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HOUSE BILL NO. 55

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Transportation)

on _____)

(Patrons Prior to Substitute—Delegates Sullivan and McAuliff [HB 1349])

A BILL to amend and reenact § 46.2-208 of the Code of Virginia and to amend the Code of Virginia by adding in Article 5 of Chapter 10 of Title 46.2 a section numbered 46.2-1051.1, relating to noise abatement monitoring systems; local authority; civil penalties.

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-208 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 5 of Chapter 10 of Title 46.2 a section numbered 46.2-1051.1 as follows:

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

A. The following information shall be considered privileged and unless otherwise provided for in this title shall not be released except as provided in subsection B:

1. Personal information as defined in § 2.2-3801;

2. Driver information, defined as all data that relates to driver's license status and driver activity;

3. Special identification card information, defined as all data that relates to identification card status; and

4. Special identification data information, defined as data that relates to identification, care, status, and

...clude information, including all descriptive vehicle data and title, registration, and vehicle activity data, but excluding crash data.

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

1. Notwithstanding other provisions of this section, medical information included in personal information shall be released only to a physician, a physician assistant, or an advanced practice registered nurse in accordance with a proceeding under §§ 46.2-321 and 46.2-322.

2, 3. [Repealed.]

4. Upon the request of (i) the subject of the information, (ii) the parent of a minor who is the subject of the information, (iii) the guardian of the subject of the information, (iv) the authorized agent or representative of the subject of the information, or (v) 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 of a minor who is the subject of the information, (c) the guardian of the subject of the information, (d) the authorized agent or representative of the subject of the information, or (e) 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, special identification card, or vehicle information. If the requester is requesting such information in the scope of his official business as counsel from a public defender's office or as counsel appointed by a court, such records shall be provided free of charge.

5. Upon the written request of any insurance carrier or surety, or authorized agent of either, the Commissioner shall furnish to such requester information in the record of any person subject to the provisions of this title. The transcript 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 filed pursuant to § 46.2-373. No such report of any conviction or crash shall be made after 60 months from the date of the conviction or crash unless the Commissioner or court used the conviction or crash 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 crash pertaining thereto shall not be reported after 60 months from the date that the driver's license or driving privilege has been reinstated. The response of the Commissioner under this subdivision shall not be admissible in evidence in any court proceedings.

6. Upon the written request of any business organization or its authorized agent, in the conduct of its business, the Commissioner shall compare personal information supplied by the requester with that contained in the Department's records and, when the information supplied by the requester is different from that contained in the Department's records, provide the requester 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. Upon the written request of any business organization or its authorized agent, the Commissioner shall provide vehicle information to the requester. Disclosures made under this subdivision shall not include any personal information, driver information, or special identification card information and shall not be subject to the limitations contained in subdivision 6.

8. Upon the written request of any motor vehicle rental or leasing company or its authorized agent, the

60 Commissioner shall (i) compare personal information supplied by the requester with that contained in the
61 Department's records and, when the information supplied by the requester is different from that contained in
62 the Department's records, provide the requester with correct information as contained in the Department's
63 records and (ii) provide the requester with driver information of any person subject to the provisions of this
64 title. Such information shall include any record of any conviction of a violation of any provision of any
65 statute or ordinance relating to the operation or ownership of a motor vehicle or of any injury or damage in
66 which the subject of the information was involved and a report of which was filed pursuant to § 46.2-373. No
67 such information shall include any record of any conviction or crash more than 60 months after the date of
68 such conviction or crash unless the Commissioner or court used the conviction or crash as a reason for the
69 suspension or revocation of a driver's license or driving privilege, in which case the revocation or suspension
70 and any conviction or crash pertaining thereto shall cease to be included in such information after 60 months
71 from the date on which the driver's license or driving privilege was reinstated. The response of the
72 Commissioner under this subdivision shall not be admissible in evidence in any court proceedings.

