

In Due Course:

2012 Changes to Virginia's Laws

"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



Virginia Division of Legislative Services



This publication provides a brief summary of legislation passed by the 2012 Regular Session of the 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, 2012.

Business & Employment

HB 153. Workers' compensation. Provides that a person who suffers an injury on or after July 1, 2012, will not be covered under the Virginia Workers' Compensation Act if he is covered under either the Longshore and Harbor Workers' Compensation Act or the Merchant Marine Act of 1920.

HB 845. Names of business entities. Clarifies that the name of a business entity, including a stock corporation, nonstock corporation, limited liability company, business trust, limited partnership, or registered limited liability partnership, cannot imply that it is another type of business entity.

HB 1202/SB 140. Fire insurance; coverage for costs of services by volunteer fire departments. Requires fire insurance policies to provide coverage, with limits not less than \$250, for the cost charged by a volunteer fire department that is not fully funded by property taxes in certain instances when the fire department is called in to save or protect property insured under the policy.

SB 54. Unemployment benefits; minimum earnings requirement. Postpones the scheduled increase, from \$2,700 to \$3,000, in the minimum amount of wages an employee must have earned in the two highest earnings quarters of his base period in order to be eligible for unemployment benefits. The increase will apply to claims filed on or after July 6, 2014.

SB 248. Reporting and paying unemployment insurance taxes; employers of domestic service individuals. Allows all employers of domestic service individuals in the private home of the employer to pay unemployment taxes and file reports annually. Currently, an employer must make the payments and filings quarterly if the quarterly payroll exceeds \$5,000. The measure becomes effective on January 1, 2013.

Civil Law

HB 126. Use of affidavits in no-fault divorce cases. Allows parties to submit evidence supporting the grounds for a

no-fault divorce by affidavit or deposition, instead of testimony in court, in certain circumstances.

HB 445. Adoption procedures. Makes numerous changes to adoption procedures, including expanding the venue for consent hearings in parental placement adoptions to include any city or county in the Commonwealth under certain circumstances; eliminating the need for parental consent for an adoption in cases in which a birth parent has neither visited nor contacted the child for the six months immediately prior to the filing of an adoption petition or a petition to accept consent to an adoption; setting requirements for establishing the date of birth for a child adopted from a foreign country; and clarifying the requirements for stepparent adoptions.

HB 475. Involuntary commitment; mandatory outpatient treatment. Changes the criteria for ordering a person to mandatory outpatient treatment or discharging an involuntarily committed person to mandatory outpatient treatment by requiring that the person agree to follow the treatment plan and ensuring that the person has the ability to do so. The law also requires that a finding be made that outpatient services will be delivered to the person.

HB 677. Power of attorney; termination. Provides that an agent's authority under a power of attorney terminates if either the agent or principal files an action for separate maintenance from the other or for custody or visitation of a child in common with the other.

HB 1147/SB 625. Garnishment. Provides that a judgment creditor may institute garnishment proceedings in the jurisdiction where the judgment debtor resides even though the original judgment was entered by another court.

SB 246. Winter Sports Safety Act. Limits the liability of ski resorts and other winter sports area operators when death, personal injury, or property damage is caused by an inherent risk of participating in a winter sport and sets out the duties and responsibilities of both winter sports participants and operators.

SB 674. Action for death by wrongful act; fetal death. Creates a cause of action for the wrongful death of a fetus caused by the wrongful act, neglect, or default of another.

Constitutional Amendments

The General Assembly passed two proposed constitutional amendments that will be on the November 2012 ballot for voters to approve or reject.

1. **HJ 3/SJ 3 and HB 5/SB 240. Taking or damaging of private property for public use.** Revises the Constitution's provisions concerning the use of eminent domain powers to take private property for a public use and the definition of what compensation should be paid to the owner for the property taken for the public use.

2. **HJ 138/HB 1021. Reconvened Session.** Gives the General Assembly authority to delay for up to one week the start of the veto session that follows approximately six weeks after each regular session and during which the General Assembly acts on the Governor's vetoes and suggested amendments for bills passed during the session.

Criminal Justice

HB 39. Causing telephone to ring with intent to annoy. Provides that a second or subsequent conviction of the Class 3 misdemeanor of causing a telephone or digital pager to ring with intent to annoy is a Class 2 misdemeanor.

HB 279/SB 378. DUI ignition interlock limitations. Provides that a person who is convicted of DUI may drive only with an ignition interlock after the first offense, as a condition of a restricted license, and is required to have an ignition interlock installed in each vehicle owned by or registered to him after a second offense. The law also provides that the court may authorize a restricted license for travel to and from the interlock installer and a person can prequalify for an ignition interlock prior to conviction.

