a toll facility.

463 "Owner" means the registered owner of a vehicle on record with the Department of Motor Vehicles
464 or with the equivalent agency in another state. "Owner" does not include a vehicle rental or vehicle
465 leasing company.

466 "Photo-monitoring system" means a vehicle sensor installed to work in conjunction with a toll
467 collection device that automatically produces one or more photographs, one or more microphotographs, a
468 videotape, or other recorded images of each vehicle at the time it is used or operated in violation of this
469 section.

470 B. The operator of any toll facility or the locality within which such toll facility is located may
471 install and operate or cause to be installed and operated a photo-monitoring system or automatic vehicle
472 identification system, or both, at locations where tolls are collected for the use of such toll facility. The
473 operator of a toll facility shall send an invoice or bill for unpaid tolls to the owner of a vehicle as part
474 of an electronic or manual toll collection process pursuant to § 46.2-819.6 prior to seeking remedies
475 under this section.

476 C. Information collected by a photo-monitoring system or automatic vehicle identification system
477 installed and operated pursuant to subsection B shall be limited exclusively to that information that is
478 necessary for the collection of unpaid tolls. Notwithstanding any other provision of law, all photographs,
479 microphotographs, electronic images, or other data collected by a photo-monitoring system or automatic
480 vehicle identification system shall be used exclusively for the collection of unpaid tolls and shall not (i)
481 be open to the public; (ii) be sold and/or used for sales, solicitation, or marketing purposes; (iii) be
482 disclosed to any other entity except as may be necessary for the collection of unpaid tolls or to a vehicle
483 owner or operator as part of a challenge to the imposition of a toll; and (iv) be used in a court in a
484 pending action or proceeding unless the action or proceeding relates to a violation of this section or
485 upon order from a court of competent jurisdiction. Information collected under this section shall be
486 purged and not retained later than 30 days after the collection and reconciliation of any unpaid tolls,
487 administrative fees, and/or civil penalties. Any entity operating a photo-monitoring system or automatic
488 vehicle identification system shall annually certify compliance with this section and make all records
489 pertaining to such system available for inspection and audit by the Commissioner of Highways or the
490 Commissioner of the Department of Motor Vehicles or their designee. Any violation of this subsection

491 shall constitute a Class 1 misdemeanor. In addition to any fines or other penalties provided for by law,
 492 any money or other thing of value obtained as a result of a violation of this section shall be forfeited to
 493 the Commonwealth.

494 The toll facility operator may impose and collect an administrative fee in addition to the unpaid toll
 495 so as to recover the expenses of collecting the unpaid toll, which administrative fee shall be reasonably
 496 related to the actual cost of collecting the unpaid toll and not exceed \$100 per violation. Such fee may
 497 be levied upon the operator of the vehicle after the first unpaid toll has been documented. The operator
 498 of the vehicle shall pay the unpaid toll and any administrative fee detailed in an invoice for the unpaid
 499 toll issued by a toll facility operator. If paid within 60 days of notification, the administrative fee shall
 500 not exceed \$25.

501 D. If the matter proceeds to court, the owner or operator of a vehicle shall be liable for a civil
 502 penalty as follows: for a first offense, \$50; for a second offense within one year from the first offense,
 503 \$100; for a third offense within two years from the second offense, \$250; and for a fourth and any
 504 subsequent offense within three years from the second offense, \$500 plus, in each case, the unpaid toll,
 505 all accrued administrative fees imposed by the toll facility operator, and applicable court costs if the
 506 vehicle is found, as evidenced by information obtained from a photo-monitoring system or automatic
 507 vehicle identification system as provided in this section, to have used such a toll facility without
 508 payment of the required toll.

509 E. Notwithstanding subsections C and D, for a first conviction of an operator or owner of a vehicle
 510 under this section, the total amount for the first conviction shall not exceed \$2,200, including civil
 511 penalties and administrative fees regardless of the total number of offenses the operator or owner of a
 512 vehicle is convicted of on that date.

513 F. No summons may be issued by a toll facility operator for a violation of this section unless the toll
 514 facility operator can demonstrate that (i) there was an attempt to collect the unpaid tolls and applicable
 515 administrative fees through debt collection not less than 30 days prior to issuance of the summons and
 516 (ii) 120 days have elapsed since the unpaid toll or, in a summons for multiple violations, 120 days have
 517 elapsed since the most recent unpaid toll noticed on the summons.

518 G. Any action under this section shall be brought in the general district court of the county or city in
 519 which the toll facility is located and shall be commenced within two years of the commission of the
 520 offense. Such action shall be considered a traffic infraction. The attorney for the Commonwealth may
 521 represent the interests of the toll facility operator. Any authorized agent or employee of a toll facility
 522 operator acting on behalf of a governmental entity shall be allowed the privileges accorded by
 523 § 16.1-88.03 in such cases.

524 H. Proof of a violation of this section shall be evidenced by information obtained from a
 525 photo-monitoring system or automatic vehicle identification system as provided in this section. A
 526 certificate, sworn to or affirmed by a technician employed or authorized by the operator of a toll facility
 527 or by the locality wherein the toll facility is located, or a facsimile of such a certificate, based on
 528 inspection of photographs, microphotographs, videotapes, or other recorded images produced by a
 529 photo-monitoring system, or of electronic data collected by an automatic vehicle identification system,
 530 shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs,
 531 videotape, or other recorded images or electronic data evidencing such a violation shall be available for
 532 inspection in any proceeding to adjudicate the liability for such violation under this section. A record of
 533 communication by an automatic vehicle identification device with the automatic vehicle identification
 534 system at the time of a violation of this section shall be prima facie evidence that the automatic vehicle
 535 identification device was located in the vehicle registered to use such device in the records of the
 536 Department of Transportation.

537 I. On a form prescribed by the Supreme Court, a summons for a violation of this section may be
 538 executed as provided in § 19.2-76.2. A summons for a violation of this section may set forth multiple
 539 violations occurring within one jurisdiction. Notwithstanding the provisions of § 19.2-76, a summons for
 540 a violation of this section may be executed by mailing by first-class mail a copy thereof to the address
 541 of the owner or, if the owner has named and provided a valid address for the operator of the vehicle at
 542 the time of the violation in an affidavit executed pursuant to this subsection, such named operator of the
 543 vehicle. Such summons shall be signed either originally or by electronic signature. If the summoned
 544 person fails to appear on the date of return set out in the summons mailed pursuant to this section, the
 545 summons shall be executed in the manner set out in § 19.2-76.3.

546 Upon a finding by a court of competent jurisdiction that the vehicle described in the summons issued
 547 pursuant to this subsection was in violation of this section, the court shall impose a civil penalty upon
 548 the owner or operator of such vehicle in accordance with the amounts specified in subsection D,
 549 together with applicable court costs, the operator's administrative fee, and the toll due. Penalties assessed
 550 as the result of action initiated by the Department of Transportation shall be remanded by the clerk of
 551 the court that adjudicated the action to the Department of Transportation's Toll Facilities Revolving

552 Account. Penalties assessed as the result of action initiated by an operator of a toll facility other than the
553 Department of Transportation shall be remanded by the clerk of the court that adjudicated the action to
554 the treasurer or director of finance of the county or city in which the violation occurred for payment to
555 the toll facility operator.