73 9. Upon the request of any federal, state, or local governmental entity, local government group self-
74 insurance pool, law-enforcement officer, attorney for the Commonwealth, or court, or the authorized agent of
75 any of the foregoing, the Commissioner shall compare personal information supplied by the requester with
76 that contained in the Department's records and, when the information supplied by the requester is different
77 from that contained in the Department's records, provide the requester with correct information as contained
78 in the Department's records. The Commissioner shall also provide driver, special identification card, and
79 vehicle information as requested pursuant to this subdivision. The Commissioner may release other
80 appropriate information to the governmental entity upon request. Upon request in accordance with this
81 subdivision, the Commissioner shall furnish a certificate, under seal of the Department, setting forth a
82 distinguishing number or license plate of a motor vehicle, trailer, or semitrailer, together with the name and
83 address of its owner. The certificate shall be *prima facie* evidence in any court in the Commonwealth of the
84 ownership of the vehicle, trailer, or semitrailer to which the distinguishing number or license plate has been
85 assigned by the Department. However, the Commissioner shall not release any photographs pursuant to this
86 subdivision unless the requester provides the depicted individual's name and other sufficient identifying
87 information contained on such individual's record. The information in this subdivision shall be provided free
88 of charge.

89 The Department shall release to a requester information that is required for a requester to carry out the
90 requester's official functions in accordance with this subdivision. If the requester has entered into an
91 agreement with the Department, such agreement shall be in a manner prescribed by the Department, and such
92 agreement shall contain the legal authority that authorizes the performance of the requester's official
93 functions and a description of how such information will be used to carry out such official functions. If the
94 Commissioner determines that sufficient authority has not been provided by the requester to show that the
95 purpose for which the information shall be used is one of the requester's official functions, the Commissioner
96 shall refuse to enter into any agreement. If the requester submits a request for information in accordance with
97 this subdivision without an existing agreement to receive the information, the request shall be in a manner
98 prescribed by the Department, and such request shall contain the legal authority that authorizes the
99 performance of the requester's official functions and a description of how such information will be used to
100 carry out such official functions. If the Commissioner determines that sufficient authority has not been
101 provided by the requester to show that the purpose for which such information shall be used is one of the
102 requester's official functions, the Commissioner shall deny such request.

103 Notwithstanding the provisions of this subdivision, the Department shall not disseminate to any federal,
104 state, or local government entity, law-enforcement officer, or law-enforcement agency any privileged
105 information for any purposes related to civil immigration enforcement unless (i) the subject of the
106 information provides consent or (ii) the requesting agency presents a lawful judicial order, judicial subpoena,
107 or judicial warrant. When responding to a lawful judicial order, judicial subpoena, or judicial warrant, the
108 Department shall disclose only those records or information specifically requested. Within three business
109 days of receiving a request for information for the purpose of civil immigration enforcement, the
110 Commissioner shall send a notification to the individual about whom such information was requested that
111 such a request was made and the identity of the entity that made such request.

112 The Department shall not enter into any agreement pursuant to subsection E with a requester pursuant to
113 this subdivision unless the requester certifies that the information obtained will not be used for civil
114 immigration purposes or knowingly disseminated to any third party for any purpose related to civil
115 immigration enforcement.

116 10. Upon the request of the driver licensing authority in any foreign country, the Commissioner shall
117 provide whatever driver and vehicle information the requesting authority shall require to carry out its official
118 functions. The information shall be provided free of charge.

119 11. a. For the purpose of obtaining information regarding noncommercial driver's license holders, upon
120 the written request of any employer, prospective employer, or authorized agent of either, and with the written
121 consent of the individual concerned, the Commissioner shall (i) compare personal information supplied by

122 the requester with that contained in the Department's records and, when the information supplied by the
 123 requester is different from that contained in the Department's records, provide the requester with correct
 124 information as contained in the Department's records and (ii) provide the requester with driver information in
 125 the form of a transcript of an individual's record, including all convictions, all crashes, any type of driver's
 126 license that the individual currently possesses, and all driver's license suspensions, revocations, cancellations,
 127 or forfeiture, provided that such individual's position or the position that the individual is being considered for
 128 involves the operation of a motor vehicle.

129 b. For the purpose of obtaining information regarding commercial driver's license holders, upon the
 130 written request of any employer, prospective employer, or authorized agent of either, the Commissioner shall
 131 (i) compare personal information supplied by the requester with that contained in the Department's records
 132 and, when the information supplied by the requester is different from that contained in the Department's
 133 records, provide the requester with correct information as contained in the Department's records and (ii)
 134 provide the requester with driver information in the form of a transcript of such individual's record, including
 135 all convictions, all crashes, any type of driver's license that the individual currently possesses, and all driver's
 136 license suspensions, revocations, cancellations, forfeitures, or disqualifications, provided that such
 137 individual's position or the position that the individual is being considered for involves the operation of a
 138 commercial motor vehicle.