HB 508/SB 273. Synthetic cannabinoids; bath salts.

Amends provisions added to the *Code of Virginia* last year regarding the criminalization of synthetic cannabinoids and chemicals known as “bath salts” to add newly identified chemical combinations. The measure adds a more generic chemical description of synthetic cannabinoids so that new chemical compounds will nevertheless be considered synthetic cannabinoids without the precise chemical compound having to be added to the *Code*.

HB 752/SB 459. Strangulation; penalty. Makes strangulation without consent resulting in the wounding or bodily injury of another a Class 6 felony.

HB 770. Protective orders against law-enforcement officers. Provides that no emergency protective order may be issued against a law-enforcement officer for any action arising out of the lawful performance of his duties.

Education

HB 1107/SB 656. Auto-injectable epinephrine in schools. Requires schools to keep epinephrine on hand to be administered to students experiencing allergic reactions.

Elections

SB 1. Voter identification requirements; provisional ballots. Deletes the provision that has allowed a voter to sign a sworn statement that he is the named registered voter he claims to be instead of showing identification. A voter without acceptable identification will be offered a provisional ballot that will be reviewed by the electoral board at its meeting following the election. The voter may submit a copy of one of the required forms of identification to the electoral board by noon of the third day after the election. The law expands the list of acceptable forms of identification to include a student identification card issued by a college or university located in Virginia and certain other documents that show his name and address.

The Governor, by executive order, has directed the State Board of Elections to send every registered voter a new voter registration card that will serve as acceptable identification.

Energy

HB 587/SB 418. Electric transmission lines; approval process. Eliminates the requirement that an electric transmission line of 138 kV obtain State Corporation Commission approval, based on findings that the line is needed and that its corridor or route will reasonably minimize adverse impact on the scenic assets, historic districts, and environment of the area concerned, if a certificate of public convenience and necessity for the line is not required. The measure provides that a certificate is not required for the line if the public utility has obtained approval from the locality or localities in which the transmission line will be located.

HB 894/SB 493. Utility energy efficiency programs. Provides that an energy efficiency program proposed by an electric utility is in the public interest if certain criteria are met. An electric utility’s energy efficiency program may be deemed to be in the public interest if it provides measurable and verifiable energy savings to low-income customers or elderly customers. The current standard for what constitutes a cost-effective conservation and energy efficiency program conducted by a natural gas utility is revised to conform to these new provisions for electric utilities. Finally, the measure expands the definition of “energy efficiency program” with regard to electric utilities to include customer engagement programs that result in measurable and verifiable energy savings that lead to efficient use patterns and practices. HB 894 became effective March 9, 2012, while SB 493 became effective April 18, 2012.

SB 413. Renewable energy portfolio standard program; credits for investments. Allows any investor-owned electric utility that participates in the renewable energy portfolio standard program to meet

up to 20 percent of an RPS Goal through certificates evidencing the utility's expenses in conducting research and development activities in Virginia related to renewable or alternative energy sources. A participating utility is not authorized to recover the costs associated with qualified investments through rate adjustment clauses and is not authorized to earn a return on its qualified investments. A participating utility is not eligible for a research and development tax credit for qualified investments made under this measure. The measure also provides that a utility shall receive double credit toward meeting the program's goals for energy from facilities in the Commonwealth fueled primarily by animal waste.

Environment and Natural Resources

HB 95/SB 147. Bear hound training. Allows the training of dogs to hunt bears to occur from 4 a.m. until 10 p.m. Currently, the training of dogs to hunt bears is limited to one-half hour before sunrise until four and one-half hours after sunset.

HB 175. Riparian blinds in Back Bay. Limits the placement of duck blinds by riparian landowners in Back Bay to the riparian owner's shoreline at the mean low water mark, but allows blinds erected and licensed by riparian owners in 2011 to remain at their current locations.

HB 196. Haul seine nets. Requires a haul seine net that is longer than 1,000 yards and is anchored at one end to the shore and mechanically drawn at the other end without the aid of a boat or vessel, to have up to 400 feet of two-and-one-half-inch mesh.

HB 300/SB 354. Beehive Grant Program. Creates the Beehive Grant Fund and Beehive Grant Program. Beginning January 1, 2013, registered beekeepers may apply for a \$200 grant for each new hive purchased or materials or supplies purchased to construct a new hive. The law limits the grant to \$2,400 per individual per calendar year.

HB 301. Cool-season lawn and turf seed. Permits the sale of cool-season lawn and turf seed up to 15 months after the completion of the required germination test. Current law limits the sale of seed in general to the period within nine months of the completion of the test.

HB 381. Motorboat registration. Changes the expiration date for motorboat registration from three years from the first day of the month in which it was issued to three years from the last day of the month in which it was issued.