556 The owner of such vehicle shall be given reasonable notice by way of a summons as provided in this
557 subsection that his vehicle had been used in violation of this section, and such owner shall be given
558 notice of the time and place of the hearing as well as the civil penalty and costs for such offense. The
559 toll facility operator may offer to the owner an option to pay the unpaid toll and fees plus a reduced
560 civil penalty of \$25 for a first or second offense or \$50 for a third, fourth, or subsequent offense, as
561 specified on the summons, provided the owner actually pays to the toll facility operator the entire
562 amount so calculated at least 14 days prior to the hearing date specified on the summons. If the owner
563 accepts such offer and such amount is actually received by the toll facility operator at least 14 days
564 prior to the hearing date specified on the summons, the toll facility operator shall move the court at least
565 five business days prior to the date set for trial to dismiss the summons issued to the owner of the
566 vehicle, and the court shall dismiss upon such motion.

567 It shall be prima facie evidence that the vehicle described in the summons issued pursuant to this
568 subsection was operated in violation of this section. Records obtained from the Department of Motor
569 Vehicles pursuant to § 46.2-208 and certified in accordance with § 46.2-215 or from the equivalent
570 agency in another state and certified as true and correct copies by the head of such agency or his
571 designee identifying the owner of such vehicle shall give rise to a rebuttable presumption that the owner
572 of the vehicle is the person named in the summons.

573 Upon either (i) the filing of an affidavit with the toll facility operator within 14 days of receipt of an
574 invoice for an unpaid toll from the toll facility operator or (ii) the filing of an affidavit with the court at
575 least 14 days prior to the hearing date by the owner of the vehicle stating that he was not the operator
576 of the vehicle on the date of the violation and providing the legal name and address of the operator of
577 the vehicle at the time of the violation, an invoice and/or summons, as appropriate, will also be issued
578 to the alleged operator of the vehicle at the time of the offense.

579 In any action against a vehicle operator, an affidavit made by the owner providing the name and
580 address of the vehicle operator at the time of the violation shall constitute prima facie evidence that the
581 person named in the affidavit was operating the vehicle at all the relevant times relating to the matter
582 named in the affidavit.

583 If the owner of the vehicle produces for the toll facility operator or the court a certified copy of a
584 police report showing that the vehicle had been reported to the police as stolen prior to the time of the
585 alleged offense and remained stolen at the time of the alleged offense, then the toll facility operator
586 shall not pursue the owner for the unpaid toll and, if a summons has been issued, the court shall dismiss
587 the summons issued to the owner of the vehicle.

588 J. Upon a finding by a court that a person has two or more unpaid tolls and such person fails to pay
589 the required penalties, fees, and unpaid tolls, the court shall notify the Commissioner of the Department
590 of Motor Vehicles, who shall refuse to issue or renew any vehicle registration certificate of any
591 applicant or the license plate issued for the vehicle driven in the commission of the offense or, when the
592 vehicle is registered in a state with which the Commonwealth has entered into an agreement to enforce
593 tolling violations pursuant to § 46.2-819.9, who shall provide to the entity authorized to issue vehicle
594 registration certificates or license plates in the state in which the vehicle is registered sufficient evidence
595 of the court's finding to take action against the vehicle registration certificate or license plates in
596 accordance with the terms of the agreement, until the court has notified the Commissioner that such
597 penalties, fees, and unpaid tolls have been paid. Upon receipt of such notification from the court, the
598 Commissioner of the Department of Motor Vehicles shall notify the state where the vehicle is registered
599 of such payment. If it is proven that the vehicle owner was not the operator at the time of the offense
600 and upon a finding by a court that the person identified in an affidavit pursuant to subsection I as the
601 operator violated this section and such person fails to pay the required penalties, fees, and unpaid tolls,
602 the court shall notify the Commissioner, who shall refuse to issue or renew any vehicle registration
603 certificate of any applicant or the license plate issued for any vehicle owned or co-owned by such
604 person or, when such vehicle is registered in a state with which the Commonwealth has entered into an
605 agreement to enforce tolling violations pursuant to § 46.2-819.9, who shall provide to the entity
606 authorized to issue vehicle registration certificates or license plates in the state in which the vehicle is
607 registered sufficient evidence of the court's finding to take action against the vehicle registration
608 certificate or license plates in accordance with the terms of the agreement, until the court has notified
609 the Commissioner that such penalties, fees, and unpaid tolls have been paid. Upon receipt of such
610 notification from the court, the Commissioner of the Department of Motor Vehicles shall notify the state
611 where the vehicle is registered of such payment. Such funds representing payment of unpaid tolls and all
612 administrative fees of the toll facility operator shall be transferred from the court to the Department of
613 Transportation's Toll Facilities Revolving Account or, in the case of an action initiated by an operator of

614 a toll facility other than the Department of Transportation, to the treasurer or director of finance of the
615 county or city in which the violation occurred for payment to the toll facility operator. The
616 Commissioner shall collect a \$40 administrative fee from the owner or operator of the vehicle to defray
617 the cost of processing and removing an order to deny registration or registration renewal.

618 K. Any vehicle rental or vehicle leasing company, if it receives an invoice or is named in a
619 summons, shall be released as a party to the action if it provides the operator of the toll facility a copy
620 of the vehicle rental agreement or lease or an affidavit identifying the renter or lessee within 30 days of
621 receipt of the invoice or at least 14 days prior to the date of hearing set forth in the summons. Upon
622 receipt of such rental agreement, lease, or affidavit, a notice shall be mailed to the renter or lessee
623 identified therein. Release of this information shall not be deemed a violation of any provision of the
624 Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.) or the Insurance
625 Information and Privacy Protection Act (§ 38.2-600 et seq.). The toll facility operator shall allow at least
626 30 days from the date of such mailing before pursuing other remedies under this section. In any action
627 against the vehicle operator, a copy of the vehicle rental agreement, lease, or affidavit identifying the
628 renter or lessee of the vehicle at the time of the violation is prima facie evidence that the person named
629 in the rental agreement, lease, or affidavit was operating the vehicle at all the relevant times relating to
630 the matter named in the summons.

631 L. Imposition of a civil penalty pursuant to this section shall not be deemed a conviction as an
632 operator and shall not be made part of the driving record of the person upon whom such civil penalty is
633 imposed, nor shall it be used for insurance purposes in the provision of motor vehicle insurance
634 coverage. ~~The provisions of § 46.2-395 shall not be applicable to any civil penalty, fee, unpaid toll, fine,~~
635 ~~or cost imposed or ordered paid under this section for a violation of this section.~~

636 M. The operator of a toll facility may enter into an agreement with the Department of Motor
637 Vehicles, in accordance with the provisions of subdivision B 21 of § 46.2-208, to obtain vehicle owner
638 information regarding the owners of vehicles that fail to pay tolls required for the use of toll facilities
639 and with the Department of Transportation to obtain any information that is necessary to conduct
640 electronic toll collection. Such agreement may include any information that may be obtained by the
641 Department of Motor Vehicles in accordance with any agreement entered into pursuant to § 46.2-819.9.
642 Information provided to the operator of a toll facility shall only be used for the collection of unpaid tolls
643 and the operator of the toll facility shall be subject to the same conditions and penalties regarding
644 release of the information as contained in subsection C.

