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HOUSE BILL NO. 1442

AMENDMENT IN THE NATURE OF A SUBSTITUTE

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

(Patrons Prior to Substitute—Delegates Jones, Hurst [HB 1721], and Willett [HB 621])

A BILL to amend and reenact §§ 46.2-208 and 46.2-882 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 46.2-882.1, relating to photo speed monitoring devices; civil penalty.

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-208 and 46.2-882 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 46.2-882.1 as follows:

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

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

1. Personal information, including all data defined as "personal information" in § 2.2-3801;
2. Driver information, including all data that relates to driver's license status and driver activity; and
3. Vehicle information, including all descriptive vehicle data and title, registration, and vehicle activity data.

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

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

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

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

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

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

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

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

8. On the written request of any motor vehicle rental or leasing company or its designated agent, the Commissioner shall (i) compare personal information supplied by the company or agent with that contained in the Department's records and, when the information supplied by the company or agent is

60 different from that contained in the Department's records, provide the company or agent with correct
61 information as contained in the Department's records and (ii) provide the company or agent with driver
62 information in the form of an abstract of any person subject to the provisions of this title. Such abstract
63 shall include any record of any conviction of a violation of any provision of any statute or ordinance
64 relating to the operation or ownership of a motor vehicle or of any injury or damage in which the
65 subject of the abstract was involved and a report of which is required by § 46.2-372. No such abstract
66 shall include any record of any conviction or accident more than 60 months after the date of such
67 conviction or accident unless the Commissioner or court used the conviction or accident as a reason for
68 the suspension or revocation of a driver's license or driving privilege, in which case the revocation or
69 suspension and any conviction or accident pertaining thereto shall cease to be included in such abstract
70 after 60 months from the date on which the driver's license or driving privilege was reinstated. No
71 abstract released under this subdivision shall be admissible in evidence in any court proceedings.

72 9. On the request of any federal, state, or local governmental entity, local government group
73 self-insurance pool, law-enforcement officer, attorney for the Commonwealth, court, or the authorized
74 agent of any of the foregoing, the Commissioner shall (i) compare personal information supplied by the
75 governmental entity, local government group self-insurance pool, law-enforcement officer, attorney for
76 the Commonwealth, court, or the authorized agent of any of the foregoing, with that contained in the
77 Department's records and, when the information supplied by the governmental entity, local government
78 group self-insurance pool, law-enforcement officer, attorney for the Commonwealth, court, or the
79 authorized agent of any of the foregoing, is different from that contained in the Department's records,
80 provide the governmental entity, local government group self-insurance pool, law-enforcement officer,
81 attorney for the Commonwealth, court, or the authorized agent of any of the foregoing, with correct
82 information as contained in the Department's records and (ii) provide driver and vehicle information in
83 the form of an abstract of the record showing all convictions, accidents, and driver's license suspensions
84 or revocations. The Commissioner may also release other appropriate information as the governmental
85 entity, local government group self-insurance pool, law-enforcement officer, attorney for the
86 Commonwealth, court, or the authorized agent of any of the foregoing, may require in order to carry out
87 its official functions. The abstract shall be provided free of charge.

88 10. On request of the driver licensing authority in any other state or foreign country, the
89 Commissioner shall provide whatever classes of information the requesting authority shall require in
90 order to carry out its official functions. The information shall be provided free of charge.

91 11. On the written request of any employer, prospective employer, or authorized agent of either, and
92 with the written consent of the individual concerned, the Commissioner shall (i) compare personal
93 information supplied by the employer, prospective employer, or agent with that contained in the
94 Department's records and, when the information supplied by the employer, prospective employer, or
95 agent is different from that contained in the Department's records, provide the employer, prospective
96 employer, or agent with correct information as contained in the Department's records and (ii) provide the
97 employer, prospective employer, or agent with driver information in the form of an abstract of an
98 individual's record showing all convictions, accidents, driver's license suspensions or revocations, and
99 any type of driver's license that the individual currently possesses, provided that the individual's position
100 or the position that the individual is being considered for involves the operation of a motor vehicle.