139 12. Upon the written request of any member of a volunteer fire company or volunteer emergency medical
 140 services agency and with written consent of the individual concerned, or upon the request of an applicant for
 141 membership in a volunteer fire company or to serve as volunteer emergency medical services personnel, the
 142 Commissioner shall (i) compare personal information supplied by the requester with that contained in the
 143 Department's records and, when the information supplied by the requester is different from that contained in
 144 the Department's records, provide the requester with correct information as contained in the Department's
 145 records and (ii) provide driver information in the form of a transcript of the individual's record, including all
 146 convictions, all crashes, any type of driver's license that the individual currently possesses, and all license
 147 suspensions, revocations, cancellations, or forfeitures. Such transcript shall be provided free of charge if the
 148 request is accompanied by appropriate written evidence that the person is a member of or applicant for
 149 membership in a volunteer fire company or a volunteer emergency medical services agency and the transcript
 150 is needed by the requester to establish the qualifications of the member, volunteer, or applicant to operate
 151 equipment owned by the volunteer fire company or volunteer emergency medical services agency.

152 13. Upon the written request of a Virginia affiliate of Big Brothers Big Sisters of America, a Virginia
 153 affiliate of Compeer, or the Virginia Council of the Girl Scouts of the USA, and with the consent of the
 154 individual who is the subject of the information and has applied to be a volunteer with the requester, or on the
 155 written request of a Virginia chapter of the American Red Cross, a Virginia chapter of the Civil Air Patrol, or
 156 Faith in Action, and with the consent of the individual who is the subject of the information and applied to be
 157 a volunteer vehicle operator with the requester, the Commissioner shall (i) compare personal information
 158 supplied by the requester with that contained in the Department's records and, when the information supplied
 159 by the requester is different from that contained in the Department's records, provide the requester with
 160 correct information as contained in the Department's records and (ii) provide driver information in the form
 161 of a transcript of the applicant's record, including all convictions, all crashes, any type of driver's license that
 162 the individual currently possesses, and all license suspensions, revocations, cancellations, or forfeitures. Such
 163 transcript shall be provided at a fee that is one-half the normal charge if the request is accompanied by
 164 appropriate written evidence that the person has applied to be a volunteer or volunteer vehicle operator with
 165 the requester as provided in this subdivision.

166 14. On the written request of any person who has applied to be a volunteer with a court-appointed special
 167 advocate program pursuant to § 9.1-153, the Commissioner shall provide a transcript of the applicant's
 168 record, including all convictions, all crashes, any type of driver's license that the individual currently
 169 possesses, and all license suspensions, revocations, cancellations, or forfeitures. Such transcript shall be
 170 provided free of charge if the request is accompanied by appropriate written evidence that the person has
 171 applied to be a volunteer with a court-appointed special advocate program pursuant to § 9.1-153.

172 15, 16. [Repealed.]

173 17. Upon the request of an attorney representing a person involved in a motor vehicle crash, the
 174 Commissioner shall provide the vehicle information for any vehicle involved in the crash and the name and
 175 address of the owner of any such vehicle.

176 18. Upon the request, in the course of business, of any authorized agent of an insurance company or of
 177 any not-for-profit entity organized to prevent and detect insurance fraud, or perform rating and underwriting
 178 activities, the Commissioner shall provide (i) all vehicle information, the owner's name and address,
 179 descriptive data and title, registration, and vehicle activity data, as requested, or (ii) the driver name, license
 180 number and classification, date of birth, and address information for each driver under the age of 22 licensed
 181 in the Commonwealth, provided that such request includes the driver's license number or address information
 182 of such driver. Use of such information shall be limited to use in connection with insurance claims

183 investigation activities, antifraud activities, rating, or underwriting.

184 19. [Repealed.]

185 20. Upon the written request of the compliance agent of a private security services business, as defined in
186 § 9.1-138, which is licensed by the Virginia Department of Criminal Justice Services, the Commissioner shall
187 provide the name and address of the owner of the vehicle under procedures determined by the Commissioner.

