



## 2007 Session of the General Assembly: Science and Technology Legislative Update

### JCOTS Bills

#### **Enacted:**

**HB 2198 (Nixon) Electronic health records.** Requires any electronic health records system or software purchased by a state agency to adhere to accepted standards for interoperability or to be certified by a recognized certification body. The bill also requires state agencies making grants available to other entities for electronic patient information or electronic health records to ensure that the systems or software adheres to accepted standards for interoperability, privacy and data exchange or has been certified by a nationally recognized certification body.

#### **Enacted:**

**HB 2353 (Cosgrove) Computer trespass; spyware; penalty.** Adds keyboard loggers and bots and zombies to the list of computer trespass crimes. The bill makes it a Class 6 felony for a person to maliciously install or cause to be installed, or collect information through, software capable of recording all or a majority of the keystrokes on the computer of another without authorization. The bill also makes it a crime to maliciously install or cause to be installed on the computer of another, computer software that takes control of that computer so that it can cause damage to another computer or disable or disrupt the ability of the computer to share or transmit instructions or data to other computers or related computer equipment or devices. The bill adds a Class 6 felony if a person, in violation of computer trespass laws, installs software on more than five computers of another, or installs software which records keystroke information regardless of the number of computers involved.

#### **Failed:**

**HJ 646 (Purkey) Study; K-12 education outreach collaboration.** Requests the Department of Education to collaborate with university, industry, and local school board stakeholders engaged in K-12 education outreach to identify best practices, pursue collaborative activities, and define a set of actions that will facilitate student participation and workforce development in math and science fields.

**Passed:**

**HJ 647 (Purkey) Nanotechnology Users Network.** Requests the Secretary of Technology, in conjunction with the Virginia Research and Technology Advisory Council, to develop recommendations to enable the networking of and access to nanotechnology instrumentation at Commonwealth institutions of higher education, forming a Nanotechnology Users Network.

**Governor's Recommendation Received:**

**SB 871 (Watkins) as Incorporated into SB 829 (Devolites Davis) Traffic Signal**

**Enforcement Programs; civil penalty.** Grants localities the authority to operate traffic signal enforcement systems. Localities may install photo-monitoring systems at no more than 25 intersections at one time. Provisions within the bill set the maximum fine, limit the use and retention of images recorded, and provide other parameters and limitations for localities. This bill has been incorporated into SB 829.

**Enacted:**

**SB 1060 (Watkins) Child restraint devices.** Increases the age that children must be secured in a child restraint device from five to eight and requires that rear-facing child restraint devices for infants from birth to one year shall be secured only in the back seat of motor vehicles manufactured after January 1, 1968. The bill also removes the exemption from required child restraint device use for the rear cargo area of vehicles other than pickup trucks and increases the age from less than six years old to eight years old for the permitted use of standard seat belt equipment for certain children.

**Enacted:**

**SB 1226 (Howell) Electronic voting equipment; security.** Requires local electoral boards to develop plans and procedures to ensure the security of electronic voting systems. Requires the general registrar and State Board of Elections to provide assistance in the development of these plans, upon request. The bill also requires vendors of electronic voting systems to provide written best practices about the secure use of the systems when applying for certification in the Commonwealth and to annually update these practices once certified.

**Bills Reported from House Science and Technology and Enacted**

**Enacted:**

**HB 1885 (Marshall, R.G.) Voice-over-Internet protocol service.** Revises the definition of Voice-over-Internet protocol service to eliminate references to Internet protocol-compatible customer premises equipment. Providers of Voice-over-Internet protocol service are exempt from regulation by the State Corporation Commission.

**Enacted:**

**HB 2062 (McQuigg) Freedom of Information Act; Government Data Collection and Dissemination Practices Act; land records.** Provides that the Freedom of Information Act does not apply to land records available via secure remote access. The bill provides requirements for posting land records via secure remote access to the Internet and requires, beginning July 1, 2010, that social security numbers not be contained in such documents. Judgments, however, will contain the last four digits of a social security number for identification purposes. The clerk is given the authority to reject documents that contain social security numbers and also is allowed to perform a global redaction of social security numbers from those documents filed before the 2010 deadline. The bill also allows the use of the Technology Trust Fund to pay for redaction. The bill clarifies that the clerk is to charge \$0.50 per electronic image for transmitting "papers or records" to go out of his office in the same manner that he charges \$0.50 per page for copying. The bill is identical to Senate Bill 824.

**Enacted:**

**HB 2196 (Nixon) Powers of the CIO.** Gives the CIO of the Commonwealth the power to enter into contracts with one or more other public bodies, or public agencies or institutions or localities of the several states, of the United States or its territories, or the District of Columbia for the provision of information technology services. The CIO must have the approval of the Information Technology Investment Board for any contracts over \$1,000,000.

**Enacted:**

**HB 2197 (Nixon) Technology protection measures; public libraries.** Requires the library board or governing body of a library that receives state funding for any purpose to include in its acceptable use policy for the Internet provisions on selecting, installing and activating on those computers that have Internet access a technology protection measure to filter or block Internet access through such computers to child pornography as set out in § 18.2-374.1:1, obscenity as defined in § 18.2-372, and, with respect to minors, materials deemed harmful to juveniles as defined in § 18.2-390. The bill also requires the policy to include a provision for disabling the technology protection measure at the request of a patron in instances of bona fide research or other lawful purposes. The bill is identical to Senate Bill 1393.