101 12. On the written request of any member of or applicant for membership in a volunteer fire
102 company or any volunteer emergency medical services personnel or applicant to serve as volunteer
103 emergency medical services personnel, the Commissioner shall (i) compare personal information
104 supplied by the volunteer fire company or volunteer emergency medical services agency with that
105 contained in the Department's records and, when the information supplied by the volunteer fire company
106 or volunteer emergency medical services agency is different from that contained in the Department's
107 records, provide the volunteer fire company or volunteer emergency medical services agency with
108 correct information as contained in the Department's records and (ii) provide driver information in the
109 form of an abstract of the member's, personnel, or applicant's record showing all convictions, accidents,
110 license suspensions or revocations, and any type of driver's license that the individual currently
111 possesses. Such abstract shall be provided free of charge if the request is accompanied by appropriate
112 written evidence that the person is a member of or applicant for membership in a volunteer fire
113 company or a volunteer emergency medical services agency to serve as a member of a volunteer
114 emergency medical services agency and the abstract is needed by a volunteer fire company or volunteer
115 emergency medical services agency to establish the qualifications of the member, volunteer, or applicant
116 to operate equipment owned by the volunteer fire company or volunteer emergency medical services
117 agency.

118 13. On the written request of any person who has applied to be a volunteer with a Virginia affiliate
119 of Big Brothers/Big Sisters of America, the Commissioner shall (i) compare personal information
120 supplied by a Virginia affiliate of Big Brothers/Big Sisters of America with that contained in the
121 Department's records and, when the information supplied by a Virginia affiliate of Big Brothers/Big

122 Sisters of America is different from that contained in the Department's records, provide the Virginia
 123 affiliate of Big Brothers/Big Sisters of America with correct information as contained in the
 124 Department's records and (ii) provide driver information in the form of an abstract of the applicant's
 125 record showing all convictions, accidents, license suspensions or revocations, and any type of driver's
 126 license that the individual currently possesses. Such abstract shall be provided at a fee that is one-half
 127 the normal charge if the request is accompanied by appropriate written evidence that the person has
 128 applied to be a volunteer with a Virginia affiliate of Big Brothers/Big Sisters of America.

129 14. On the written request of any person who has applied to be a volunteer with a court-appointed
 130 special advocate program pursuant to § 9.1-153, the Commissioner shall provide an abstract of the
 131 applicant's record showing all convictions, accidents, license suspensions or revocations, and any type of
 132 driver's license that the individual currently possesses. Such abstract shall be provided free of charge if
 133 the request is accompanied by appropriate written evidence that the person has applied to be a volunteer
 134 with a court-appointed special advocate program pursuant to § 9.1-153.

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

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

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

151 18. Upon the request, in the course of business, of any authorized representative of an insurance
 152 company or of any not-for-profit entity organized to prevent and detect insurance fraud, or perform
 153 rating and underwriting activities, the Commissioner shall provide to such person (i) all vehicle
 154 information, including the owner's name and address, descriptive data and title, registration, and vehicle
 155 activity data as requested or (ii) all driver information including name, license number and classification,
 156 date of birth, and address information for each driver under the age of 22 licensed in the
 157 Commonwealth of Virginia meeting the request criteria designated by such person, with such request
 158 criteria consisting of driver's license number or address information. No such information shall be used
 159 for solicitation of sales, marketing, or other commercial purposes.

160 19. Upon the request of an officer authorized to issue criminal warrants, for the purpose of issuing a
 161 warrant for arrest for unlawful disposal of trash or refuse in violation of § 33.2-802 the Commissioner
 162 shall provide vehicle information, including the owner's name and address.

163 20. Upon written request of the compliance agent of a private security services business, as defined
 164 in § 9.1-138, which is licensed by the Department of Criminal Justice Services, the Commissioner shall
 165 provide the name and address of the owner of the vehicle under procedures determined by the
 166 Commissioner.