188 21. (For contingent expiration date, see Acts 2023, c. 738, cl. 2) Upon the request of the operator of a toll
189 facility, a traffic light signal violation monitoring system acting on behalf of a government entity, a traffic
190 control device violation monitoring system acting on behalf of a government entity, or the Dulles Access
191 Highway, or an authorized agent or employee of a toll facility operator, a traffic light signal violation
192 monitoring system operator acting on behalf of a government entity, a traffic control device violation
193 monitoring system operator acting on behalf of a government entity, or the Dulles Access Highway, for the
194 purpose of obtaining vehicle owner data under subsection H of § 15.2-968.1, subsection A of § 33.2-504,
195 subsection M of § 46.2-819.1, subsection P of § 46.2-819.3:1, or subsection N of § 46.2-819.5. Information
196 released pursuant to this subdivision shall be limited to (i) the name, physical address, and, if available, email
197 or other electronic address of the owner of the vehicle having failed to pay a toll, comply with a traffic light
198 signal, or comply with a traffic control device or having improperly used the Dulles Access Highway and (ii)
199 the vehicle information, including all descriptive vehicle data and title and registration data of the same
200 vehicle.

201 21. (For contingent effective date, see Acts 2023, c. 738, cl. 2) Upon the request of the operator of a toll
202 facility, a traffic light photo monitoring system acting on behalf of a government entity, or the Dulles Access
203 Highway, or an authorized agent or employee of a toll facility operator or traffic light photo monitoring
204 system operator acting on behalf of a government entity or the Dulles Access Highway, for the purpose of
205 obtaining vehicle owner data under subsection H of § 15.2-968.1, subsection A of § 33.2-504, subsection M
206 of § 46.2-819.1, subsection P of § 46.2-819.3:1, or subsection N of § 46.2-819.5. Information released
207 pursuant to this subdivision shall be limited to the name, physical address, and, if available, email or other
208 electronic address of the owner of the vehicle having failed to pay a toll or having failed to comply with a
209 traffic light signal or having improperly used the Dulles Access Highway and the vehicle information,
210 including all descriptive vehicle data and title registration data of the same vehicle.

211 22-26. [Repealed.]

212 27. Upon the written request of the executor or administrator of a deceased person's estate, the
213 Department shall, if the deceased person had been issued a driver's license or special identification card by
214 the Department, supply the requester with a hard copy image of any photograph of the deceased person kept
215 in the Department's records.

216 28. [Repealed.]

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

221 b. Upon written agreement, the Commissioner may release minimum information as needed in the
222 Department's record through any American Association of Motor Vehicle Administrators service program
223 created for the purpose of the exchange of information to any business, government agency, or authorized
224 agent who would otherwise be authorized to receive the information requested pursuant to this section.

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

230 31. Upon the request of the operator of a photo speed monitoring device as defined in § 46.2-882.1 or
231 *noise abatement monitoring system as defined in § 46.2-1051.1* acting on behalf of a government entity, the
232 Commissioner shall provide vehicle owner data pursuant to subsection H of § 46.2-882.1 or subsection H of
233 § 46.2-1051.1. Information released pursuant to this subdivision shall be limited to the name and address of
234 the owner of the vehicle having committed a vehicle speed violation, as defined in § 46.2-882.1, or an
235 *exhaust system violation, as defined in § 46.2-1051.1*, and the vehicle information, including all descriptive
236 vehicle data and title and registration data, for such vehicle.

237 32. Notwithstanding the provisions of this section other than subdivision 33, the Department shall not
238 release, except upon request by the subject of the information, the guardian of the subject of the information,
239 the parent of a minor who is the subject of the information, or the authorized agent of the subject of the
240 information, or pursuant to a court order, (i) proof documents submitted for the purpose of obtaining a driving
241 credential or a special identification card, (ii) the information in the Department's records indicating the type
242 of proof documentation that was provided, or (iii) applications relating to the issuance of a driving credential
243 or a special identification card. As used in this subdivision, "proof document" means any document not
244 originally created by the Department that is submitted to the Department for the issuance of any driving

245 credential or special identification card. "Proof document" does not include any information contained on a
 246 driving credential or special identification card.

247 33. Notwithstanding the provisions of this section, the Department may release the information in the
 248 Department's records that it deems reasonable and necessary for the purpose of federal compliance audits.