**Enacted:**

**HB 2381 (May) Virginia Public-Private Education Facilities and Infrastructure Act; provision of wireless broadband services.** Specifies that the Virginia Public-Private Education Facilities and Infrastructure Act can be used for projects related to the technology and infrastructure necessary to deploy wireless broadband services to schools, businesses, and

residential areas. The bill also authorizes the Virginia Resources Authority to fund wireless broadband projects.

**Enacted:**

**HB 2614 (May) Construction of electrical utility facilities; review of applications by State Corporation Commission.** Requires the State Corporation Commission to conduct an analysis of the facility applicant's assessment of need, load flow analysis, and method of installation. Utilities are required to provide a GIS map of any proposed improvement or extension to the Commission, which shall make the GIS map publicly available on its website.

**Enacted:**

**HB 2946 (Plum) Electronics recycling; security of state confidential data and personal information.** Requires the Department of General Services to develop guidelines, with the advice of the Chief Information Officer (CIO) to ensure that the transfer or other disposition of computers or information technology assets are consistent with data and information security policies developed by the Virginia Information Technologies Agency.

**Enacted:**

**SB 1004 (Devolites Davis) Telecommuting; use of personal computers.** Authorizes a state agency to allow eligible employees to use computer equipment not owned or leased by the Commonwealth to telecommute, if such use is technically and economically practical, and so long as such use meets information security standards as established by the Virginia Information Technologies Agency, or the employee receives an exception from such standards approved by the CIO of the Commonwealth or his designee.

**Enacted:**

**SB 1393 (Stosch) Technology protection measures; public libraries.** Requires the library board or governing body of a local library to include in its acceptable use policy for the Internet provisions for the selection, installation and activation of a technology protection measure on computers that have Internet access and that are accessible to the public to filter or block Internet access through such computers to child pornography as set out in § 18.2-374.1:1, obscenity as defined in § 18.2-372, and, with respect to minors, materials deemed harmful to juveniles as defined in § 18.2-390. The bill also requires the policy to include a provision for disabling or bypassing the technology protection measure at the request of a patron in instances of bona fide research or other lawful purposes. In addition, the bill provides that no state funding shall be withheld and no other adverse action taken against a library by the Librarian of Virginia or any other official of state government when the technology protection measure fails, provided

that such library promptly has taken reasonable steps to rectify and prevent such failures in the future. This bill is identical to HB 2197.

### **Other science and technology related legislation**

#### **Passed:**

**HJ 611 (Purkey) Study; business, law, and policy graduate programs in state institutions of higher education; report.** Establishes a joint subcommittee to study science and technology education in business, law, and policy graduate programs in state institutions of higher education.

#### **Enacted:**

**HB 1778 (Cosgrove) and SB 829 (Devolites Davis) Traffic signal enforcement programs; civil penalty.** Grants localities the authority to operate traffic signal enforcement systems. Localities may install photo-monitoring systems at no more than one intersection for every 10,000 residents at one time. Provisions within the bill limit the use and retention of images recorded and provide other parameters and limitations for localities.

#### **Governor's Recommendation Received:**

**HB 2030 (Cosgrove) Modeling and Simulation Advisory Council; created.** Creates the Modeling and Simulation Advisory Council to advise the Governor on policy and funding priorities to promote the modeling and simulation industry in the Commonwealth.

#### **Governor's Recommendation Received:**

**HB 2039 (Hamilton) and SB 1149 (Wagner) Technical diploma; established.** Directs the Board of Education to establish the requirements for a technical diploma. The diploma must meet or exceed the requirements of a standard diploma and include a concentration in career and technical education.

#### **Enacted:**

**HB 2385 (May) Tangible personal property; separate classification for wireless broadband service providers.** Creates a separate classification for local taxation purposes for tangible personal property owned and used by certain providers of wireless broadband Internet service in providing such service.

#### **Enacted:**

**HB 3017 (Callahan) Youth Internet Safety Fund; established.** Establishes the Youth Internet Safety Fund for the purposes of education, public awareness, and other activities to promote the

safe and secure use of the Internet. The bill contains an emergency clause and provides that the Virginia Public Procurement Act does not apply to expenditures from the fund.

**Governor's Recommendation Received:**

**HB 3114 (Cosgrove) Aerospace Advisory Council; created.** Creates the Aerospace Advisory Council within the executive branch to advise the Governor on policy and funding priorities to promote the aerospace and space exploration industry in the Commonwealth.

**Enacted:**

**HB 3164 (Moran) One-stop small business permitting program.** Establishes a one-stop permitting program for small businesses. The program is to be administered by a business registration and permitting center in the Department of Business Assistance. Owners of small businesses, defined as establishments with no more than 250 full-time employees, will be able to complete a master application online to register their businesses with the state.