645 N. No person shall be subject to both the provisions of this section and to prosecution under
646 § 46.2-819 for actions arising out of the same transaction or occurrence.

647 **§ 46.2-819.3. Use of toll facility without payment of toll; enforcement; penalty.**

648 A. For purposes of this section:

649 "Debt collection" means the collection of unpaid tolls and applicable administrative fees by (i)
650 retention of a third-party debt collector or (ii) collection practices undertaken by employees of a toll
651 facility operator that are materially similar to a third-party debt collector.

652 "Operator of a toll facility other than the Department of Transportation" means any agency, political
653 subdivision, authority, or other entity that operates a toll facility.

654 "Owner" means the registered owner of a vehicle on record with the Department of Motor Vehicles
655 or with the equivalent agency in another state. "Owner" does not include a vehicle rental or vehicle
656 leasing company.

657 B. The toll facility operator may impose and collect an administrative fee in addition to the unpaid
658 toll so as to recover the expenses of collecting the unpaid toll, which administrative fee shall be
659 reasonably related to the actual cost of collecting the unpaid toll and not exceed \$100 per violation.
660 Such fee shall not be levied on a first unpaid toll unless the written promise to pay executed pursuant to
661 subsection F remains unpaid after 30 days. The person who executed the written promise to pay
662 pursuant to subsection F shall pay the unpaid toll and any administrative fee detailed in an invoice or
663 bill issued by a toll facility operator. If paid within 60 days of notification, the administrative fee shall
664 not exceed \$25.

665 C. If the matter proceeds to court, the owner or operator of the vehicle shall be liable for a civil
666 penalty as follows: for a first offense, \$50; for a second offense within one year from the first offense,
667 \$100; for a third offense within two years from the second offense, \$250; and for a fourth and any
668 subsequent offense within three years from the second offense, \$500 plus, in each case, the unpaid toll,
669 all accrued administrative fees imposed by the toll facility operator and applicable court costs if the
670 vehicle operator is found, as evidenced by information obtained from the toll facility operator, to have
671 used such a toll facility without payment of the required toll.

672 D. Notwithstanding subsections B and C, for a first conviction of an operator or owner of a vehicle
673 under this section, the total amount for the first conviction shall not exceed \$2,200, including civil
674 penalties and administrative fees regardless of the total number of offenses the operator or owner of a

675 vehicle is convicted of on that date.

676 E. No summons may be issued by a toll facility operator for a violation of this section unless the toll
677 facility operator can demonstrate that (i) there was an attempt to collect the unpaid tolls and applicable
678 administrative fees through debt collection not less than 30 days prior to issuance of the summons and
679 (ii) 120 days have elapsed since the unpaid toll or, in a summons for multiple violations, 120 days have
680 elapsed since the most recent unpaid toll noticed on the summons.

681 F. A written promise to pay an unpaid toll within a specified period of time executed by the operator
682 of a motor vehicle, accompanied by a certificate sworn to or affirmed by an authorized agent of the toll
683 facility that the unpaid toll was not paid within such specified period, shall be prima facie evidence of
684 the facts contained therein.

685 G. The operator of a toll facility shall send an invoice or bill to the owner of a motor vehicle using
686 a toll facility without payment of the specified toll as part of an electronic or manual toll collection
687 process pursuant to § 46.2-819.6, prior to seeking remedies under this section. Any action under this
688 section shall be brought in the general district court of the county or city in which the toll facility is
689 located and shall be commenced within two years of the commission of the offense. Such an action
690 shall be considered a traffic infraction. The attorney for the Commonwealth may represent the interests
691 of the toll facility operator. Any authorized agent or employee of a toll facility operator acting on behalf
692 of a governmental entity shall be allowed the privileges accorded by § 16.1-88.03 in such cases.

693 H. Upon a finding by a court of competent jurisdiction that the operator of a motor vehicle identified
694 in the summons issued pursuant to subsection J was in violation of this section, the court shall impose a
695 civil penalty upon the operator of a motor vehicle in accordance with the amounts specified in
696 subsection C, together with applicable court costs, the operator's administrative fee, and the toll due.
697 Penalties assessed as the result of action initiated by the Department of Transportation shall be remanded
698 by the clerk of the court that adjudicated the action to the Department of Transportation's Toll Facilities
699 Revolving Account. Penalties assessed as the result of action initiated by an operator of a toll facility
700 other than the Department of Transportation shall be remanded by the clerk of the court that adjudicated
701 the action to the treasurer or director of finance of the county or city in which the violation occurred for
702 payment to the toll facility operator.

703 I. The toll facility operator may offer to the owner an option to pay the unpaid toll and fees plus a
704 reduced civil penalty of not more than \$25 for a first or second offense or not more than \$50 for a
705 third, fourth, or subsequent offense, as specified on the summons, provided the owner actually pays to
706 the toll facility operator the entire amount so calculated at least 14 days prior to the hearing date
707 specified on the summons. If the owner accepts such offer and such amount is actually received by the
708 toll facility operator at least 14 days prior to the hearing date specified on the summons, the toll facility
709 operator shall move the court at least five business days prior to the date set for trial to dismiss the
710 summons issued to the owner of the vehicle, and the court shall dismiss upon such motion.

711 J. A summons for a violation of this section may be executed as provided in § 19.2-76.2. A
712 summons for a violation of this section may set forth multiple violations occurring within one
713 jurisdiction. Notwithstanding the provisions of § 19.2-76, a summons for a violation of this section may
714 be executed by mailing by first-class mail a copy thereof to the address of the operator of a motor
715 vehicle as shown on the written promise to pay executed pursuant to subsection F or records of the
716 Department of Motor Vehicles. Such summons shall be signed either originally or by electronic
717 signature. If the summoned person fails to appear on the date of return set out in the summons mailed
718 pursuant to this subsection, the summons shall be executed in the manner set out in § 19.2-76.3.

719 K. Upon a finding by a court that a person has three or more unpaid tolls and such person fails to
720 pay the required penalties, fees, and unpaid tolls, the court shall notify the Commissioner of the
721 Department of Motor Vehicles, who shall refuse to issue or renew any vehicle registration certificate of
722 any applicant or the license plate issued for any vehicle owned or co-owned by the offender or, when
723 the vehicle is registered in a state with which the Commonwealth has entered into an agreement to
724 enforce tolling violations pursuant to § 46.2-819.9, who shall provide to the entity authorized to issue
725 vehicle registration certificates or license plates in the state in which the vehicle is registered sufficient
726 evidence of the court's finding to take action against the vehicle registration certificate or license plates
727 in accordance with the terms of the agreement. Upon receipt of such notification from the court, the
728 Commissioner of the Department of Motor Vehicles shall notify the state where the vehicle is registered
729 of such payment. The Commissioner shall collect a \$40 administrative fee from the owner or operator of
730 the vehicle to defray the cost of processing and removing an order to deny registration or registration
731 renewal.

732 L. Imposition of a civil penalty pursuant to this section shall not be deemed a conviction as an
733 operator and shall not be made part of the driving record of the person upon whom such civil penalty is
734 imposed nor shall it be used for insurance purposes in the provision of motor vehicle insurance
735 coverage. ~~The provisions of § 46.2-395 shall not be applicable to any civil penalty, fee, unpaid toll, fine,
736 or cost imposed or ordered paid under this section for a violation of this section.~~

737 M. No person shall be subject to both the provisions of this section and to prosecution under
738 § 46.2-819 for actions arising out of the same transaction or occurrence.