249 34. The Department may release to a party that is subject to an administrative proceeding conducted by
 250 the Department nonmedical privileged information necessary to participate in such administrative
 251 proceeding. Such information shall be limited to matters of fact and law asserted or questioned by the
 252 Department, as are required to be provided pursuant to §§ 2.2-4019 and 2.2-4020. The Department may also
 253 release such information to other parties to the same administrative proceeding. Notwithstanding the
 254 provisions of subsection E, no information released pursuant to this subdivision shall be disseminated to any
 255 third party that is not a party to such administrative proceeding.

256 C. Information disclosed or furnished shall be assessed a fee as specified in § 46.2-214, unless as
 257 otherwise provided in this section.

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

261 E. The Department shall not release any privileged information pursuant to this title unless the
 262 Department has entered into a written agreement authorizing such release. The Department shall require the
 263 requesting entity to specify the purpose authorized pursuant to this title that forms the basis for the request
 264 and provide the permissible purpose as defined under 18 U.S.C. § 2721(b). Privileged information requested
 265 by an entity that has been altered or aggregated may be used only for the original purposes specified in the
 266 written agreement consistent with this title. The requesting entity shall disseminate privileged information
 267 only to third parties subject to the original purpose specified in the written agreement consistent with this
 268 title. Any agreement that does not allow third-party distribution shall include a statement that such
 269 distribution is prohibited. Such agreement may limit the scope of any authorized distribution consistent with
 270 this title. Privileged information distributed to any third party shall only be further distributed by such third
 271 party subject to the original purpose specified and consistent with this title, or unless such third party is the
 272 subject of the information, the parent of a minor who is the subject of the information, the guardian of the
 273 subject of the information, the authorized agent or representative of the subject of the information, or the
 274 owner of the vehicle that is the subject of the information.

275 Any agreement entered into pursuant to this subsection between the Department and the Department of
 276 State Police shall specify (i) that privileged information shall be distributed only to authorized personnel of
 277 an entity meeting the definition of a criminal justice agency as defined in § 9.1-101 and other comparable
 278 local, state, and federal criminal justice agencies and entities issued a Virginia S-Originating Agency
 279 Identification (S-ORI) status; (ii) that privileged information shall be accessed, used, and disseminated only
 280 for the administration of criminal justice as defined in § 9.1-101; and (iii) that no local, state, or federal
 281 government entity, through the Virginia Criminal Information Network (VCIN) or any other method of
 282 dissemination controlled by the Department of State Police, has access to information stored by the
 283 Department in violation of the protections contained in this section. The Department of State Police shall
 284 notify the Department prior to when a new entity is to be granted S-ORI status and provide a copy of the
 285 S-ORI application to the Department. The Department of State Police shall not allow any entity to access
 286 Department data through VCIN if the Department objects in writing to the entity obtaining such data.

287 The provisions of this subsection shall not apply to (a) requests for information made pursuant to
 288 subdivision B 4; (b) a request made by an entity authorized to receive privileged information pursuant to
 289 subsection B, provided that such request is made on a form provided by the Department, other than a written
 290 agreement, that requires the requester to certify that such entity is entitled to receive such information
 291 pursuant to this title, state the purpose authorized pursuant to subsection B that forms the basis for the
 292 request, explain why the information requested is necessary to accomplish the stated purpose, and certify that
 293 the information will be used only for the stated purpose and the information received shall not be
 294 disseminated to third parties unless there is authorization to do so; or (c) the release of information to a law-
 295 enforcement officer or agency during an emergency situation, provided that (1) the requesting entity is
 296 authorized to receive such information pursuant to subdivision B 9, (2) the timely release of such information
 297 is in the interest of public safety, and (3) the requesting entity completes the form required pursuant to clause
 298 (b) within 48 hours of the release of such information.

299 F. Any person that receives any privileged information that such person knows or has reason to know was
 300 received in violation of this title shall not disseminate any such information and shall notify the Department
 301 of the receipt of such privileged information.

302 G. The Department shall conduct audits annually based on a risk assessment to ensure that privileged
 303 information released by the Department pursuant to this title is being used as authorized by law and pursuant
 304 to the agreements entered into by the Department. If the Department finds that privileged information has
 305 been used in a manner contrary to law or the relevant agreement, the Department may revoke access.

306 H. Any request for privileged information by an authorized agent of a governmental entity shall be

307 governed by the provisions of subdivision B 9.