167 21. Upon the request of the operator of a toll facility or traffic light photo-monitoring system acting
 168 on behalf of a government entity, or of the Dulles Access Highway, or an authorized agent or employee
 169 of a toll facility operator or traffic light photo-monitoring system operator acting on behalf of a
 170 government entity or the Dulles Access Highway, for the purpose of obtaining vehicle owner data under
 171 subsection M of § 46.2-819.1 or subsection H of § 15.2-968.1 or subsection N of § 46.2-819.5.
 172 Information released pursuant to this subdivision shall be limited to the name and address of the owner
 173 of the vehicle having failed to pay a toll or having failed to comply with a traffic light signal or having
 174 improperly used the Dulles Access Highway and the vehicle information, including all descriptive
 175 vehicle data and title and registration data of the same vehicle.

176 22. On the written request of any person who has applied to be a volunteer with a Virginia affiliate
 177 of Compeer, the Commissioner shall (i) compare personal information supplied by a Virginia affiliate of
 178 Compeer with that contained in the Department's records and, when the information supplied by a
 179 Virginia affiliate of Compeer is different from that contained in the Department's records, provide the
 180 Virginia affiliate of Compeer with correct information as contained in the Department's records and (ii)
 181 provide driver information in the form of an abstract of the applicant's record showing all convictions,
 182 accidents, license suspensions or revocations, and any type of driver's license that the individual

183 currently possesses. Such abstract shall be provided at a fee that is one-half the normal charge if the
184 request is accompanied by appropriate written evidence that the person has applied to be a volunteer
185 with a Virginia affiliate of Compeer.

186 23. Upon the request of the Department of Environmental Quality for the purpose of obtaining
187 vehicle owner data in connection with enforcement actions involving on-road testing of motor vehicles,
188 pursuant to § 46.2-1178.1.

189 24. On the written request of any person who has applied to be a volunteer vehicle operator with a
190 Virginia chapter of the American Red Cross, the Commissioner shall (i) compare personal information
191 supplied by a Virginia chapter of the American Red Cross with that contained in the Department's
192 records and, when the information supplied by a Virginia chapter of the American Red Cross is different
193 from that contained in the Department's records, provide the Virginia chapter of the American Red Cross
194 with correct information as contained in the Department's records and (ii) provide driver information in
195 the form of an abstract of the applicant's record showing all convictions, accidents, license suspensions
196 or revocations, and any type of driver's license that the individual currently possesses. Such abstract
197 shall be provided at a fee that is one-half the normal charge if the request is accompanied by
198 appropriate written evidence that the person has applied to be a volunteer vehicle operator with a
199 Virginia chapter of the American Red Cross.

200 25. On the written request of any person who has applied to be a volunteer vehicle operator with a
201 Virginia chapter of the Civil Air Patrol, the Commissioner shall (i) compare personal information
202 supplied by a Virginia chapter of the Civil Air Patrol with that contained in the Department's records
203 and, when the information supplied by a Virginia chapter of the Civil Air Patrol is different from that
204 contained in the Department's records, provide the Virginia chapter of the Civil Air Patrol with correct
205 information as contained in the Department's records and (ii) provide driver information in the form of
206 an abstract of the applicant's record showing all convictions, accidents, license suspensions or
207 revocations, and any type of driver's license that the individual currently possesses. Such abstract shall
208 be provided at a fee that is one-half the normal charge if the request is accompanied by appropriate
209 written evidence that the person has applied to be a volunteer vehicle operator with a Virginia chapter of
210 the Civil Air Patrol.

211 26. On the written request of any person who has applied to be a volunteer vehicle operator with
212 Faith in Action, the Commissioner shall (i) compare personal information supplied by Faith in Action
213 with that contained in the Department's records and, when the information supplied by Faith in Action is
214 different from that contained in the Department's records, provide Faith in Action with correct
215 information as contained in the Department's records and (ii) provide driver information in the form of
216 an abstract of the applicant's record showing all convictions, accidents, license suspensions or
217 revocations, and any type of driver's license that the individual currently possesses. Such abstract shall
218 be provided at a fee that is one-half the normal charge if the request is accompanied by appropriate
219 written evidence that the person has applied to be a volunteer vehicle operator with Faith in Action.

