

SENATE BILL NO. 246

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Transportation

on February 1, 2024)

(Patron Prior to Substitute--Senator McPike)

A BILL to amend and reenact §§ 46.2-328.1, 46.2-328.3, and 46.2-345.3 of the Code of Virginia, relating to limited-duration licenses and driver privilege cards and permits; expiration.

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 46.2-328.1, 46.2-328.3, and 46.2-345.3 of the Code of Virginia are amended and reenacted as follows:**

**§ 46.2-328.1. Licenses, permits, and special identification cards to be issued only to United States citizens, legal permanent resident aliens, or holders of valid unexpired nonimmigrant visas; exceptions; renewal, duplication, or reissuance.**

A. 1. Notwithstanding any other provision of this title, except as provided in subsection G of § 46.2-345, the Department shall not issue an original license, permit, or special identification card or a REAL ID credential to ~~any~~ an applicant who has not presented to the Department, with the application, valid documentary evidence that the applicant is either (i) a citizen of the United States, (ii) a legal permanent resident of the United States, (iii) a conditional resident alien of the United States, (iv) an approved applicant for asylum in the United States, (v) an entrant into the United States in refugee status, or (vi) a citizen of the Federated States of Micronesia, the Republic of Palau, or the Republic of the Marshall Islands, collectively known as the Freely Associated States. For the purposes of this section, "REAL ID credential" means a "Real ID Driver's License or Identification Card" as defined by 6 C.F.R. § 37.3, as amended.

2. Notwithstanding subdivision 1 or any other provision of this title, except as provided in subsection G of § 46.2-345, the Department may issue an original license, permit, or special identification card that is not a REAL ID credential to an applicant who has presented to the Department, with the

27 application, valid documentary evidence that a federal court or federal agency having jurisdiction over  
28 immigration has authorized the applicant to be in the United States. Such a license, permit, or special  
29 identification card may be renewed only upon presentation of valid documentary evidence that the status  
30 by which the applicant qualified for the license, permit, or special identification card has been extended  
31 by a federal court or federal agency having jurisdiction over immigration. This subdivision does not apply  
32 to commercial driver's licenses or commercial learner's permits provided under § 46.2-341.12.

33 B. Notwithstanding the provisions of subsection A and the provisions of §§ 46.2-330 and 46.2-  
34 345, ~~an applicant who presents in person valid documentary evidence that a federal court or federal agency~~  
35 ~~having jurisdiction over immigration has authorized the applicant to be in the United States or an applicant~~  
36 ~~for a REAL ID credential who provides evidence of temporary lawful status in the United States as~~  
37 ~~required pursuant to the REAL ID Act of 2005, as amended, and its implementing regulations may be~~  
38 ~~issued a limited-duration license, permit, or special identification card~~ REAL ID credential. An applicant  
39 for a commercial driver's license who submits evidence of lawful status as required by 49 C.F.R. §  
40 383.71(f) may be issued a limited-duration license or REAL ID-compliant limited-duration license. An  
41 applicant for a commercial learner's permit who submits evidence of lawful status as required by 49 C.F.R.  
42 § 383.71(f) may be issued a limited-duration permit not to exceed the validity period authorized in  
43 subsection A of § 46.2-341.10. Such limited-duration license, permit, or special identification card shall  
44 be valid only during the period of time of the applicant's authorized stay in the United States or if there is  
45 no definite end to the period of authorized stay a period of one year. No license, permit, or special  
46 identification card shall be issued if an applicant's authorized stay in the United States is less than 30 days  
47 from the date of application. Any limited-duration license, permit, or special identification card issued  
48 pursuant to this subsection shall clearly indicate that it is valid for a limited period and shall state the date  
49 that it expires. Such a limited-duration license, permit, or special identification card may be renewed only  
50 upon presentation of valid documentary evidence that the status by which the applicant qualified for the  
51 limited-duration license, permit, or special identification has been extended by a federal court or federal  
52 agency having jurisdiction over immigration.

