



*“All laws enacted at a regular session, . . .  
excluding a general appropriation law,  
shall take effect on the first day of July following  
the adjournment of the session of the  
General Assembly at which it has been enacted.”*

Constitution of Virginia, Article IV, Section 13

# In Due Course: 2006 Changes to Virginia's Laws

This publication provides a brief summary of legislation passed by the 2006 General Assembly that is of interest to the citizens of Virginia and is likely to have an impact on their daily lives. The legislation has been signed by the Governor and most is due to go into effect on July 1, 2006. The summaries were prepared by the staff of the Division of Legislative Services.

## ***Alcoholic Beverages***

**Alcoholic beverages and home exemption.** A guest must be 21 years of age or older, or be accompanied by his parent, guardian, or spouse, in order to be served alcohol in the home of another.

**Alcoholic beverages and underage purchase or possession.** A person age 18 or older, who is found guilty of unlawfully purchasing, consuming, or possessing alcohol will receive a mandatory six-month suspension of his driver's license.

**Purchasing alcoholic beverages for minors and persons prohibited.** A person found guilty of purchasing alcoholic beverages for a person who is prohibited from buying alcohol, such as an intoxicated person, a person prohibited by law or the court, or a person who is underage, will receive a suspension of his license to operate a motor vehicle for a period of not more than one year. Currently, the suspension of a driver's license in these instances is discretionary by the court.

## ***Banking and Insurance***

**Credit unions and minors' accounts.** A minor's parent or guardian will not have the power to withdraw or transfer shares from a minor's account without the minor's permission specifically given to the credit union to accept the signature of his parent or guardian.

**Small business health insurance.** Small business employers may pool together to establish cooperatives to provide health care insurance for members of participating employers. Membership in health group cooperatives is limited to employers with not more than 50 eligible employees.

## ***Business***

**Loans on anticipated tax refunds.** A business that issues loans on an anticipated tax refund must post and disclose their fees and information, as well as provide the borrower with a disclosure form. A person who obtains a loan on anticipated tax refunds

may cancel the loan before the close of the next business day following the date of the loan. Businesses that grant these types of loans are prohibited from requiring that a customer enter into a loan agreement. Violations of this law are prohibited under the Virginia Consumer Protection Act.

**Unemployment compensation maximum weekly benefit.** A person's maximum weekly benefit is increased from \$330 to \$347 for claims effective on or after July 3, 2006.

**Utility service tampering.** A provider of utility services that has had services tampered with or diverted may seek an award of damages, including reasonable attorney fees and costs. In addition, the utility provider may recover an award of actual damages or \$500, whichever is greater for each instance of tampering.

**Virginia Post-Disaster Anti-Price Gouging Act.** The Governor is authorized, upon finding that during a disaster a supplier is selling necessary goods or services at such an unconscionable price that it presents an imminent danger to the public welfare by creating public panic, to issue a 30-day emergency order requiring a supplier to reduce the price to the prevailing local market price.

**Workers' compensation and temporary partial disability benefits.** The law provides that the post-injury average weekly wage, in the case of a temporary partial disability of 13 weeks or less, will be computed by dividing the employee's total earnings during the first two weeks of partial incapacity by two, and that the average is subject to retroactive adjustment for the 90 days preceding an application for an adjustment. If partial disability is longer than 13 weeks, benefits will be computed by dividing the total earnings during the period by the number of weeks incapacitated.

## ***Courts and Criminal Offenses***

**Brandishing a machete.** The law makes it illegal to point, hold or brandish a machete or any weapon with an exposed blade of 12 inches or longer with the intent to intimidate. The punishment is a Class 1 misdemeanor unless the offense occurs on or

within 1000 feet of school property, in which case it is a Class 6 felony.

**Child abuse and neglect.** A parent, guardian, or other person responsible for a child's care may be charged with child abuse or neglect if he puts a child in jeopardy of physical or mental injury by knowingly leaving him alone in a dwelling with a person who is not a family member and has been convicted of a crime that requires registration as a violent sexual offender.

**Control of dangerous and vicious dogs.** The law requires the control of dangerous dogs within a statewide mandated framework and imposes criminal penalties ranging from a Class 2 misdemeanor to a Class 6 felony for violations that result in injury to a person or death to a cat or dog. A Virginia Dangerous Dog Registry is created to be maintained by the State Veterinarian. Any change in the status of a dangerous dog is to be promptly submitted in writing. Surrender of a dog that is subject to a pending action to animal control shall not prevent prosecution. The law also (i) narrows the definition of "dangerous dogs" to include dogs that inflict injury to another cat or dog requiring the animal to be euthanized while also broadening safe harbor provisions; (ii) requires that a dog that has been found to be dangerous or vicious shall be spayed or neutered; and (iii) requires liability insurance in the amount of \$100,000 to be purchased by the owner of a dangerous dog, or in lieu of the insurance policy, the owner may obtain a surety bond.