220 27. On the written request of the surviving spouse or child of a deceased person or the executor or
221 administrator of a deceased person's estate, the Department shall, if the deceased person had been issued
222 a driver's license or special identification card by the Department, supply the requestor with a hard copy
223 image of any photograph of the deceased person kept in the Department's records.

224 28. On the written request of any person who has applied to be a volunteer with a Virginia Council
225 of the Girl Scouts of the USA, the Commissioner shall (i) compare personal information supplied by a
226 Virginia Council of the Girl Scouts of the USA with that contained in the Department's records and,
227 when the information supplied by a Virginia Council of the Girl Scouts of the USA is different from
228 that contained in the Department's records, provide a Virginia Council of the Girl Scouts of the USA
229 with correct information as contained in the Department's records and (ii) provide driver information in
230 the form of an abstract of the applicant's record showing all convictions, accidents, license suspensions
231 or revocations, and any type of driver's license that the individual currently possesses. Such abstract
232 shall be provided at a fee that is one-half the normal charge if the request is accompanied by
233 appropriate written evidence that the person has applied to be a volunteer with the Virginia Council of
234 the Girl Scouts of the USA.

235 29. Upon written agreement, the Commissioner may digitally verify the authenticity and validity of a
236 driver's license, learner's permit, or special identification card to the American Association of Motor
237 Vehicle Administrators, a motor vehicle dealer as defined in § 46.2-1500, or other organization approved
238 by the Commissioner.

239 30. Upon the request of the operator of a video-monitoring system as defined in § 46.2-844 acting on
240 behalf of a government entity, the Commissioner shall provide vehicle owner data pursuant to subsection
241 B of § 46.2-844. Information released pursuant to this subdivision shall be limited to the name and
242 address of the owner of the vehicle having passed a stopped school bus and the vehicle information,
243 including all descriptive vehicle data and title and registration data for such vehicle.

244 31. *Upon the request of the operator of a photo speed monitoring device as defined in § 46.2-882.1*

245 *acting on behalf of a government entity, the Commissioner shall provide vehicle owner data pursuant to*
 246 *subsection B of § 46.2-882.1. Information released pursuant to this subdivision shall be limited to the*
 247 *name and address of the owner of the vehicle having committed a violation of § 46.2-873 or 46.2-878.1*
 248 *and the vehicle information, including all descriptive vehicle data and title and registration data, for*
 249 *such vehicle.*

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

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

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

259 F. In addition to the foregoing provisions of this section, vehicle information may also be inspected
 260 under the provisions of §§ 46.2-633, 46.2-644.02, 46.2-644.03, and §§ 46.2-1200.1 through 46.2-1237.

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

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

267 I. The Department shall maintain the records of persons convicted of violations of § 18.2-36.2,
 268 subsection B of § 29.1-738, and §§ 29.1-738.02, 29.1-738.2, and 29.1-738.4 which shall be forwarded by
 269 every general district court or circuit court or the clerk thereof, pursuant to § 46.2-383. Such records
 270 shall be electronically available to any law-enforcement officer as provided for under clause (ii) of
 271 subdivision B 9.

272 J. Whenever the Commissioner issues a certificate of title for a motor vehicle, he may notify the
 273 National Motor Vehicle Title Information System, or any other nationally recognized system providing
 274 similar information, or any entity contracted to collect information for such system, and may provide
 275 whatever classes of information are required by such system.