53 C. Any license, permit, or special identification card for which an application has been made for  
54 renewal, duplication, or reissuance shall be presumed to have been issued in accordance with the  
55 provisions of ~~subsection A~~ subdivision A 1, provided that, at the time the application is made, (i) the  
56 license, permit, or special identification card has not expired or been cancelled, suspended, or revoked or  
57 (ii) the license, permit, or special identification card has been canceled or suspended as a result of the  
58 applicant having been placed under medical review by the Department pursuant to § 46.2-322. The  
59 requirements of subsection A shall apply, however, to a renewal, duplication, or reissuance if the  
60 Department is notified by a local, state, or federal government agency that the individual seeking such  
61 renewal, duplication, or reissuance is neither a citizen of the United States nor legally in the United States.

62 D. The Department shall cancel any license, permit, or special identification card that it has issued  
63 to an individual if it is notified by a federal government agency that the individual is neither a citizen of  
64 the United States nor legally present in the United States.

65 E. For any applicant who presents a document pursuant to this section proving legal presence other  
66 than citizenship, the Department shall record and provide to the State Board of Elections monthly the  
67 applicant's document number, if any, issued by an agency or court of the United States government.

68 **§ 46.2-328.3. Driver privilege cards and permits.**

69 A. Upon application of any person who does not meet the requirements for a driver's license or  
70 permit under subsection A or B of § 46.2-328.1, the Department may issue to the applicant a driver  
71 privilege card or permit if the Department determines that the applicant (i) has reported income and  
72 deductions from Virginia sources, as defined in § 58.1-302, or been claimed as a dependent, on an  
73 individual income tax return filed with the Commonwealth in the preceding 12 months and (ii) is not in  
74 violation of the insurance requirements set forth in Article 8 (§ 46.2-705 et seq.) of Chapter 6.

75 B. Driver privilege cards and permits shall confer the same privileges and shall be subject to the  
76 same provisions of this title as driver's licenses and permits issued under this chapter, unless otherwise  
77 provided, and shall be subject to the following conditions and exceptions:

78 1. The front of a driver privilege card or permit shall be identical in appearance to a driver's license  
79 or permit that is not a REAL ID credential ~~and the back of the card or permit shall be identical in~~

80 ~~appearance to the restriction on the back of a limited duration license, permit, or special identification~~  
81 ~~card as defined in § 46.2-328.1;~~

82 2. An applicant for a driver privilege card or permit shall not be eligible for a waiver of any part  
83 of the driver examination provided under § 46.2-325;

84 3. An applicant for a driver privilege card or permit shall not be required to present proof of legal  
85 presence in the United States;

86 4. A driver privilege card or permit shall ~~expire on the applicant's second birthday following the~~  
87 ~~date of issuance~~ be valid for the period provided for a driver's license in § 46.2-330 or learner's permit in  
88 § 46.2-335;

89 5. The fee for an original driver privilege card or permit shall be \$50. The Department may issue,  
90 upon application by the holder of a valid, unexpired card or permit issued under this section, and upon  
91 payment of a fee of \$50, another driver privilege card or permit ~~that shall be valid for a period of two~~  
92 ~~years from the date of issuance~~. The amount paid by an applicant for a driver privilege card or other  
93 document issued pursuant to this chapter shall be considered privileged information for the purposes of §  
94 46.2-208. No applicant shall be required to provide proof of compliance with clauses (i) and (ii) of  
95 subsection A for a reissued, renewed, or duplicate card or permit; and

96 6. Any information collected pursuant to this section that is not otherwise collected by the  
97 Department or required for the issuance of any other driving credential issued pursuant to the provisions  
98 of this chapter and any information regarding restrictions in the Department's records related to the  
99 issuance of a credential issued pursuant to this section shall be considered privileged. Notwithstanding the  
100 provisions of § 46.2-208, such information shall not be released except upon request by the subject of the  
101 information, the parent of a minor who is the subject of the information, the guardian of the subject of the  
102 information, or the authorized representative of the subject of the information, or pursuant to a court order.