739 **§ 46.2-819.3:1. Installation and use of video-monitoring system and automatic vehicle**
740 **identification system in conjunction with all-electronic toll facilities; penalty.**

741 A. For purposes of this section:

742 "Automatic vehicle identification device" means an electronic device that communicates by wireless
743 transmission with an automatic vehicle identification system.

744 "Automatic vehicle identification system" means an electronic vehicle identification system installed
745 to work in conjunction with a toll collection device that automatically produces an electronic record of
746 each vehicle equipped with an automatic vehicle identification device that uses a toll facility.

747 "Debt collection" means the collection of unpaid tolls and applicable administrative fees by (i)
748 retention of a third-party debt collector or (ii) collection practices undertaken by employees of a toll
749 facility operator that are materially similar to a third-party debt collector.

750 "Operator" means a person who was driving a vehicle that was the subject of a toll violation but who
751 is not the owner of the vehicle.

752 "Operator of a toll facility other than the Department of Transportation" means any agency, political
753 subdivision, authority, or other entity that operates a toll facility.

754 "Owner" means the registered owner of a vehicle on record with the Department of Motor Vehicles
755 or with the equivalent agency in another state. "Owner" does not mean a vehicle rental or vehicle
756 leasing company.

757 "Video-monitoring system" means a vehicle sensor installed to work in conjunction with a toll
758 collection device that automatically produces one or more photographs, one or more microphotographs, a
759 videotape, or other recorded images of each vehicle at the time it is used or operated in violation of this
760 section.

761 B. The operator of any toll facility or the locality within which such toll facility is located may
762 install and operate or cause to be installed and operated a video-monitoring system in conjunction with
763 an automatic vehicle identification system on facilities for which tolls are collected for the use of such
764 toll facility and that do not offer manual toll collection. A video-monitoring system shall include, but
765 not be limited to, electronic systems that monitor and capture images of vehicles using a toll facility to
766 enable toll collection for vehicles that do not pay using a toll collection device. The operator of a toll
767 facility shall send an invoice for unpaid tolls in accordance with the requirements of § 46.2-819.6 to the
768 owner of a vehicle as part of a video-monitoring toll collection process, prior to seeking remedies under
769 this section.

770 C. Information collected by a video-monitoring system in conjunction with an automatic vehicle
771 identification system installed and operated pursuant to subsection B shall be limited exclusively to that
772 information that is necessary for the collection of unpaid tolls and establishing when violations occur,
773 including use in any proceeding to determine whether a violation occurred. Notwithstanding any other
774 provision of law, all images or other data collected by a video-monitoring system in conjunction with an
775 automatic vehicle identification system shall be protected in a database with security comparable to that
776 of the Department of Motor Vehicles' system and used exclusively for the collection of unpaid tolls and
777 for efforts to pursue violators of this section and shall not (i) be open to the public; (ii) be sold and/or
778 used for sales, solicitation, or marketing purposes other than those of the toll facility operator to
779 facilitate toll payment; (iii) be disclosed to any other entity except as may be necessary for the
780 collection of unpaid tolls or to a vehicle owner or operator as part of a challenge to the imposition of a
781 toll; and/or (iv) be used in a court in a pending action or proceeding unless the action or proceeding
782 relates to a violation of this section or upon order from a court of competent jurisdiction. Except as
783 provided above, information collected under this section shall be purged and not retained later than 30
784 days after the collection and reconciliation of any unpaid tolls, administrative fees, and/or civil penalties.
785 Any entity operating a video-monitoring system in conjunction with an automatic vehicle identification
786 system shall annually certify compliance with this section and make all records pertaining to such
787 system available for inspection and audit by the Commissioner of Highways or the Commissioner of the
788 Department of Motor Vehicles or their designee. Any violation of this subsection shall constitute a Class
789 1 misdemeanor. In addition to any fines or other penalties provided for by law, any money or other
790 thing of value obtained as a result of a violation of this section shall be forfeited to the Commonwealth.

791 If a vehicle uses a toll facility without paying the toll, the owner or operator shall be in violation of
792 this section if he refuses to pay the toll within 30 days of notification. The toll facility operator may
793 impose and collect an administrative fee in addition to the unpaid toll so as to recover the expenses of
794 collecting the unpaid toll, which administrative fee shall be reasonably related to the actual cost of
795 collecting the unpaid toll and not exceed \$100 per violation. Such fee shall not be levied upon the
796 owner or operator of the vehicle unless the toll has not been paid by the owner or operator within 30
797 days after receipt of the invoice for the unpaid toll, which nonpayment for 30 days shall constitute the

798 violation of this section. Once such a violation has occurred, the owner or operator of the vehicle shall
799 pay the unpaid tolls and any administrative fee detailed in the invoice for the unpaid toll issued by a toll
800 facility operator. If paid within 60 days of the toll violation, the administrative fee shall not exceed \$25.

801 The toll facility operator may levy charges for the direct cost of use of and processing for a
802 video-monitoring system and to cover the cost of the invoice, which are in addition to the toll and may
803 not exceed double the amount of the base toll, provided that potential toll facility users are provided
804 notice before entering the facility by conspicuous signs that clearly indicate that the toll for use of the
805 facility could be tripled for any vehicle that does not have an active, functioning automatic vehicle
806 identification device registered for and in use in the vehicle using the toll facility, and such signs are
807 posted at a location where the operator can still choose to avoid the use of the toll facility if he chooses
808 not to pay the toll.

809 A person receiving an invoice for an unpaid toll under this section may (a) pay the toll and
810 administrative fees directly to the toll facility operator or (b) file with the toll facility operator a notice,
811 on a form provided by the toll facility operator as required under subsection B of § 46.2-819.6, to
812 contest liability for a toll violation. The notice to contest liability for a toll violation may be filed by
813 any person receiving an invoice for an unpaid toll by mailing or delivering the notice to the toll facility
814 operator within 60 days of receiving such invoice for an unpaid toll. Upon receipt of such notice, the
815 toll facility operator may issue a summons pursuant to subsection I and may not seek withholding of
816 registration or renewal thereof under subsection L until a court of competent jurisdiction has found the
817 alleged violator liable for tolls under this section.

818 D. If the matter proceeds to court, the owner or operator of a vehicle shall be liable for a civil
819 penalty as follows: for a first offense, \$50; for a second offense within one year from the first offense,
820 \$100; for a third offense within two years from the second offense, \$250; and for a fourth and any
821 subsequent offense within three years from the second offense, \$500; plus, in each case, the unpaid toll,
822 all accrued administrative fees imposed by the toll facility operator, and applicable court costs if the
823 vehicle is found, as evidenced by information obtained from a video-monitoring system in conjunction
824 with an automatic vehicle identification system as provided in this section, to have used such a toll
825 facility without payment of the required toll within 30 days of receipt of the invoice for the toll.

826 E. Notwithstanding subsections C and D, for a first conviction of an operator or owner of a vehicle
827 under this section the total amount for the first conviction shall not exceed \$2,200, including civil
828 penalties and administrative fees regardless of the total number of offenses the operator or owner of a
829 vehicle is convicted of on that date.