276 **§ 46.2-882. Determining speed with various devices; certificate as to accuracy of device; arrest**
 277 **without warrant.**

278 The speed of any motor vehicle may be determined by the use of (i) a laser speed determination
 279 device, (ii) radar, (iii) a microcomputer device that is physically connected to an odometer cable and
 280 both measures and records distance traveled and elapsed time to determine the average speed of a motor
 281 vehicle, or (iv) a microcomputer device that is located aboard an airplane or helicopter and measures
 282 and records distance traveled and elapsed time to determine the average speed of a motor vehicle being
 283 operated on highways within the Interstate System of highways as defined in § 33.2-100. *The speed of*
 284 *motor vehicles may be determined by the use of a photo speed monitoring device as authorized in*
 285 *§ 46.2-882.1. The results of such determinations shall be accepted as prima facie evidence of the speed*
 286 *of such motor vehicle in any court or legal proceeding where the speed of the motor vehicle is at issue.*

287 In any court or legal proceeding in which any question arises about the calibration or accuracy of
 288 any laser speed determination device, radar, ~~or~~ microcomputer device, *or photo speed monitoring device*
 289 *as described in this section used to determine the speed of any motor vehicle, a certificate, or a true*
 290 *copy thereof, showing the calibration or accuracy of (i) (a) the speedometer of any vehicle, (ii) (b) any*
 291 *tuning fork employed in calibrating or testing the radar or other speed determination device, or (iii) (c)*
 292 *any other method employed in calibrating or testing any laser speed determination device or photo speed*
 293 *monitoring device, and when and by whom the calibration was made, shall be admissible as evidence of*
 294 *the facts therein stated. No calibration or testing of such any device other than a photo speed*
 295 *monitoring device shall be valid for longer than six months. No calibration or testing of a photo speed*
 296 *monitoring device shall be valid for longer than 12 months.*

297 The driver of any such motor vehicle may be arrested without a warrant under this section if the
 298 arresting officer is in uniform and displays his badge of authority and if the officer has observed the
 299 registration of the speed of such motor vehicle by the laser speed determination device, radar, or
 300 microcomputer device as described in this section, or has received a radio message from the officer who
 301 observed the speed of the motor vehicle registered by the laser speed determination device, radar, or
 302 microcomputer device as described in this section. However, in case of an arrest based on such a
 303 message, such radio message shall have been dispatched immediately after the speed of the motor
 304 vehicle was registered and furnished the license number or other positive identification of the vehicle
 305 and the registered speed to the arresting officer.

306 Neither State Police officers nor local law-enforcement officers shall use laser speed determination
307 devices or radar, as described herein in airplanes or helicopters for the purpose of determining the speed
308 of motor vehicles.

309 State Police officers may use laser speed determination devices, radar, and/or microcomputer devices
310 as described in this section. All localities may use radar and laser speed determination devices to
311 measure speed. *State Police officers and any locality may use photo speed monitoring devices to*
312 *measure speed as authorized in § 46.2-882.1.* The Cities of Alexandria, Fairfax, Falls Church, Manassas,
313 and Manassas Park and the Counties of Arlington, Fairfax, Loudoun, and Prince William and towns
314 within such counties may use microcomputer devices as described in this section.

315 The Division of Purchases and Supply, pursuant to § 2.2-1112, shall determine the proper equipment
316 used to determine the speed of motor vehicles and shall advise the respective law-enforcement officials
317 of the same. Police chiefs and sheriffs shall ensure that all such equipment and devices purchased on or
318 after July 1, 1986, meet or exceed the standards established by the Division.

319 **§ 46.2-882.1. Use of photo speed monitoring devices in highway work zones and school crossing**
320 **zones; civil penalty.**

321 A. *For the purposes of this section:*

322 *"Highway work zone" has the same meaning ascribed to it in § 46.2-878.1.*

323 *"Photo speed monitoring device" means equipment that uses radar or LIDAR-based speed detection*
324 *and produces one or more photographs, microphotographs, videotapes, or other recorded images of*
325 *vehicles.*

326 *"School crossing zone" has the same meaning ascribed to it in § 46.2-873.*

327 B. *A law-enforcement agency or locality may operate a photo speed monitoring device in school*
328 *crossing zones from the purposes of recording violations of § 46.2-873 and in highway work zones for*
329 *the purposes of recording violations of § 46.2-878.1.*

