

SENATE BILL NO. 446
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Transportation
on _____)
(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 application, valid documentary evidence that a federal court or federal agency having jurisdiction over immigration has authorized the applicant to be in the United States. Such a license, permit, or special identification card may be renewed only upon presentation of valid documentary evidence that the status by which the applicant qualified for the license, permit, or special identification card has been extended by a federal court or federal agency having jurisdiction over immigration. This subdivision does not apply to commercial driver's licenses or commercial learner's permits provided under § 46.2-341.12.*

B. Notwithstanding the provisions of subsection A and the provisions of §§ 46.2-330 and 46.2-345, ~~an~~

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

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

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

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

§ 46.2-328.3. Driver privilege cards and permits.

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

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

1. The front of a driver privilege card or permit shall be identical in appearance to a driver's license or permit that is not a REAL ID credential ~~and the back of the card or permit shall be identical in appearance to the restriction on the back of a limited-duration license, permit, or special identification card as defined in § 46.2-328.1;~~

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

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

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

5. The fee for an original driver privilege card or permit shall be \$50, except no such fee shall be assessed against homeless youth, as described in subdivision A 7 of § 22.1-3. The Department may issue, upon application by the holder of a valid, unexpired card or permit issued under this section, and upon payment of a fee of \$50, another driver privilege card or permit ~~that shall be valid for a period of two years from the date of issuance~~. The amount paid by an applicant for a driver privilege card or other document issued pursuant to this chapter shall be considered privileged information for the purposes of § 46.2-208. No applicant shall be required to provide proof of compliance with clauses (i) and (ii) of subsection A for a reissued, renewed, or

95 duplicate card or permit; and

96 6. Any information collected pursuant to this section that is not otherwise collected by the Department or
97 required for the issuance of any other driving credential issued pursuant to the provisions of this chapter and
98 any information regarding restrictions in the Department's records related to the issuance of a credential
99 issued pursuant to this section shall be considered privileged. Notwithstanding the provisions of § 46.2-208,
100 such information shall not be released except upon request by the subject of the information, the parent of a
101 minor who is the subject of the information, the guardian of the subject of the information, or the authorized
102 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 privilege
104 card or permit, except upon request by the subject of the information, the parent of a minor who is the subject
105 of the information, the guardian of the subject of the information, or the authorized representative of the
106 subject of the information, or pursuant to a court order, (i) proof documents submitted for the purpose of
107 obtaining a driver privilege card or permit, (ii) the information in the Department's records indicating the type
108 of proof documentation that was provided, or (iii) applications.

109 The Department shall release only to any federal, state, or local governmental entity, local government
110 group self-insurance pool, law-enforcement officer, attorney for the Commonwealth, or court, or the
111 authorized agent of any of the foregoing, information related to the issuance of a driver privilege card or
112 permit, the release of which is not otherwise prohibited by this section, that is required for a requester to carry
113 out the requester's official functions if the requester provides the individual's name and other sufficient
114 identifying information contained on the individual's record. Any such release shall be in accordance with the
115 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 identification
118 card under subsections A and B of § 46.2-328.1, the parent of any such person who is under the age of 18, or
119 the legal guardian of any such person, the Department may issue an identification privilege card to any
120 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

filed with the Commonwealth in the preceding 12 months; and

4. The applicant does not hold a credential issued under this chapter.

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

B. The fee for the issuance of an original, duplicate, reissue, or renewal identification privilege card is \$25, except no such fee shall be assessed against homeless youth, as described in subdivision A 7 of § 22.1-3. The amount paid by an applicant for an identification privilege card shall be considered privileged information for the purposes of § 46.2-208.

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

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

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

E. Identification privilege cards, for persons at least 15 years old but younger than 21 years old, shall be immediately and readily distinguishable from those issued to persons 21 years old or older. Distinguishing

156 characteristics shall include unique design elements of the credential and descriptors within the photograph
157 area to identify persons who are at least 15 years old but younger than 21 years old. These descriptors shall
158 include the month, day, and year when the person will become 21 years old.

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

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

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

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

182 I. When requested by the applicant, the applicant's parent if the applicant is a minor, or the applicant's
183 guardian, and upon presentation of a signed statement by a licensed physician confirming the applicant's
184 condition, the Department shall indicate on the applicant's identification privilege card that the applicant has
185 any condition listed in subsection K of § 46.2-342 or that the applicant is blind or vision impaired.

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

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

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