**Disorderly conduct at funerals.** The disruption of a funeral or memorial service will be considered disorderly conduct, which is a Class 1 misdemeanor.

**Human trafficking.** The extortion of money, property, or other benefit by threatening to report a person as being illegally present in the United States will be a Class 5 felony.

**Sale of violent or sexually explicit video games.** The sale, rental, loan or commercial display of a sexually explicit computer game or video to a juvenile will be a Class 1 misdemeanor.

**Sex offenders.** The law amends provisions related to the Sex Offender and Crimes Against Minors Registry and the civil commitment of sexually violent predators and increases penalties for certain sex crimes.

**Small claims court.** The ceiling of the jurisdictional amount of a small claims court is increased from \$2,000 to \$5,000.

**Third offense driving on a suspended license.** The law makes a third offense in ten years of driving on a license that has been suspended, revoked or restricted because of a DUI-related offense a Class 6 felony. It is currently a Class 1 misdemeanor.

## ***Drugs***

**Sale of methamphetamine precursor drugs ephedrine and pseudoephedrine.** The law provides that no more than 3.6 grams of either ephedrine or pseudoephedrine (over-the-counter cold medications) may be sold daily to an individual in a retail sale and that retail personnel must be instructed in special procedures to be used in the sale of products containing these drugs. Effective September 30, 2006, when a substance containing the drugs is provided or sold it shall be displayed behind a sales counter or in a locked case and the purchaser must present a photo ID. If more than one package is purchased, the purchaser must sign a log maintained by the seller. The penalty for violation of these provisions is a Class 1 misdemeanor.

## ***Children's Welfare and Social Services***

**Adoption laws and Putative Father Registry.** The law makes substantive and procedural changes to adoption laws. Consent for adoption is not required of a birth father who denies paternity under oath and in writing or of either birth parent who, without just cause, has not visited or contacted the child for six months prior to the filing of a petition for adoption. A putative father (one who is not adjudicated, acknowledged, or presumed), forgoes his right to

object to an adoption if he does not register with the Putative Father Registry in a timely fashion. The registry will be administered by the Department of Social Services and funded by a \$50 filing fee. (After an initial layout of funds in the 2006 budget which is still pending) The law also allows a birth parent to choose the adoptive parents and proceed under agency adoption procedures or parental placement adoption procedures. This provides the birth parent with the option of selecting the people who will adopt his/or her child yet maintain privacy in the procedure.

**Child day program licensure exemption.** Recreational activity programs offered by local governments, staffed by local government employees, and attended by school-age children may be exempt from licensure, but the programs will still be subject to safety and supervisory standards established by the local government.

**Prescription medications administered at child day programs.** A person employed in a day care center is allowed to administer prescription medication to a child in a child day program, as defined by law and regulated by the State Board of Social Services or the Child Day Care Council, if the person (i) has satisfactorily completed a training program for this purpose approved by the Board of Nursing and taught by a registered nurse, licensed practical nurse, doctor of medicine or osteopathic medicine, or pharmacist; (ii) has obtained written authorization from a parent or guardian; (iii) administers drugs only to the child identified on the prescription label in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; and (iv) administers only those drugs that were dispensed from a pharmacy and maintained in the original, labeled container that would normally be administered by a parent or guardian to the child.

## ***Public Education***

**Education and home instruction qualifications.** Persons providing home instruction may hold a high school diploma rather than a baccalaureate degree.

**High school graduation rates calculation.** The Board of Education will collect, analyze, and report high school graduation and drop out data using a formula prescribed by the Board.

**High school diploma requirements and students with limited English proficiency.** The law requires the Board and Department of Education to collect and analyze certain statewide data and recommend steps to resolve the issues relating to the requirements for obtaining a high school diploma and students with limited English proficiency.

**Internet safety instruction.** Internet use policies developed by division superintendents must include a component on Internet safety for students that is integrated into a division's instructional program.

**No Child Left Behind (NCLB).** The Board of Education must develop a plan to identify initiatives or conditions that are currently being funded by NCLB, but are not integral or necessary component of the Commonwealth's own Standards of Quality, Standards of Accreditation, or Standards of Learning. Upon the development of the plan, the Office of the Attorney General must provide the Board and the General Assembly an estimate of the costs for providing legal services in the event that the elimination of any NCLB initiatives or conditions could result in withholding of certain federal funds.

**No tuition for certain children of relocated military personnel.** Children of active members of the military who are ordered to relocate to military housing located in a different school division will be allowed to continue attending school in the school division they attended immediately prior to the relocation and cannot be charged tuition for attending the school. However, the school division is not responsible for providing for the transportation to and from school for these children.