HB 522. Statewide system of trails; wheelchairs or other power-driven mobility devices. Permits the Department of Conservation and Recreation to allow the use of wheelchairs or other power-driven mobility devices on the statewide system of trails.

HB 710. Use of mine voids. Provides that, unless specified by contract, the owner of the coal mineral estate retains the rights to extract any coal remaining in place and to use an underground void for any activity related to the removal of coal from the property or other properties. No injunction shall be allowed to prevent the uses where the void is governed by a mine permit. Where the void is located within a sealed mine for which a mining permit no longer exists, the owner of the coal mineral estate must pay reasonable compensation for the consent of the void's owner, and the void's owner may not unreasonably withhold consent.

HB 719/SB 528. Special hunting and fishing license for disabled veterans. Allows a veteran who is permanently disabled due to a service-connected disability to obtain at no cost a combined hunting and freshwater fishing lifetime license or a separate hunting or freshwater fishing lifetime license.

HB 880. Fishing licenses for partially disabled veterans. Establishes a special fishing license for resident and nonresident veterans who have a service-connected disability of at least 70 percent as rated by

the U.S. Department of Veterans Affairs. Resident and nonresident veterans will pay one-half the cost of the annual state resident or nonresident basic fishing license.

HB 932. Nutrient management. Provides that the Department of Conservation and Recreation operate a voluntary nutrient management program to assist owners and operators of agricultural land and turf to effectively manage and apply nutrients to their land. In developing the program, the Department is to begin testing the software for assisting owners and operators of agricultural lands and turf by July 1, 2013, and begin full implementation by July 1, 2014. The development of the software may be deferred until funds become available.

HB 1119. Wake surfing. Allows persons to engage in wake surfing.

SB 559. Special use permits. Authorizes the State Forester to issue a special use permit for hunting, fishing, trapping, riding bikes, or riding horses on state forest lands without the approval of the Board of Forestry.

General Laws

HB 253. Virginia Personnel Act; employment preferences. Establishes a new preference in state hiring for the surviving spouse or child of a veteran killed in the line of duty, provided the surviving spouse or child meets all of the knowledge, skill, and ability requirements for the available position.

HB 384. Virginia Personnel Act; employment preferences. Establishes a new preference in state hiring for members of the Virginia National Guard, provided that the Virginia National Guard members meet all of the knowledge, skill, and ability requirements for the available position.

HB 937. Professions and occupations; spouses of transferred military service members. Provides for the expedited issuance of a license, permit, or certificate from the Department of Professional and Occupational

Regulation, the Department of Health Professions, and other regulatory entities found in Title 54.1 when the applicant is the spouse of a military service member who has been transferred to the Commonwealth, if the spouse held the license, permit, or certificate where he previously lived, and the requirements for the issuance of the license, permit, or certificate where he previously lived are substantially the same as those required in the Commonwealth.

HB 938. Professions and occupations; substantial equivalency for certain military training and education. Requires the regulatory boards within the Department of Professional and Occupational Regulation, the Department of Health Professions, or any board named in Title 54.1 to accept the military training, education, or experience of a service member returning from active military service in the armed forces to the extent that the training, education, or experience is substantially the same as that required in the Commonwealth. The provision does not include the Board of Medicine or the Board of Dentistry.

Health

HB 83/SB 544. Mammograms; information on breast density. Requires the Board of Health to establish guidelines requiring licensed facilities or doctor's offices where mammography services are provided to (i) include information on breast density in mammogram letters sent to patients and (ii) in mammogram letters sent to patients who have dense breast tissue, include a notice containing information about the potential effects of dense breast tissue on mammograms and explaining that patients may wish to contact their doctors for more information.

HB 272. Death, marriage, or divorce records; when public. Reduces the time period after which death, marriage, divorce, or annulment records become public from 50 years to 25 years.

HB 462. Abortion; informed consent. Requires women to have a noninvasive ultrasound before receiving an abortion. However, this requirement will be

waived if the woman was the victim of rape or incest, as long as she reported the crime to the police.

HB 1075. Hospital discharge; follow-up care.

Requires hospitals to educate patients, and in certain circumstances their families, about follow-up care, treatment, and services upon discharge. The law also requires community services boards to provide information to hospitals about alcohol and substance abuse services available to minors.

Insurance

HB 209. Insurance agents; continuing education.

Streamlines the continuing education process for insurance agents. The measure amends the requirement that two continuing education credit hours be in insurance law and regulations to require that three credit hours be in insurance ethics, which may include insurance law and regulations. The deadline for completing a continuing education course, an exemption, or waiver requirements is changed from December 31 to November 30, and any agent who fails to meet this deadline is given a final opportunity to complete the requirements if proof of completion is submitted by December 31. The measure also shortens the time for the Insurance Continuing Education Board to grant or reject a grievance from 30 to 15 days. The measure becomes effective January 1, 2013.