830 F. No summons may be issued by a toll facility operator for a violation of this section unless the toll
831 facility operator can demonstrate that (i) there was an attempt to collect the unpaid tolls and applicable
832 administrative fees through debt collection not less than 30 days prior to issuance of the summons and
833 (ii) 120 days have elapsed since the unpaid toll or, in a summons for multiple violations, 120 days have
834 elapsed since the most recent unpaid toll noticed on the summons.

835 G. Any action under this section shall be brought in the general district court of the county or city in
836 which the toll facility is located and shall be commenced within two years of the commission of the
837 offense. Such action shall be considered a traffic infraction. The attorney for the Commonwealth may
838 represent the interests of the toll facility operator. Any authorized agent or employee of a toll facility
839 operator acting on behalf of a governmental entity shall be allowed the privileges accorded by
840 § 16.1-88.03 in such cases.

841 H. Proof of a violation of this section shall be evidenced by information obtained from a
842 video-monitoring system or automatic vehicle identification system as provided in this section. A
843 certificate, sworn to or affirmed by a technician employed or authorized by the operator of a toll facility
844 or by the locality wherein the toll facility is located, or a facsimile of such a certificate, based on
845 inspection of photographs, microphotographs, videotapes, or other recorded images produced by a
846 video-monitoring system or of electronic data collected by an automatic vehicle identification system,
847 shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs,
848 videotape, or other recorded images or electronic data evidencing such a violation shall be available for
849 inspection in any proceeding to adjudicate the liability for such violation under this section. A record of
850 communication by an automatic vehicle identification device with the automatic vehicle identification
851 system at the time of a violation of this section shall be prima facie evidence that the automatic vehicle
852 identification device was located in the vehicle registered to use such device in the records of the
853 Department of Transportation.

854 I. On a form prescribed by the Supreme Court, a summons for a violation of this section may be
855 executed as provided in § 19.2-76.2. A summons for a violation of this section may set forth multiple
856 violations occurring within one jurisdiction. Notwithstanding the provisions of § 19.2-76, a summons for
857 a violation of unpaid tolls may be executed by mailing by first-class mail a copy thereof to the address
858 of the owner or, if the owner has named and provided a valid address for the operator of the vehicle at
859 the time of the violation in an affidavit executed pursuant to subsection J, such named operator of the

860 vehicle. Such summons shall be signed either originally or by electronic signature. If the summoned
 861 person fails to appear on the date of return set out in the summons mailed pursuant to this section, the
 862 summons shall be executed in the manner set out in § 19.2-76.3.

863 J. Upon a finding by a court of competent jurisdiction that the vehicle described in the summons
 864 issued pursuant to subsection I was in violation of this section, the court shall impose a civil penalty
 865 upon the owner or operator of such vehicle in accordance with the amounts specified in subsection D,
 866 together with applicable court costs, the operator's administrative fee, and the toll due. Penalties assessed
 867 as the result of action initiated by the Department of Transportation shall be remanded by the clerk of
 868 the court that adjudicated the action to the Department of Transportation's Toll Facilities Revolving
 869 Account. Penalties assessed as the result of action initiated by an operator of a toll facility other than the
 870 Department of Transportation shall be remanded by the clerk of the court that adjudicated the action to
 871 the treasurer or director of finance of the county or city in which the violation occurred for payment to
 872 the toll facility operator.

873 The owner of such vehicle shall be given reasonable notice by way of a summons as provided in
 874 subsection I that his vehicle had been used in violation of this section, and such owner shall be given
 875 notice of the time and place of the hearing as well as the civil penalty and costs for such offense.

876 It shall be prima facie evidence that the vehicle described in the summons issued pursuant to
 877 subsection I was operated in violation of this section. Records obtained from the Department of Motor
 878 Vehicles pursuant to subsection P and certified in accordance with § 46.2-215 or from the equivalent
 879 agency in another state and certified as true and correct copies by the head of such agency or his
 880 designee identifying the owner of such vehicle shall give rise to a rebuttable presumption that the owner
 881 of the vehicle is the person named in the summons.

882 Upon the filing of an affidavit by the owner of the vehicle with the toll facility operator within 14
 883 days of receipt of an invoice for unpaid toll or a summons stating that such owner was not the operator
 884 of the vehicle on the date of the violation and providing the legal name and address of the operator of
 885 the vehicle at the time of the violation, an invoice for unpaid toll or summons, whichever the case may
 886 be, will also be issued to the alleged operator of the vehicle at the time of the offense.

887 In any action against a vehicle operator, an affidavit made by the owner providing the name and
 888 address of the vehicle operator at the time of the violation shall constitute prima facie evidence that the
 889 person named in the affidavit was operating the vehicle at all the relevant times relating to the matter
 890 named in the affidavit.

891 If the owner of the vehicle produces for the toll facility operator or the court a certified copy of a
 892 police report showing that the vehicle had been reported to the police as stolen prior to the time of the
 893 alleged offense and remained stolen at the time of the alleged offense, then the toll facility operator
 894 shall not pursue the owner for the unpaid toll contained in the invoice for unpaid toll or the court shall
 895 dismiss the summons issued to the owner of the vehicle.

896 K. Upon a finding by a court that a person has two or more unpaid tolls and such person fails to pay
 897 the required penalties, fees, and unpaid tolls, then the court or toll facility operator shall notify the
 898 Commissioner of the Department of Motor Vehicles, who shall refuse to issue or renew any vehicle
 899 registration certificate of any applicant or the license plate issued for the vehicle driven in the
 900 commission of the offense or, when the vehicle is registered in a state with which the Commonwealth
 901 has entered into an agreement to enforce tolling violations pursuant to § 46.2-819.9, who shall provide
 902 to the entity authorized to issue vehicle registration certificates or license plates in the state in which the
 903 vehicle is registered sufficient evidence of the court's finding to take action against the vehicle
 904 registration certificate or license plates in accordance with the terms of the agreement, until the court has
 905 notified the Commissioner that such penalties, fees, and unpaid tolls have been paid. Upon receipt of
 906 such notification from the court, the Commissioner of the Department of Motor Vehicles shall notify the
 907 state where the vehicle is registered of such payment. If it is proven that the vehicle owner was not the
 908 operator at the time of the offense and upon a finding by a court that the person identified in an
 909 affidavit pursuant to subsection J as the operator violated this section and such person fails to pay the
 910 required penalties, fees, and unpaid tolls, the court shall notify the Commissioner, who shall refuse to
 911 issue or renew any vehicle registration certificate of any applicant or the license plate issued for any
 912 vehicle owned or co-owned by such person or, when such vehicle is registered in a state with which the
 913 Commonwealth has entered into an agreement to enforce tolling violations pursuant to § 46.2-819.9, who
 914 shall provide to the entity authorized to issue vehicle registration certificates or license plates in the state
 915 in which the vehicle is registered sufficient evidence of the court's finding to take action against the
 916 vehicle registration certificate or license plates in accordance with the terms of the agreement, until the
 917 court has notified the Commissioner that such penalties, fees, and unpaid tolls have been paid. Upon
 918 receipt of such notification from the court, the Commissioner of the Department of Motor Vehicles shall
 919 notify the state where the vehicle is registered of such payment. Such funds representing payment of
 920 unpaid tolls and all administrative fees of the toll facility operator shall be transferred from the court to

921 the Department of Transportation's Toll Facilities Revolving Account or, in the case of an action
922 initiated by an operator of a toll facility other than the Department of Transportation, to the treasurer or
923 director of finance of the county or city in which the violation occurred for payment to the toll facility
924 operator. The Commissioner shall collect a \$40 administrative fee from the owner or operator of the
925 vehicle to defray the cost of processing and removing an order to deny registration or registration
926 renewal.