## ***Higher Education***

**Higher education admissions agreements.** All four-year public institutions of higher education must agree to have a dual admissions programs for qualified students to be simultaneously accepted by a community college and a four-year public institution of

higher education, contingent upon the successful completion of an acceptable associate degree program from the community college.

**In-state tuition for dependents of active duty military personnel.** All dependents of active duty military personnel assigned to a permanent duty station in Virginia and residing in the state will be eligible to receive in-state tuition in Virginia as long as they are continuously enrolled in or are transferring between Virginia institutions of higher education.

**In-state tuition limitation on eligibility.** Students entitled to in-state tuition will be assessed a surcharge upon satisfactorily completing 125% of credit hours needed to obtain a degree in the student's chosen program. Certain courses and credit hours are excluded from the calculation of the 125% of the credit hours needed to satisfy the degree. A waiver of the surcharge may be granted by the institution, in accordance with the guidelines and criteria established by the State Council of Higher Education for Virginia (SCHEV).

## ***Health***

**Cord blood bank.** The Virginia Cord Blood Bank Initiative is established as a public resource for Virginians for the treatment of patients with life-threatening illnesses or debilitating conditions. The cord blood bank may be used to advance basic and clinical research and will be utilized in the event of a terrorist attack for the treatment of injured citizens of the Commonwealth.

**Immunization of children against certain diseases.** The law sets out the minimum requirements for the immunization of children. The requirements bring the Commonwealth in line with the immunization schedules developed and published by the Centers for Disease Control and Prevention, the Advisory Committee on Immunization Practices, the American Academy of Pediatrics, and the American Academy of Family Physicians. The State Board of Health will annually review immunization practices for children.

**Nurse practitioners' and prescriptions.** Expands nurse practitioners' prescriptive authority to include

Schedule II drugs under the supervision of a physician. Nurse practitioners currently have the authority to prescribe Schedule III through VI controlled substances.

## ***Natural Resources and Environment***

**Boating safety course.** Any person who has been convicted of violating a boating law that imposes a penalty of a Class 3 misdemeanor or greater must pass an approved boating safety course.

**Hunting or trapping in state forests.** The fees to obtain a hunting permit or a trapping permit in a state forest is increased from \$10 to \$15.

**Prescribed burning.** Prescribed burns of woods, brush, leaves, or other flammable material are allowed between February 15 and April 30.

## ***Taxes***

**Real property tax exemption for the elderly and disabled.** The law changes certain provisions regarding real estate tax exemptions for the elderly and disabled, including: (i) localities in Northern Virginia, increasing from \$340,000 to \$540,000 the maximum financial worth cap a locality may impose and adding Clarke, Fauquier, and Stafford Counties to the localities in Northern Virginia for which the \$540,000 cap is applicable; and (ii) for certain other localities in central Virginia and Tidewater, increasing the cap from \$200,000 to \$350,000, and adding the cities of Norfolk and Richmond to the localities for which the \$350,000 cap is applicable.

**Sales and use tax holiday for school supplies, clothing, and footwear.** Beginning in 2006, there will be a sales and use tax holiday, or exemption, in the Commonwealth for certain school supplies, clothing, and footwear purchased during a three-day period each year beginning on the first Friday in August. The exempt items include school supply items that cost \$20 or less and clothing or footwear items that cost \$100 or less.

**Tax on tips.** The amount of discretionary tips and service charges that apply to the cost of restaurant meals are exempt from sales and use tax, as well as any local tax on meals; however, any mandatory service charges or mandatory gratuities in excess of 20 percent of the total cost of meals remains subject to the sales and use tax, as well as the local meals tax.

## ***Transportation***

**Display of local decal.** The law allows a locality to eliminate the requirement to display local decals on vehicles.

**HOV lanes exemption for clean special fuel vehicles.** The use of HOV lanes by vehicles with clean special fuel vehicle license plates is extended to 2007. Clean special fuel vehicle license plates issued after July 1, 2006, will be issued with a new design. Only vehicles registered with and displaying the original clean special fuel vehicle license plates issued prior to July 1, 2006, will be authorized for use on the I-95/395 corridor. The annual fee for clean special fuel vehicle license plates is increased from \$10 to \$25.

**HOV lanes increased fine for first-time offenders.** The fine for first-time HOV lane violations in Northern Virginia is increased to \$125. The fine for a second violation within five years of the original violation is increased to \$250. Any subsequent violation within five years of the original violation carries a penalty of three DMV demerit points.

Complete information on all actions of the 2006 General Assembly is available on the Internet at the General Assembly's website:

***<http://legis.state.va.us>***

Click on *Session Tracking* for a complete array of menu choices for selecting bill summaries or complete bill text for all legislation considered by the 2006 General Assembly.

