

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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

5 [H 55]

6 Approved

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

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

10 **§ 46.2-208. Records of Department; when open for inspection; release of privileged information.**

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

- 13 1. Personal information as defined in § 2.2-3801;
- 14 2. Driver information, defined as all data that relates to driver's license status and driver activity;
- 15 3. Special identification card information, defined as all data that relates to identification card status; and
- 16 4. Vehicle information, including all descriptive vehicle data and title, registration, and vehicle activity

17 data, but excluding crash data.

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

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

22 2, 3. [Repealed.]

23 4. Upon the request of (i) the subject of the information, (ii) the parent of a minor who is the subject of the  
 24 information, (iii) the guardian of the subject of the information, (iv) the authorized agent or representative of  
 25 the subject of the information, or (v) the owner of the vehicle that is the subject of the information, the  
 26 Commissioner shall provide him with the requested information and a complete explanation of it. Requests  
 27 for such information need not be made in writing or in person and may be made orally or by telephone,  
 28 provided that the Department is satisfied that there is adequate verification of the requester's identity. When  
 29 so requested in writing by (a) the subject of the information, (b) the parent of a minor who is the subject of  
 30 the information, (c) the guardian of the subject of the information, (d) the authorized agent or representative  
 31 of the subject of the information, or (e) the owner of the vehicle that is the subject of the information, the  
 32 Commissioner shall verify and, if necessary, correct the personal information provided and furnish driver,  
 33 special identification card, or vehicle information. If the requester is requesting such information in the scope  
 34 of his official business as counsel from a public defender's office or as counsel appointed by a court, such  
 35 records shall be provided free of charge.

36 5. Upon the written request of any insurance carrier or surety, or authorized agent of either, the  
 37 Commissioner shall furnish to such requester information in the record of any person subject to the  
 38 provisions of this title. The transcript shall include any record of any conviction of a violation of any  
 39 provision of any statute or ordinance relating to the operation or ownership of a motor vehicle or of any  
 40 injury or damage in which he was involved and a report filed pursuant to § 46.2-373. No such report of any  
 41 conviction or crash shall be made after 60 months from the date of the conviction or crash unless the  
 42 Commissioner or court used the conviction or crash as a reason for the suspension or revocation of a driver's  
 43 license or driving privilege, in which case the revocation or suspension and any conviction or crash pertaining  
 44 thereto shall not be reported after 60 months from the date that the driver's license or driving privilege has  
 45 been reinstated. The response of the Commissioner under this subdivision shall not be admissible in evidence  
 46 in any court proceedings.

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

53 7. Upon the written request of any business organization or its authorized agent, the Commissioner shall  
 54 provide vehicle information to the requester. Disclosures made under this subdivision shall not include any  
 55 personal information, driver information, or special identification card information and shall not be subject to  
 56 the limitations contained in subdivision 6.

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

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

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

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

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

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

117 11. a. For the purpose of obtaining information regarding noncommercial driver's license holders, upon  
118 the written request of any employer, prospective employer, or authorized agent of either, and with the written

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

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

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

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

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

170 15, 16. [Repealed.]

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

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

180 of such driver. Use of such information shall be limited to use in connection with insurance claims  
181 investigation activities, antifraud activities, rating, or underwriting.

182 19. [Repealed.]

183 20. Upon the written request of the compliance agent of a private security services business, as defined in  
184 § 9.1-138, which is licensed by the Virginia Department of Criminal Justice Services, the Commissioner shall  
185 provide the name and address of the owner of the vehicle under procedures determined by the Commissioner.

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

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

209 22-26. [Repealed.]

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

214 28. [Repealed.]

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

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

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

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

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

242 originally created by the Department that is submitted to the Department for the issuance of any driving  
243 credential or special identification card. "Proof document" does not include any information contained on a  
244 driving credential or special identification card.

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

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

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

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

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

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

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

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

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

304 H. Any request for privileged information by an authorized agent of a governmental entity shall be  
305 governed by the provisions of subdivision B 9.

306 **§ 46.2-1051.1. Noise abatement monitoring systems; local pilot programs; civil penalties.**

307 A. For the purposes of this section:

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

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

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

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

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

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

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

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

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

366 the summons is issued to an owner, lessee, or renter of a vehicle with a registration outside the  
 367 Commonwealth and such person fails to appear on the date of return set out in the summons mailed pursuant  
 368 to this section, the summons will be eligible for all legal collections activities. Any summons executed for an  
 369 exhaust system violation issued pursuant to this section shall provide to the person summoned at least 30  
 370 days from the mailing of the summons to inspect information collected by the noise abatement monitoring  
 371 system in connection with the violation. If the law-enforcement agency that was operating the noise  
 372 abatement monitoring system does not execute a summons for an exhaust system violation issued pursuant to  
 373 this section within 30 days from the date of the violation, all information collected pertaining to that  
 374 suspected violation shall be purged within 60 days from the date of the violation.

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

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

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

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

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