927 L. If an owner of a vehicle has received at least one invoice for two or more unpaid tolls in
928 accordance with § 46.2-819.6 by certified mail and has (i) failed to pay the unpaid tolls and
929 administrative fees and (ii) failed to file a notice to contest liability for a toll violation, then the toll
930 facility operator may notify the Commissioner, who shall, if no form contesting liability has been timely
931 filed with the toll facility operator pursuant to this section, refuse to issue or renew the vehicle
932 registration certificate of any applicant therefor or the license plate issued for any vehicle driven in the
933 commission of the offense until the toll facility operator has notified the Commissioner that such fees
934 and unpaid tolls have been paid.

935 If the vehicle owner was not the operator at the time of the offense and the person identified in an
936 affidavit pursuant to subsection J as the operator has received at least one invoice for two or more
937 unpaid tolls in accordance with § 46.2-819.6 by certified mail and such person has (a) failed to pay the
938 unpaid tolls and administrative fees and (b) failed to file a notice to contest liability for a toll violation,
939 then the toll facility operator may notify the Commissioner, who shall, if no form contesting liability has
940 been timely filed with the toll facility operator pursuant to this section, refuse to issue or renew any
941 vehicle registration certificate of any applicant therefor or the license plate issued for any vehicle owned
942 or co-owned by such person until the toll facility operator has notified the Commissioner that such fees
943 and unpaid tolls have been paid.

944 The Commissioner may only refuse to issue or renew any vehicle registration pursuant to this
945 subsection upon the request of a toll facility operator if such toll facility operator has entered into an
946 agreement with the Commissioner whereby the Commissioner will refuse to issue or renew any vehicle
947 registration of any applicant therefor who owes unpaid tolls and administrative fees to the toll facility
948 operator. The toll facility operator seeking to collect unpaid tolls and administrative fees through the
949 withholding of registration or renewal thereof by the Commissioner as provided for in this subsection
950 shall notify the Commissioner in the manner provided for in his agreement with the Commissioner and
951 supply to the Commissioner information necessary to identify the violator whose registration or renewal
952 is to be denied. The Commissioner shall charge a \$40 fee to defray the cost of processing and
953 withholding the registration or registration renewal, and the toll facility operator may add this fee to the
954 amount of the unpaid tolls and administrative fees. Any agreement entered into pursuant to the
955 provisions of this subsection shall provide for the Department to send the violator notice of the intent to
956 deny renewal of registration at least 30 days prior to the expiration date of a current vehicle registration
957 and such notice shall include a form, as required under subsection B of § 46.2-819.6, to contest liability
958 of the underlying toll violation. The notice provided by the Commissioner shall include instructions for
959 filing the form to contest liability with the toll facility operator within 21 days after the date of mailing
960 of the Commissioner's notice. Upon timely receipt of the form, the toll facility operator shall notify the
961 Commissioner, who shall refrain from withholding the registration or renewal thereof, after which the
962 toll facility operator may proceed to issue a summons for unpaid toll. For the purposes of this
963 subsection, notice by first-class mail to the registrant's address as maintained in the records of the
964 Department shall be deemed sufficient.

965 M. Any vehicle rental or vehicle leasing company, if it receives an invoice for unpaid toll or is
966 named in a summons, shall be released as a party to the action if it provides the operator of the toll
967 facility a copy of the vehicle rental agreement or lease or an affidavit identifying the renter or lessee
968 within 30 days of receipt of the invoice or summons. Upon receipt of such rental agreement, lease, or
969 affidavit, an invoice for unpaid toll shall be mailed to the renter or lessee identified therein. Release of
970 this information shall not be deemed a violation of any provision of the Government Data Collection
971 and Dissemination Practices Act (§ 2.2-3800 et seq.) or the Insurance Information and Privacy Protection
972 Act (§ 38.2-600 et seq.). The toll facility operator shall allow at least 30 days from the date of such
973 mailing before pursuing other remedies under this section. In any action against the vehicle operator, a
974 copy of the vehicle rental agreement, lease, or affidavit identifying the renter or lessee of the vehicle at
975 the time of the violation is prima facie evidence that the person named in the rental agreement, lease, or
976 affidavit was operating the vehicle at all the relevant times relating to the matter named in the summons.

977 N. Imposition of a civil penalty pursuant to this section shall not be deemed a conviction as an
978 operator and shall not be made part of the driving record of the person upon whom such civil penalty is
979 imposed, nor shall it be used for insurance purposes in the provision of motor vehicle insurance
980 coverage. ~~The provisions of § 46.2-395 shall not be applicable to any civil penalty, fee, unpaid toll, fine,
981 or cost imposed or ordered paid under this section for a violation of this section.~~

982 O. The toll facility operator may offer to the owner an option to pay the unpaid toll and fees plus a

983 reduced civil penalty of \$25 for a first or second offense or \$50 for a third, fourth, or subsequent
 984 offense, as specified on the summons, provided the owner actually pays to the toll facility operator the
 985 entire amount so calculated at least 14 days prior to the hearing date specified on the summons. If the
 986 owner accepts such offer and such amount is actually received by the toll facility operator at least 14
 987 days prior to the hearing date specified on the summons, the toll facility operator shall move the court
 988 at least five business days prior to the date set for trial to dismiss the summons issued to the owner of
 989 the vehicle, and the court shall dismiss upon such motion.

990 P. The operator of a toll facility may enter into an agreement with the Department, in accordance
 991 with the provisions of subdivision B 21 of § 46.2-208, to obtain vehicle owner information regarding the
 992 owners of vehicles that fail to pay tolls required for the use of toll facilities and with the Department of
 993 Transportation to obtain any information that is necessary to conduct electronic toll collection. Such
 994 agreement may include any information that may be obtained by the Department of Motor Vehicles in
 995 accordance with any agreement entered into pursuant to § 46.2-819.9. Information provided to the
 996 operator of a toll facility shall be used only for the collection of unpaid tolls, and the operator of the
 997 toll facility shall be subject to the same conditions and penalties regarding release of the information as
 998 contained in subsection C.

999 Q. No person shall be subject to both the provisions of this section and to prosecution under
 1000 § 46.2-819 for actions arising out of the same transaction or occurrence.