HB 523/SB 369. Fire insurance; earthquake coverage notice.

Requires fire insurance policies or contracts that do not cover earthquake damage to provide a written notice that (i) conspicuously states that earthquake coverage is not covered unless purchased by endorsement and (ii) if the coverage is otherwise available from the insurer, states that information regarding earthquake insurance is available from the insurer or the insurance agent. The measure applies to policies issued or renewed on or after January 1, 2013.

HB 867/SB 47. Certificates of insurance; property and casualty insurance.

Makes certain prohibitions regarding the preparation and issuance of certificates of insurance. The State Corporation Commission is

authorized to determine if a person is engaged in an unfair trade practice.

HB 872/SB 520. Property and casualty insurance; public adjusters.

Provides for State Corporation Commission licensing and regulation of public adjusters. The measure becomes effective January 1, 2013.

Retirement

SB 497. Virginia Retirement System employee contributions; local employees; school board employees.

Requires that local government and school employees pay the five percent employee contribution to the Virginia Retirement System. Local governments and school boards would be authorized to phase in the employee payment of the five percent contribution over a maximum of five years, and would be required to provide the employees with a raise to offset the employee contributions.

Social Services

HB 1211/SB 596. Auxiliary grants; third-party payments.

Provides that assisted living facilities and adult foster care homes may accept payments from third parties for certain goods and services provided to auxiliary grant recipients provided certain requirements are met.

SB 239. Suspected child abuse and neglect; mandatory reporting; penalties.

Expands the list of individuals required to report suspected child abuse or neglect; reduces the time limit for reporting suspected child abuse or neglect by mandated reporters from 72 hours to 24 hours; increases the penalty for a second or subsequent failure to report from not less than \$100 nor more than \$1,000 to a fine of not less than \$1,000; provides that, in cases evidencing acts of rape, sodomy, or object sexual penetration, a person who knowingly and intentionally fails to make the required report shall be guilty of a Class 1 misdemeanor; and provides that no mandatory reporter shall be required to make a report if the person has actual knowledge that the same

matter has already been reported to the local department or via the Department of Social Services' toll-free child abuse and neglect hotline.

HB 439/SB 433. Determination of status of unclaimed cremains belonging to veterans. Requires funeral directors to provide the names and any other identifying information on unclaimed cremains to the Department of Veterans Services in order for the Department to determine if the unclaimed cremains are those of a veteran. If the cremains are those of a veteran, the Department must notify the funeral director within 30 days and must inform the funeral director as to whether the veteran is eligible for burial in a veterans cemetery. In addition, the law provides that the names and any personal identifying information submitted by a funeral director to the Department are exempt from disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

Taxes

HB 41. Property tax on automobiles. Provides that automobiles used by full-time students attending an institution of higher education that are normally garaged at the institution of higher education will be subject to property tax in the locality where the owner of the automobile resides.

HB 80. Real property assessment of wetlands. Requires the local assessing official, upon the request of a property owner, to consider separately assessing the fair market value of all wetlands on the property.

HB 190. Disabled veterans real property tax exemption. Authorizes the Commissioner of the Department of Veterans Services to establish rules and regulations governing the administration of the real property tax exemption for veterans with a 100 percent service-connected, permanent, and total disability. The rules and regulations would include written guidance for disabled veterans and local assessing officers relating to the determination of eligibility for the property tax exemption. The Commissioner is also authorized to hear and decide appeals by disabled veterans residing in

the Commonwealth from a denial of their application for the real property tax exemption. The law became effective April 4, 2012.

SB 597. Out-of-state sellers to collect sales tax. Requires out-of-state sellers to collect sales tax from Virginia customers if a related business in Virginia maintains a distribution center or similar location within the Commonwealth that facilitates the delivery of the good to the Virginia purchaser. Under this condition, the requirement on an out-of-state seller to collect sales tax from Virginia customers would apply to goods purchased from the seller by telephone, catalog, or over the Internet. The law would become effective no later than January 1, 2014, but could become effective on an earlier date if similar legislation is passed by Congress.

Transportation

HB 97. Driving two abreast. Allows two two-wheeled motorcycles to drive side-by-side in a single lane.

HB 805/SB 502. Emissions inspections. Authorizes the use of updated equipment, such as wireless systems and on-road testing, for emissions inspections. The law also creates a position for a program coordinator to oversee vehicle emissions inspections beginning July 1, 2013.

SB 686. Electronic titling. Allows the Department of Motor Vehicles to establish an electronic titling program for new motor vehicles.

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