103 C. The Department shall not release the following information relating to the issuance of a driver  
104 privilege card or permit, except upon request by the subject of the information, the parent of a minor who  
105 is the subject of the information, the guardian of the subject of the information, or the authorized  
106 representative of the subject of the information, or pursuant to a court order, (i) proof documents submitted

107 for the purpose of obtaining a driver privilege card or permit, (ii) the information in the Department's  
108 records indicating the type of proof documentation that was provided, or (iii) applications.

109 The Department shall release only to any federal, state, or local governmental entity, local  
110 government group self-insurance pool, law-enforcement officer, attorney for the Commonwealth, or court,  
111 or the authorized agent of any of the foregoing, information related to the issuance of a driver privilege  
112 card or permit, the release of which is not otherwise prohibited by this section, that is required for a  
113 requester to carry out the requester's official functions if the requester provides the individual's name and  
114 other sufficient identifying information contained on the individual's record. Any such release shall be in  
115 accordance with the requirements of § 46.2-208.

116 **§ 46.2-345.3. Issuance of identification privilege cards; fee; confidentiality; penalties.**

117 A. Upon application of any person who does not hold a status that is eligible for a special  
118 identification card under subsections A and B of § 46.2-328.1, the parent of any such person who is under  
119 the age of 18, or the legal guardian of any such person, the Department may issue an identification  
120 privilege card to any resident of the Commonwealth, provided that:

- 121 1. Application is made on a form prescribed by the Department;
- 122 2. The applicant presents, when required by the Department, proof of identity, residency, and social  
123 security number or individual taxpayer identification number;
- 124 3. The Department determines that the applicant has reported income and deductions from Virginia  
125 sources, as defined in § 58.1-302, or has been claimed as a dependent, on an individual income tax return  
126 filed with the Commonwealth in the preceding 12 months; and
- 127 4. The applicant does not hold a credential issued under this chapter.

128 Persons 70 years of age or older may exchange a valid Virginia driver privilege card for an  
129 identification privilege card at no fee. Identification privilege cards subsequently issued to such persons  
130 shall be subject to the regular fees for identification privilege cards.

131 B. The fee for the issuance of an original, duplicate, reissue, or renewal identification privilege  
132 card is \$25. The amount paid by an applicant for an identification privilege card shall be considered  
133 privileged information for the purposes of § 46.2-208.

134 C. An original identification privilege card shall ~~expire on the applicant's fourth birthday following~~  
135 ~~the date of issuance. Duplicate, reissue, or renewal~~ be valid for the period provided for special  
136 identification cards in § 46.2-345. Renewal identification privilege cards shall be valid for ~~a period of four~~  
137 ~~years from the date of issuance~~ the period provided for special identification cards in § 46.2-345. No  
138 applicant shall be required to provide proof of compliance with subdivision A 3 for a duplicate, reissue,  
139 or renewal identification privilege card. Those cards issued to children under the age of 15 shall expire on  
140 the child's sixteenth birthday.

141 Notwithstanding the provisions of this subsection, the Commissioner may extend the validity  
142 period of an expiring card if (i) the Department is unable to process an application for renewal due to  
143 circumstances beyond its control and (ii) the extension has been authorized under a directive from the  
144 Governor. However, in no event shall the validity period be extended more than 90 days per occurrence  
145 of such conditions.

146 D. An identification privilege card issued under this section may be similar in size, shape, and  
147 design to a driving credential and include a photograph of its holder, but the card shall be readily  
148 distinguishable from a driving credential and shall clearly state that it does not authorize the person to  
149 whom it is issued to drive a motor vehicle. Every applicant for an identification privilege card shall appear  
150 in person before the Department to apply for a renewal, duplicate, or reissue unless specifically permitted  
151 by the Department to apply in another manner. The front of an identification privilege card shall be  
152 identical in appearance to a special identification card issued under § 46.2-345, ~~and the back of the card~~  
153 ~~shall be identical in appearance to the restriction on the back of a limited duration special identification~~  
154 ~~card.~~

155 E. Identification privilege cards, for persons at least 15 years old but younger than 21 years old,  
156 shall be immediately and readily distinguishable from those issued to persons 21 years old or older.  
157 Distinguishing characteristics shall include unique design elements of the credential and descriptors within  
158 the photograph area to identify persons who are at least 15 years old but younger than 21 years old. These  
159 descriptors shall include the month, day, and year when the person will become 21 years old.