330 1. *The operator of a vehicle shall be liable for a monetary civil penalty imposed pursuant to this*
331 *section if such vehicle is found, as evidenced by information obtained from a photo speed monitoring*
332 *device, to be traveling at speeds of at least 10 miles per hour above the posted school crossing zone or*
333 *highway work zone speed limit within such school crossing zone or highway work zone. Such civil*
334 *penalty shall not exceed \$125, and any prosecution shall be instituted and conducted in the same*
335 *manner as prosecution for traffic infractions. Civil penalties collected under this section resulting from a*
336 *summons issued by a local law-enforcement officer shall be paid to the locality in which such violation*
337 *occurred. Civil penalties collected under this section resulting from a summons issued by a*
338 *law-enforcement officer employed by the Department of State Police shall be paid into the state treasury*
339 *and allocated to a special nonreverting fund for the Department of State Police.*

340 2. *If a photo speed monitoring device is used, proof of a violation of § 46.2-873 or 46.2-878.1 shall*
341 *be evidenced by information obtained from such device. A certificate, or a facsimile thereof, sworn to or*
342 *affirmed by a law-enforcement officer, based upon inspection of photographs, microphotographs,*
343 *videotapes, or other recorded images produced by a photo speed monitoring device, shall be prima facie*
344 *evidence of the facts contained therein. Any photographs, microphotographs, videotapes, or other*
345 *recorded images evidencing such a violation shall be available for inspection in any proceeding to*
346 *adjudicate the liability for such violation of § 46.2-873 or 46.2-878.1.*

347 3. *In the prosecution for a violation of § 46.2-873 or 46.2-878.1 in which a summons was issued by*
348 *mail, prima facie evidence that the vehicle described in the summons issued pursuant to this section was*
349 *operated in violation of § 46.2-873 or 46.2-878.1, together with proof that the defendant was at the time*
350 *of such violation the owner, lessee, or renter of the vehicle, shall constitute in evidence a rebuttable*
351 *presumption that such owner, lessee, or renter of the vehicle was the person who committed the*
352 *violation. Such presumption shall be rebutted if the owner, lessee, or renter of the vehicle (i) files an*
353 *affidavit by regular mail with the clerk of the general district court that he was not the operator of the*
354 *vehicle at the time of the alleged violation and provides the name and address of the person who was*
355 *operating the vehicle at the time of the alleged violation or (ii) testifies in open court under oath that he*
356 *was not the operator of the vehicle at the time of the alleged violation and provides the name and*
357 *address of the person who was operating the vehicle at the time of the alleged violation. Such*
358 *presumption shall also be rebutted if a certified copy of a police report, showing that the vehicle had*
359 *been reported to the police as stolen prior to the time of the alleged violation of § 46.2-873 or*
360 *46.2-878.1, is presented, prior to the return date established on the summons issued pursuant to this*
361 *section, to the court adjudicating the alleged violation.*

362 4. *Imposition of a penalty pursuant to this section by mailing a summons shall not be deemed a*
363 *conviction as an operator and shall not be made part of the operating record of the person upon whom*
364 *such liability is imposed, nor shall it be used for insurance purposes in the provision of motor vehicle*
365 *insurance coverage. However, if a law-enforcement officer uses a photo speed monitoring device to*
366 *record a violation of § 46.2-873 or 46.2-878.1 and personally issues a summons at the time of the*
367 *violation, the conviction that results shall be made a part of such driver's driving record and used for*

368 insurance purposes in the provision of motor vehicle insurance coverage.