**Governor's Recommendation Received:**

**HB 3184 (Kilgore) Space Flight Liability and Immunity Act.** Grants immunity to space flight entities providing space flight activities to any participant in a suborbital flight. Space flight entities are required to distribute warning statements to all participants notifying them of their immunity from civil suit. The Act does not provide immunity from gross negligence, situations where the space flight entity has actual knowledge of a dangerous condition, or intentional injuries to the participant. The bill also provides that the provisions of the Act shall expire on July 1, 2012.

**Governor's Recommendation Received:**

**SB 840 (Devolites Davis) and HB 2707 (Hugo) Election procedures; voting equipment requirements; recounts.** Prohibits future purchases of direct recording electronic (DRE) devices; and provides for the phase out of DRE devices as the devices now in operation wear out. Prohibits any form of wireless communication to or from voting or counting devices while polls are open on election day. Requires localities to provide accessible equipment for disabled voters. The bill deletes obsolete references to mechanical voting equipment and punchcard devices. This bill is identical to HB 2707 as passed and incorporates SB 878.

**Governor's Recommendation Received:**

**SB 1001 (Houck) Freedom of Information Act; electronic communication meetings.** Reduces the notice requirement for electronic communication meetings from seven to three working days and clarifies that political subdivisions, other than units of local government, may conduct electronic communication meetings. The bill also allows an individual member of a public body to

participate in a meeting through electronic communication means from a remote location that is not open to the public in the event of an emergency, temporary or permanent disability or other medical condition, or when a member of a regional public body's principal residence is more than 60 miles from the primary meeting location. For a member to participate in the above described manner, the bill requires that a quorum of the public body be physically assembled at the primary or central meeting location and that the public body make arrangements for the voice of the remote participant to be heard by all persons at the primary or central meeting location. The bill defines "regional public body." The bill also contains technical amendments and is a recommendation of the Virginia Freedom of Information Advisory Council.

**Enacted:**

**SB 1039 (O'Brien) Use of wireless telecommunications devices by holders of provisional driver's licenses.** Prohibits the use of wireless telecommunication devices for such drivers while operating a motor vehicle, except in an emergency or when parked or stopped.

**Bills referred to JCOTS for 2007 Interim**

**Passed:**

**HJ 688 (Plum) Study; Mid-Atlantic Regional Spaceport; report.** Directs the Joint Commission on Technology and Science (JCOTS) to study the development and utilization of the Mid-Atlantic Regional Spaceport. In conducting its study, the Joint Commission on Technology and Science shall (i) identify any federal or state regulatory impediments, including taxation, to the development of the Mid-Atlantic Regional Spaceport; (ii) identify threats to the spaceport's viability, such as encroachment, zoning, mineral exploration and exploitation, and noncompatible uses of the spaceport; (iii) identify potential economic development opportunities and marketing strategies to attract launch companies to Virginia; (iv) identify potential state legal barriers to human spaceflight, including liability and assumption of risk issues; (v) identify specific areas where the Commonwealth needs to invest in infrastructure and marketing to enable the achievement of the spaceport's full potential; and (vi) develop a long-term strategic plan to make the Mid-Atlantic Regional Spaceport the premiere commercial hub for space travel in the United States.

In its deliberations, the Commission shall provide for the contributions and participation of representatives of the aerospace, suborbital, or orbital launch industries, the Maryland Department of Business and Economic Development, the Secretary of Technology, Secretary of Commerce and Trade, Secretary of Finance, Executive Director of the Virginia Commercial Space Flight Authority, and Executive Director of the Virginia Economic Development Partnership or their designees. These persons shall contribute to and participate in the study in the manner

deemed appropriate by the Commission in the furtherance of its work. Incorporates HJR 621 (Kilgore) and HJR 695 (Lewis).

**Failed, Letter sent to JCOTS:**

**HB 2086 (Eisenberg) Radio frequency identification devices (RFID); disclosure on consumer goods.**

Requires the seller of a consumer good containing an RFID tag to conspicuously label the consumer good indicating such fact.

**Failed, Letter sent to JCOTS:**

**HB 2973 (Bell) Unsolicited Bulk Electronic Messages; cell phone spam; penalty.** Changes the scope of Virginia's spam law from electronic mail to electronic messages by defining electronic message as any text, image, or other communication transmitted to a computer. The bill also adds wireless communications devices to the type of devices defined as computers. The bill reduces the number of messages necessary for a person to meet the requirements of this section to 2,500 attempted recipients in any 24-hour period, 25,000 attempted recipients in any 30-day time period, or 250,000 attempted recipients in any one-year time period. Additionally a new provision would make sending unsolicited bulk electronic messages a Class 6 felony if a single recipient of an electronic message or multiple electronic messages incurs damages in excess of \$250 during any one year time period.

**Failed, Letter sent to JCOTS:**

**JCOTS and FOIA to study: HB 2821 (Sickles) Freedom of Information Act; records containing social security numbers.** Exempts from the mandatory disclosure requirements of the Freedom of Information Act those portions of records containing an individual's social security number; except that access shall not be denied to the person who is the subject thereof. Any person who is the subject of any such record and who is 18 years of age or older may waive, in writing, these protections. If the protections are so waived, the public body shall open such records for inspection and copying.