308 **§ 46.2-1051.1. Noise abatement monitoring systems; local pilot programs; civil penalties.**

309 A. For the purposes of this section:

310 "Exhaust system violation" means the operation of a passenger car or a commercial motor vehicle, as that
311 term is defined in § 46.2-341.4, that has an exhaust system that emits noise in excess of 95 A-weighted
312 decibels (dBA) or is in violation of a local ordinance enacted pursuant to § 46.2-1051.

313 "Noise abatement monitoring system" means a mobile or fixed motor vehicle sensor equipped with a noise
314 measuring device that, when such noise measuring device is activated, automatically produces two or more
315 photographs or microphotographs, videotapes, or other recorded images of a motor vehicle.

316 "Noise measuring device" means an electronic device that (i) uses automated equipment that activates
317 when the sound level exceeds the maximum sound level limits established by state law, (ii) records audio
318 when activated, (iii) records decibel levels when activated, and (iv) allows the operator of a noise abatement
319 monitoring system to manually review recorded audio to ensure an exhaust system violation has occurred.

320 B. The local governing body of any county or city in Planning District 8, Planning District 9, Planning
321 District 15, or Planning District 16 may place and operate noise abatement monitoring systems on any
322 highway located in the locality for the purpose of recording and enforcing exhaust system violations.

323 C. The operator of a vehicle shall be liable for a monetary civil penalty imposed pursuant to this section if
324 such operator is found, as evidenced by information obtained from a noise abatement monitoring device, to
325 have committed an exhaust system violation. Such civil penalty shall not exceed \$100, and any prosecution
326 shall be instituted and conducted in the same manner as prosecution for traffic infractions. Civil penalties
327 collected under this section shall be paid to the locality in which such violation occurred and used for the
328 cost of administering the noise abatement monitoring system program and for transportation safety
329 initiatives.

330 D. If a noise abatement monitoring system is used, proof of an exhaust system violation shall be evidenced
331 by information obtained from such device. A certificate, or a facsimile thereof, sworn to or affirmed by a law-
332 enforcement officer, based upon inspection of photographs, microphotographs, videotapes, or other recorded
333 images produced by such noise abatement monitoring system, shall be *prima facie* evidence of the facts
334 contained therein. Any photographs, microphotographs, videotapes, or other recorded images evidencing
335 such a violation shall be available for inspection in any proceeding to adjudicate the liability for such
336 exhaust system violation.

337 E. In the prosecution for an exhaust system violation in which a summons was issued by mail, *prima facie*
338 evidence that the vehicle described in the summons issued pursuant to this section was operated in a manner
339 constituting an exhaust system violation, together with proof that the defendant was at the time of such
340 violation the owner, lessee, or renter of the vehicle, shall constitute in evidence a rebuttable presumption that
341 such owner, lessee, or renter of the vehicle was the person who committed the violation. Such presumption
342 shall be rebutted if the owner, lessee, or renter of the vehicle (i) files an affidavit by regular mail with the
343 clerk of the general district court that he was not the operator of the vehicle at the time of the alleged
344 violation and provides the name and address of the person who was operating the vehicle at the time of the
345 alleged violation or (ii) testifies in open court under oath that he was not the operator of the vehicle at the
346 time of the alleged violation and provides the name and address of the person who was operating the vehicle
347 at the time of the alleged violation. Such presumption shall also be rebutted if a certified copy of a police
348 report, showing that the vehicle had been reported to the police as stolen prior to the time of the alleged
349 exhaust system violation, is presented prior to the return date established on the summons issued pursuant to
350 this section to the court adjudicating the alleged violation.

351 F. Imposition of a civil penalty pursuant to this section by mailing a summons shall not be deemed a
352 conviction as an operator and shall not be made part of the operating record of the person upon whom such
353 liability is imposed, nor shall it be used for insurance purposes in the provision of motor vehicle insurance
354 coverage.