1001 **§ 46.2-819.5. Enforcement through use of photo-monitoring system or automatic vehicle**
 1002 **identification system in conjunction with usage of Dulles Access Highway.**

1003 A. A photo-monitoring system or automatic vehicle identification system established at locations
 1004 along the Dulles Access Highway, in order to identify vehicles that are using the Dulles Access
 1005 Highway in violation of the Metropolitan Washington Airports Authority (Authority) regulation
 1006 regarding usage, which makes violations of the regulation subject to civil penalties, shall be administered
 1007 in accordance with this section. The civil penalties for violations of such regulation may not exceed the
 1008 following: \$50 for the first violation; \$100 for a second violation within one year from the first
 1009 violation; \$250 for a third violation within two years from the second violation; and \$500 for a fourth
 1010 and any subsequent violation within three years from the second violation. In the event a violation of
 1011 the Authority regulation is identified via the photo-monitoring system or automatic vehicle identification
 1012 system, the operator of the Dulles Access Highway shall send a notice of the violation, of the applicable
 1013 civil penalty and of any administrative fee calculated in accordance with subsection C to the registered
 1014 owner of the vehicle identified by the system prior to seeking further remedies under this section. Upon
 1015 receipt of the notice, the registered owner of the vehicle may elect to avoid any action by the operator
 1016 to enforce the violation in court by waiving his right to a court hearing, pleading guilty to the violation,
 1017 and paying a reduced civil penalty along with any applicable administrative fee to the operator. Should
 1018 the recipient of the notice make such an election, the amount of the reduced civil penalty shall be as
 1019 follows: \$30 for the first violation; \$50 for a second violation within one year from the first violation;
 1020 \$125 for a third violation within two years from the second violation; and \$250 for a fourth and any
 1021 subsequent violations within three years from the second violation.

1022 B. Information collected by the photo-monitoring system or automatic vehicle identification system
 1023 referenced in subsection A shall be limited exclusively to that information that is necessary for
 1024 identifying those drivers who improperly use the Dulles Access Highway in violation of the Authority
 1025 regulation. Notwithstanding any other provision of law, all photographs, microphotographs, electronic
 1026 images, or other data collected by a photo-monitoring system or automatic vehicle identification system
 1027 shall be used exclusively for the identification of violators and shall not (i) be open to the public; (ii) be
 1028 sold or used for sales, solicitation, or marketing purposes; (iii) be disclosed to any other entity except as
 1029 may be necessary for the identification of violators or to a vehicle owner or operator as part of a
 1030 challenge to the imposition of a civil penalty; or (iv) be used in a court in a pending action or
 1031 proceeding unless the action or proceeding relates to a violation of the Authority regulation governing
 1032 usage of the Dulles Access Highway or upon order from a court of competent jurisdiction. Information
 1033 collected by the system shall be protected in a database with security comparable to that of the
 1034 Department of Motor Vehicles' system, and be purged and not retained later than 30 days after the
 1035 collection and reconciliation of any civil penalties and administrative fees. The operator of the Dulles
 1036 Access Highway shall annually certify compliance with this subsection and make all records pertaining
 1037 to such system available for inspection and audit by the Commissioner of Highways or the
 1038 Commissioner of the Department of Motor Vehicles or their designee. Any violation of this subsection
 1039 shall constitute a Class 1 misdemeanor. In addition to any fines or other penalties provided for by law,
 1040 any money or other thing of value obtained as a result of a violation of this subsection shall be forfeited
 1041 to the Commonwealth.

1042 C. The operator of the Dulles Access Highway may impose and collect an administrative fee, in
 1043 addition to the civil penalty established by regulation, so as to recover the expenses of collecting the

1044 civil penalty, which administrative fee shall be reasonably related to the actual cost of collecting the
1045 civil penalty and shall not exceed \$100 per violation. Such fee shall not be levied upon the operator of
1046 the vehicle until a second violation has been documented within 12 months of an initial violation, in
1047 which case the fee shall apply to such second violation and to any additional violation occurring
1048 thereafter. If the recipient of the notice referenced in subsection A makes the election provided by that
1049 subsection, the administrative fee shall not exceed \$25.

1050 D. If the election provided for in subsection A is not made, the operator of the Dulles Access
1051 Highway may proceed to enforce the violation in court. If the matter proceeds to court, the registered
1052 owner or operator of a vehicle shall be liable for the civil penalty set out in the Authority regulation
1053 governing usage of the Dulles Access Highway, any applicable administrative fees calculated in
1054 accordance with subsection C and applicable court costs if the vehicle is found, as evidenced by
1055 information obtained from a photo-monitoring system or automatic vehicle identification system as
1056 provided in this section, to have used the Dulles Access Highway in violation of the Authority
1057 regulation; provided, that the civil penalty may not exceed the amount of the penalty identified in
1058 subsection A.

1059 E. Any action under this section shall be brought in the General District Court of the county in
1060 which the violation occurred.

1061 F. Proof of a violation of the Authority regulation governing the use of the Dulles Access Highway
1062 shall be evidenced by information obtained from the photo-monitoring system or automatic vehicle
1063 identification system referenced in subsection A. A certificate, sworn to or affirmed by a technician
1064 employed or authorized by the operator of the Dulles Access Highway, or a facsimile of such a
1065 certificate, that is based on inspection of photographs, microphotographs, videotapes, or other recorded
1066 images or electronic data produced by the photo-monitoring system shall be prima facie evidence of the
1067 facts contained therein. Any photographs, microphotographs, videotape, or other recorded images or
1068 electronic data evidencing such a violation shall be available for inspection in any proceeding to
1069 adjudicate the liability for such violation under this section.

1070 G. A summons issued under this section, which describes a vehicle that, on the basis of a certificate
1071 referenced in subsection F, is alleged to have been operated in violation of the Authority regulation
1072 governing usage of the Dulles Access Highway, shall be prima facie evidence that such vehicle was
1073 operated in violation of the Authority regulation.

1074 H. Upon a finding by a court that the vehicle described in the summons issued under this section
1075 was in violation of the Authority regulation, the court shall impose a civil penalty upon the registered
1076 owner or operator of such vehicle in accordance with the penalty amounts specified in subsection D,
1077 together with any applicable court costs and applicable administrative fees calculated in accordance with
1078 subsection C. Civil penalties and administrative fees assessed as a result of an action initiated under this
1079 section and collected by the court shall be remanded by the clerk of the court that adjudicated the action
1080 to the treasurer or director of finance of the county or city in which the violation occurred for payment
1081 to the operator of the Dulles Access Highway.

1082 The registered owner of a vehicle shall be given reasonable notice of an enforcement action in court
1083 by way of a summons that informs the owner that his vehicle has been used in violation of the
1084 Authority regulation governing the use of the Dulles Access Highway and of the time and place of the
1085 court hearing, as well as of the civil penalty and court costs for the violation. Upon the filing of an
1086 affidavit with the court at least 14 days prior to the hearing date by the registered owner of the vehicle
1087 stating that he was not the driver of the vehicle on the date of the violation and providing the legal
1088 name and address of the operator of the vehicle at the time of the violation, a summons shall be issued
1089 to such alleged operator of the vehicle.

1090 In any action against such a vehicle operator, an affidavit made by the registered owner providing
1091 the name and address of the vehicle operator at the time of the violation shall constitute prima facie
1092 evidence that the person named in the affidavit was operating the vehicle at all the relevant times
1093 relating to the matter addressed in the affidavit.

1094 If the registered owner of the vehicle produces a certified copy of a police report showing that the
1095 vehicle had been reported to the police as stolen prior to the time of the alleged offense and remained
1096 stolen at the time of the alleged offense, then the court shall dismiss the summons issued to the
1097 registered owner of the vehicle.