369 5. A summons for a violation of § 46.2-873 or 46.2-878.1 issued by mail pursuant to this section may
 370 be executed pursuant to § 19.2-76.2. Notwithstanding the provisions of § 19.2-76, a summons issued by
 371 mail pursuant to this section may be executed by mailing by first-class mail a copy thereof to the owner,
 372 lessee, or renter of the vehicle. In the case of a vehicle owner, the copy shall be mailed to the address
 373 contained in the records of or accessible to the Department. In the case of a vehicle lessee or renter,
 374 the copy shall be mailed to the address contained in the records of the lessor or renter. Every such
 375 mailing shall include, in addition to the summons, a notice of (i) the summoned person's ability to rebut
 376 the presumption that he was the operator of the vehicle at the time of the alleged violation through the
 377 filing of an affidavit as provided in subdivision 3 and (ii) instructions for filing such affidavit, including
 378 the address to which the affidavit is to be sent. If the summoned person fails to appear on the date of
 379 return set out in the summons mailed pursuant to this section, the summons shall be executed in the
 380 manner set out in § 19.2-76.3. No proceedings for contempt or arrest of a person summoned by mailing
 381 shall be instituted for failure to appear on the return date of the summons. If the summons is issued to
 382 an owner, lessee, or renter of a vehicle with a registration outside the Commonwealth and such person
 383 fails to appear on the date of return set out in the summons mailed pursuant to this section, the
 384 summons will be eligible for all legal collections activities. Any summons executed for a violation of
 385 § 46.2-873 or 46.2-878.1 issued pursuant to this section shall provide to the person summoned at least
 386 30 days from the mailing of the summons to inspect information collected by a photo speed monitoring
 387 device in connection with the violation. If the law-enforcement agency or locality that was operating the
 388 photo speed monitoring device does not execute a summons for a violation of § 46.2-873 or 46.2-878.1
 389 issued pursuant to this section within 30 days from the date of the violation, all information collected
 390 pertaining to that suspected violation shall be purged within 60 days from the date of the violation.

391 6. A private vendor may enter into an agreement with a law-enforcement agency or a locality to be
 392 compensated for providing a photo speed monitoring device and all related support services, including
 393 consulting, operations, and administration. However, only a law-enforcement officer may swear to or
 394 affirm the certificate required by this subsection. Any such agreement for compensation shall be based
 395 on the value of the goods and services provided, not on the number of violations paid or monetary
 396 penalties imposed. Any private vendor contracting with a law-enforcement agency or a locality pursuant
 397 to this section may enter into an agreement with the Department, in accordance with the provisions of
 398 subdivision B 31 of § 46.2-208, to obtain vehicle owner information regarding the registered owners of
 399 vehicles that committed a violation of § 46.2-873 or 46.2-878.1. Any such information provided to such
 400 private vendor shall be protected in a database.

401 7. Information collected by a photo speed monitoring device operated pursuant to this section shall
 402 be limited exclusively to that information that is necessary for the enforcement of school crossing zone
 403 and highway work zone speeding violations. Information provided to the operator of a photo speed
 404 monitoring device shall be protected in a database and used only for enforcement against individuals
 405 who violate the provisions of this section or § 46.2-873 or 46.2-878.1. Notwithstanding any other
 406 provision of law, all photographs, microphotographs, videotapes, or other recorded images collected by
 407 a photo speed monitoring device shall be used exclusively for enforcing school crossing zone and
 408 highway work zone speed limits and shall not be (i) open to the public; (ii) sold or used for sales,
 409 solicitation, or marketing purposes; (iii) disclosed to any other entity except as may be necessary for the
 410 enforcement of school crossing zone and highway work zone speed limits or to a vehicle owner or
 411 operator as part of a challenge to the violation; or (iv) used in a court in a pending action or
 412 proceeding unless the action or proceeding relates to a violation of this section or § 46.2-873 or
 413 46.2-878.1, or such information is requested upon order from a court of competent jurisdiction.
 414 Information collected under this section pertaining to a specific violation shall be purged and not
 415 retained later than 60 days after the collection of any civil penalties. Any law-enforcement agency or
 416 locality using photo speed monitoring devices shall annually certify compliance with this section and
 417 make all records pertaining to such system available for inspection and audit by the Commissioner of
 418 Highways or the Commissioner of the Department of Motor Vehicles or his designee. Any person who
 419 discloses personal information in violation of the provisions of this subdivision shall be subject to a civil
 420 penalty of \$1,000 per disclosure.

421 8. A conspicuous sign shall be placed within 1,000 feet of any school crossing zone or highway work
 422 zone at which a photo speed monitoring device is used, indicating the use of the device. There shall be
 423 a rebuttable presumption that such sign was in place at the time of the commission of the speed limit
 424 violation.