160 F. Identification privilege cards for persons under age 15 shall bear a full-face photograph. The  
161 identification card issued to persons under age 15 shall be readily distinguishable from a driving credential  
162 and from other identification cards issued by the Department. Such cards shall clearly indicate that it does  
163 not authorize the person to whom it is issued to drive a motor vehicle.

164 G. Any information collected pursuant to this section that is not otherwise collected by the  
165 Department or required for the issuance of any other special identification card issued pursuant to the  
166 provisions of this chapter and any information regarding restrictions in the Department's records related  
167 to the issuance of a credential issued pursuant to this section shall be considered privileged.  
168 Notwithstanding the provisions of § 46.2-208, such information shall not be released except upon request  
169 by the subject of the information, the parent of a minor who is the subject of the information, the guardian  
170 of the subject of the information, or the authorized representative of the subject of the information or  
171 pursuant to a court order.

172 The Department shall release to any federal, state, or local governmental entity, local government  
173 group self-insurance pool, law-enforcement officer, attorney for the Commonwealth, or court, or the  
174 authorized agent of any of the foregoing, information related to the issuance of an identification privilege  
175 card, the release of which is not otherwise prohibited by this section, that is required for a requester to  
176 carry out the requester's official functions if the requester provides the individual's name and other  
177 sufficient identifying information contained on the individual's record. Any such release shall be in  
178 accordance with the requirements of § 46.2-208.

179 H. Any person who uses a false or fictitious name or gives a false or fictitious address in any  
180 application for an identification privilege card or knowingly makes a false statement or conceals a material  
181 fact or otherwise commits a fraud in any such application is guilty of a Class 2 misdemeanor. However,  
182 where the name or address is given, or false statement is made, or fact is concealed, or fraud committed,  
183 for the purpose of committing any offense punishable as a felony, a violation of this section shall constitute  
184 a Class 4 felony.

185 I. When requested by the applicant, the applicant's parent if the applicant is a minor, or the  
186 applicant's guardian, and upon presentation of a signed statement by a licensed physician confirming the

187 applicant's condition, the Department shall indicate on the applicant's identification privilege card that the  
188 applicant has any condition listed in subsection K of § 46.2-342 or that the applicant is blind or vision  
189 impaired.

190 J. The Department shall establish a method by which an applicant for an original, reissued, or  
191 renewed identification privilege card may indicate his blood type. If the applicant chooses to indicate his  
192 blood type, the Department shall make a notation of this designation on his identification privilege card  
193 and in his record. Such notation on the special identification card shall only be used by emergency medical  
194 services agencies in providing emergency medical support. Upon written request of the license holder or  
195 his legal guardian to have the designation removed, the Department shall issue the identification privilege  
196 card without such designation upon the payment of applicable fees.

197 Notwithstanding any other provision of law, the Department shall not disclose any data collected  
198 pursuant to this subsection except to the subject of the information and by designation on the identification  
199 privilege card. Nothing herein shall require the Department to verify any information provided for the  
200 designation. No action taken by any person, whether private citizen or public officer or employee, with  
201 regard to any blood type designation displayed on an identification privilege card, shall create a warranty  
202 of the reliability or accuracy of the document or electronic image, nor shall it create any liability on the  
203 part of the Commonwealth or of any department, office, or agency or of any officer, employee, or agent  
204 thereof.

205 K. Unless the context of the Code provides otherwise, an identification privilege card shall be  
206 treated as a special identification card.

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