1098 I. Upon a finding by a court that a person has three or more violations of the Authority regulation
1099 governing the use of the Dulles Access Highway and has failed to pay the required civil penalties,
1100 administrative fees and court costs into the court, the court shall notify the Commissioner of the
1101 Department of Motor Vehicles, who shall refuse to issue or renew any vehicle registration certificate to
1102 or for such person or the license plate for the vehicle owned by such person until the court has notified
1103 the Commissioner that such civil penalties, fees, and costs have been paid. The Commissioner shall
1104 collect a \$40 administrative fee from such person to defray the cost of responding to court notices given
1105 pursuant to this subsection.

1106 J. For purposes of this section, "operator of the Dulles Access Highway" means the Metropolitan
 1107 Washington Airports Authority; "owner" means the registered owner of a vehicle on record with the
 1108 Department of Motor Vehicles; "photo-monitoring system" means equipment that produces one or more
 1109 photographs, microphotographs, videotapes, or other recorded images of vehicles at the time they are
 1110 used or operated in violation of the Authority regulation governing the use of the Dulles Access
 1111 Highway; "automatic vehicle identification system" means an electronic vehicle identification system that
 1112 automatically produces an electronic record of each vehicle equipped with an automatic vehicle
 1113 identification device that uses monitored portions of the Dulles Access Highway; and "automatic vehicle
 1114 identification device" means an electronic device that communicates by wireless transmission with an
 1115 automatic vehicle identification system.

1116 K. Any vehicle rental or vehicle leasing company, if named in a summons, shall be released as a
 1117 party to the action if it provides the operator of the Dulles Access Highway with a copy of the vehicle
 1118 rental agreement or lease, or an affidavit that identifies the renter or lessee, prior to the date of hearing
 1119 set forth in the summons. Upon receipt of such rental agreement, lease, or affidavit, a summons shall be
 1120 issued to such renter or lessee. Release of this information shall not be deemed a violation of any
 1121 provision of the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.) or the
 1122 Insurance Information and Privacy Protection Act (§ 38.2-600 et seq.). In any action against the renter or
 1123 lessee, a copy of the vehicle rental agreement, lease, or affidavit identifying the renter or lessee of the
 1124 vehicle at the time of the violation shall be prima facie evidence that the person named in the rental
 1125 agreement, lease, or affidavit was operating the vehicle at all the relevant times relating to the matter
 1126 named in the summons.

1127 L. Imposition of a civil penalty pursuant to this section shall not be deemed a conviction as an
 1128 operator and shall not be made a part of the driving record of the person upon whom such civil penalty
 1129 is imposed, nor shall it be used for insurance purposes in the provision of motor vehicle insurance
 1130 coverage. ~~The provisions of § 46.2-395 shall not be applicable to any civil penalty, administrative fee, or~~
 1131 ~~cost imposed or ordered paid under this section.~~

1132 M. On a form prescribed by the Supreme Court, a summons for a violation of the Authority
 1133 regulation governing the use of the Dulles Access Highway may be executed pursuant to § 19.2-76.2.
 1134 The operator of the Dulles Access Highway or its personnel or agents mailing such summons shall be
 1135 considered conservators of the peace for the sole and limited purpose of mailing such summons.
 1136 Pursuant to § 19.2-76.2, the summons for a violation of the Authority regulation governing usage of the
 1137 Dulles Access Highway may be executed by mailing by first-class mail a copy thereof to the address of
 1138 the owner of the vehicle as shown on the records of the Department of Motor Vehicles or, if the
 1139 registered owner or rental or leasing company has named and provided a valid address for the operator
 1140 of the vehicle at the time of the violation as provided in this section, to the address of such named
 1141 operator of the vehicle. If the summoned person fails to appear on the date of return set out in the
 1142 summons mailed pursuant to this section, the summons shall be executed in the manner set out in
 1143 § 19.2-76.3.

1144 N. The operator of the Dulles Access Highway may enter into an agreement with the Department of
 1145 Motor Vehicles, in accordance with the provisions of subdivision B 21 of § 46.2-208, to obtain vehicle
 1146 owner information regarding the registered owners of vehicles that improperly use the Dulles Access
 1147 Highway. Information provided to the operator of the Dulles Access Highway shall only be used in the
 1148 enforcement of the Authority regulation governing use of the Dulles Access Highway, and the operator
 1149 shall be subject to the same conditions and penalties regarding release of the information as contained in
 1150 subsection B.

1151 O. Should other vehicle recognition technology become available that is appropriate to be used for
 1152 the purpose of monitoring improper usage of the Dulles Access Highway, the operator of the Dulles
 1153 Access Highway shall be permitted to use any such technology that has been approved for use by the
 1154 Virginia State Police, the Commonwealth of Virginia, or any of its localities.

1155 P. All civil penalties paid to the operator of the Dulles Access Highway pursuant to this section shall
 1156 be used by the operator of the Dulles Access Highway only for the operation and improvement of the
 1157 Dulles Corridor, including the Dulles Toll Road.

1158 **§ 46.2-1200.1. Abandoning motor vehicles prohibited; penalty.**

1159 No person shall cause any motor vehicle to become an abandoned motor vehicle as defined in
 1160 § 46.2-1200. In any prosecution for a violation of this section, proof that the defendant was, at the time
 1161 that the vehicle was found abandoned, the owner of the vehicle shall constitute in evidence a rebuttable
 1162 presumption that the owner was the person who committed the violation. Such presumption, however,
 1163 shall not arise if the owner of the vehicle provided notice to the Department, as provided in § 46.2-604,
 1164 that he had sold or otherwise transferred the ownership of the vehicle.

1165 A summons for a violation of this section shall be executed by mailing a copy of the summons by
 1166 first-class mail to the address of the owner of the vehicle as shown on the records of the Department of

1167 Motor Vehicles. If the person fails to appear on the date of return set out in the summons, a new
1168 summons shall be issued and delivered to the sheriff of the county, city, or town for service on the
1169 accused personally. If the person so served then fails to appear on the date of return set out in the
1170 summons, proceedings for contempt shall be instituted.

1171 Any person convicted of a violation of this section shall be subject to a civil penalty of no more than
1172 \$500. If any person fails to pay any such penalty, his privilege to drive a motor vehicle on the highways
1173 of the Commonwealth shall be suspended as provided in ~~§ 46.2-395~~.

1174 All penalties collected under this section shall be paid into the state treasury to be credited to the
1175 Literary Fund as provided in § 46.2-114.

1176 **2. That § 46.2-395 of the Code of Virginia is repealed.**

1177 **3. That the Commissioner of the Department of Motor Vehicles shall return or reinstate a person's**
1178 **driver's license that was suspended prior to July 1, 2019, solely pursuant to former § 46.2-395 of**
1179 **the Code of Virginia, provided that such person has paid the applicable reinstatement fee. Nothing**
1180 **herein shall require the Commissioner to return or reinstate a person's driver's license if such**
1181 **license has been otherwise lawfully suspended or revoked.**

1182 [**4. That the provisions of this act shall not become effective unless an appropriation**
1183 **effectuating the purposes of this act is included in a general appropriation act passed in 2019 by**
1184 **the General Assembly that becomes law.]**