## DMV and Operation of a Vehicle in VA

**All-terrain vehicles and off-road motorcycles.** A non-dealer owner of an all-terrain vehicle or an off-road motorcycle powered by a gasoline or diesel engine displacing more than 50 cubic centimeters and purchased as new on or after July 1, 2006, is required to title the vehicle with DMV.

**Fog lights.** No more than two fog lights may be illuminated on a vehicle at any time.

**Laser speed determination devices.** The law eliminates the requirement that law-enforcement officers allow drivers to observe their speed on an officer's laser speed device.

**License plate mountings.** Any license plate bracket, holder, mounting, or frame is prohibited that obscures the license number, the name of the state in which the vehicle is registered, or the registration decal indicating the month or year the vehicle's registration expires.

**Maximum speed limit for school buses.** The law allows for maximum speed limits for school buses of 45 mph on highways with posted speed limits of 55 mph or less and 55 mph on highways with posted speed limits greater than 55 mph.

**Mopeds, motorized scooters and skateboards, and motor-driven cycles.** The law regulates the operation of "motorized skateboards and scooters," bans over-the-road operation of "motor-driven cycles," and differentiates these vehicles from motorcycles and mopeds.

**Reckless driving.** Reckless driving is defined by law as (i) driving a motor vehicle at a speed of 20 miles per hour or more in excess of the maximum speed limit or (ii) driving in excess of 80 miles per hour regardless of the maximum speed limit.

**Traffic lights.** Law-enforcement officers are allowed to use wireless telecommunications devices in the enforcement of traffic light signals.

**Vehicle safety inspection fees.** The law increases the maximum fee allowed for vehicle safety inspection by \$1.00.



## New Special License Plates

**Reauthorizes issuance of special license plates for members of:**

Virginia State Defense Force.

**Authorizes issuance of special license plates for:**

Veterans of United States military operations in Afghanistan and Iraq

**Authorizes issuance of special license plates for the immediate family members of persons who:**

Died in military service to their country

**Authorizes issuance of special license plates honoring:**

Robert E. Lee

**Authorizes issuance of special license plates bearing the legend:**

I VOTED

**Authorizes issuance of special license plates for supporters of:**

Boy Scouts of America

Childhood Cancer Awareness

National D-Day Memorial Foundation

National Multiple Sclerosis Society

911 communications professionals

United Service Organizations (USO)

United States Troops

Youth Soccer

**"United We Stand" special license plates.**

Eliminates the revenue-sharing component of the statute authorizing the issuance of this special license plate.

## Tow Trucks and Towing and Recovery Operators

- A new Board for Towing and Recovery Operators to license and regulate the towing and recovery industry and tow truck drivers is established.
- The law allows a mechanic's lien for "towing, storage, and recovery" in addition to the present "keeping, supporting, and care"; increases the present three-day limit for garage keepers to obtain vehicle data from the DMV and provides written notice to the owner of the stored vehicle to a seven-day limit; raises the so-called "junk car" threshold from the present \$5,000 to \$7,500; and increases from \$25 per day to \$50 per day the amount owed for storage if a vehicle is towed, unclaimed, and sold.
- The law expands a locality's ability to regulate "trespass tows" by ordinance and provides that, in the event a vehicle is towed from one locality to be stored in another, the ordinances of the locality from which the vehicle was towed shall apply.
- The law provides for the so-called "secondary tow," when a vehicle is towed as the result of a police-towing request. The owner of the towing and recovery business, upon presentation of a written request from the owner of the vehicle and payment in full for all towing, recovery, and storage charges, must release the vehicle for the purpose of inspection or the towing of the vehicle to another location for repair, storage, or disposal.
- All towing and recovery businesses must accept cash, insurance company check, certified check, money order, at least one of two commonly used, nationally recognized credit cards, or any additional methods of payment approved by the Board. Signs are required to provide notice that a trespassing vehicle will be towed to include at least the nonemergency telephone number of the local law-enforcement agency or the telephone number of the towing and recovery business authorized to perform the tows.
- Localities are authorized by ordinance to require photographic evidence to justify "trespass tows," posting of signs providing notice of where towed vehicles may be reclaimed and the name and telephone number of the local consumer affairs office, and obtaining the so-called "second signature" from the property owner agent prior to tows.
- The law prohibits certain relationships between towing and recovery businesses and the agents of property owners from whose property trespassing vehicles are towed.
- The maximum allowable hookup and initial towing fee for trespass tows of passenger cars is increased from \$85 to \$125, unless local ordinance sets a different limit, and the amount of additional fees for late night, weekend, and holiday tows is raised from \$10 to \$25, not to exceed \$50.

### **Multiple Copies**

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**Division of Legislative Services  
910 Capitol Street, 2nd Floor  
Richmond, Virginia 23219  
(804) 786-3591**

*E. M. Miller, Jr., Director*

*R.J. Austin, Manager, Special Projects*

*Lynda Waddill, Editor*

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