355 G. A summons for an exhaust system violation issued by mail pursuant to this section may be executed
356 pursuant to § 19.2-76.2. Notwithstanding the provisions of § 19.2-76, a summons issued by mail pursuant to
357 this section may be executed by mailing by first-class mail a copy thereof to the owner, lessee, or renter of the
358 vehicle. In the case of a vehicle owner, the copy shall be mailed to the address contained in the records of or
359 accessible to the Department. In the case of a vehicle lessee or renter, the copy shall be mailed to the address
360 contained in the records of the lessor or renter. Every such mailing shall include, in addition to the summons,
361 (i) a notice of the summoned person's ability to rebut the presumption that he was the operator of the vehicle
362 at the time of the alleged violation through the filing of an affidavit as provided in subsection E and (ii)
363 instructions for filing such affidavit, including the address to which the affidavit is to be sent. If the
364 summoned person fails to appear on the date of return set out in the summons mailed pursuant to this section,
365 the summons shall be executed in the manner set out in § 19.2-76.3. No proceedings for contempt or arrest of
366 a person summoned by mailing shall be instituted for failure to appear on the return date of the summons. If
367 the summons is issued to an owner, lessee, or renter of a vehicle with a registration outside the
368 Commonwealth and such person fails to appear on the date of return set out in the summons mailed pursuant

369 to this section, the summons will be eligible for all legal collections activities. Any summons executed for an
 370 exhaust system violation issued pursuant to this section shall provide to the person summoned at least 30
 371 days from the mailing of the summons to inspect information collected by the noise abatement monitoring
 372 system in connection with the violation. If the law-enforcement agency that was operating the noise
 373 abatement monitoring system does not execute a summons for an exhaust system violation issued pursuant to
 374 this section within 30 days from the date of the violation, all information collected pertaining to that
 375 suspected violation shall be purged within 60 days from the date of the violation.

376 H. A private vendor may enter into an agreement with a locality to be compensated for providing a noise
 377 abatement monitoring system and all related support services, including consulting, operations, and
 378 administration. However, only a law-enforcement officer may swear to or affirm the certificate required by
 379 this section. Any such agreement for compensation shall be based on the value of the goods and services
 380 provided, not on the number of violations paid or monetary penalties imposed. Any private vendor
 381 contracting with a locality pursuant to this section may enter into an agreement with the Department, in
 382 accordance with the provisions of subdivision B 31 of § 46.2-208, to obtain vehicle owner information
 383 regarding the registered owners of vehicles that committed exhaust system violations. Any such information
 384 provided to such private vendor shall be protected in a database.

385 I. Information collected by a noise abatement monitoring system operated pursuant to this section shall be
 386 limited exclusively to that information that is necessary for the enforcement of exhaust system violations.
 387 Information provided to the operator of a noise abatement monitoring system shall be protected in a
 388 database and used only for enforcement of exhaust system violations and against individuals who violate the
 389 provisions of this section. Notwithstanding any other provision of law, all photographs, microphotographs,
 390 videotapes, or other recorded images collected by a noise abatement monitoring system shall be used
 391 exclusively for enforcing exhaust system violations and shall not be (i) open to the public; (ii) sold or used for
 392 sales, solicitation, or marketing purposes; (iii) disclosed to any other entity except as may be necessary for
 393 the enforcement of an exhaust system violation or to a vehicle owner or operator as part of a challenge to the
 394 violation; or (iv) used in a court in a pending action or proceeding unless the action or proceeding relates to
 395 an exhaust system violation or a violation of this section or such information is requested upon order from a
 396 court of competent jurisdiction. Information collected under this section pertaining to a specific violation
 397 shall be purged and not retained later than 60 days after the collection of any civil penalties. Any locality
 398 using noise abatement monitoring systems shall annually certify compliance with this section and make all
 399 records pertaining to such systems available for inspection and audit by the Commissioner of Highways or
 400 the Commissioner of the Department of Motor Vehicles or his designee. Any person who discloses personal
 401 information in violation of the provisions of this subsection shall be subject to a civil penalty of \$1,000 per
 402 disclosure.

403 J. A conspicuous sign shall be placed within 1,000 feet of any noise abatement monitoring system,
 404 indicating the use of the device. There shall be a rebuttable presumption that such sign was in place at the
 405 time of the commission of the exhaust system violation. Additionally, the locality in which the noise
 406 abatement monitoring systems are operated shall post the locations of all such systems on the official website
 407 of such locality.

408 K. Any locality that places and operates a noise abatement monitoring system pursuant to the provisions
 409 of this section shall report on its public website by January 15 of each year the number of exhaust system
 410 violations prosecuted, the number of successful prosecutions, and the total amount of monetary civil penalties
 411 collected.

412 **2. That the provisions of this act shall expire on July 1, 2028.**