

**DIGEST OF THE ACTS  
OF THE  
GENERAL ASSEMBLY OF VIRGINIA  
AT THE  
2005 SESSION**

which commenced at the Capitol in the City of Richmond on January 12, 2005, and adjourned  
sine die February 27, 2005.



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#### **Notice**

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## **PREFACE**

This Digest of the Acts has been prepared to give an overview of the legislation adopted during the 2005 Regular and Reconvened Sessions of the General Assembly of Virginia, prior to publication of the 2005 Acts of Assembly.

These brief notes are not detailed synopses of the acts, but are intended to point out the major features of new measures or the principal changes in existing law. Anyone desiring more detailed information about an act should obtain its full text.

The arrangement of the Digest parallels the title and section number organization of the Code of Virginia. Under each title heading is listed every section within that title that has been amended, added, or repealed, and a brief description of the effect of the General Assembly action. Some titles have a “Miscellaneous” section containing acts that usually do not have Code section numbers but are related to the subject matter of that title. If an act affects several sections of a title, the note appears under the first section only, but the note heading lists the other affected sections. For acts affecting sections in different titles, there are appropriate cross-references. There are no cross-references to sections within the same title, so the user must scrutinize the note headings within each title. Uncodified appropriation, bond, claims, and constitutional amendment measures are included at the end of the Digest.

Please note that the section numbers appearing in this Digest are those assigned to bills at the time of drafting. Due to conflicts with other numbers already assigned, or in order to effect a more logical placement, the Virginia Code Commission in its codification of the acts may change the numbers contained in an act as shown in this Digest. The final section number assignments can be determined after the Code supplements are published by consulting the “Table of Acts Codified Subsequent to 1948” in Volume 10 of the Code.

The acts of the 2005 General Assembly will become effective on July 1, 2005, unless otherwise designated in the act itself. If an act becomes effective on a different date, the note will so indicate. If sections in an act become effective on different dates, the last line of the note will refer readers to the act itself.

Following the notes is a chart showing all other bills passed during the 2005 Regular and Reconvened Sessions of the General Assembly that have become law by virtue of being signed by the Governor, the chapter numbers assigned to those bills, and the pages where their summaries appear in the Digest. Bills passed by the General Assembly but vetoed by the Governor are omitted.

The Digest has been prepared from summaries written by the staff of the Division of Legislative Services.

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## TITLE 1. GENERAL PROVISIONS.

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§ 1-13.23:1. See § 8.01-2; SB 1118.

§§ 2.2-122, 2.2-604, 2.2-2200, 2.2-3901, 3.1-383, 3.1-411, 3.1-412, 8.01-227.2, 15.2-715, 15.2-2000, 15.2-6301, 16.1-69.35, 16.1-241, 17.1-207, 18.2-246.6, 18.2-308, 19.2-5, 19.2-95, 21-119, 22.1-208.01, 22.1-212.1, 28.2-1205, 30-13, 30-14, 30-28.18, 32.1-229.01, 32.1-325.1:1, 33.1-12, 33.1-320.2, 34-32, 43-35, 43-36, 46.2-728.3, 52-10, 54.1-3401, 55-161, 55-531, 56-123, 56-124, 56-265.10, 56-435, 58.1-3732.4, 59.1-21.10, 59.1-443.1, and 62.1-44.114 amended; §§ 1-200 through 1-257, 1-300 through 1-313, 1-400 through 1-408, 1-500 through 1-512, and 30-15.1:1 added; §§ 1-10 through 1-17.2, 1-18 through 1-21, 7.1-1 through 7.1-43, 13.1-1069, and 18.2-5 repealed. **Recodification of Titles 1 and 7.1; General Provisions and Boundaries, Jurisdiction and Emblems of the Commonwealth.** In accordance with § 30-152 of the Code of Virginia, the Virginia Code Commission, in May 2003, commenced its revision of Title 1. Title 1 contains the original provisions related to the enactment of the 1950 Code of Virginia and the statutory rules of construction that apply to the Code of Virginia and the uncodified acts of the General Assembly. At the May meeting, the Commission decided to expand the scope of the revision to include the incorporation of Title 7.1 (Boundaries, Jurisdiction and Emblems of the Commonwealth) into Title 1. Titles 1 and 7.1 were last revised in 1966. The revision provided an opportunity to combine two titles of a general nature that contained many provisions of fundamental and historical significance. The revision of Title 1 presented unique challenges compared to other title revisions. Because the provisions of Chapter 1 were part and parcel to the creation of the Code of 1950, they needed to be retained without any change in substance or form. This limitation necessitated that the revisions be done at the chapter level. The new Title 1 contains four revised chapters in which obsolete and duplicative provisions have been removed, nomenclature updated, and the structure and clarity of the laws improved. HB 2640; CH. 839 (effective 10/1/05).

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## TITLE 2.2. ADMINISTRATION OF GOVERNMENT.

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§§ 2.2-106 and 2.2-107 amended. **Gubernatorial appointments; confirmation processes.** Provides for delivery of resumes and statements of economic interests for gubernatorial appointees by the Secretary of the Commonwealth to the two Committees on Privileges and Elections and for a joint subcommittee of the two Committees to review those papers. This bill is a recommendation of the Joint Subcommittee to Study the Appropriate Balance of Power between the Legislative and

Executive Branches to Support a Two-Term Governor in the Commonwealth (HJR 13, 2004). HB 2144; CH. 803/SB 999; CH. 938

§§ 2.2-122, 2.2-604, 2.2-2200, and 2.2-3901. See § 1-200; HB 2640.

§§ 2.2-203.1 and 2.2-2817.1 amended. **State employees; telecommuting and alternative work schedules.** Requires the Secretary of Administration, in developing a telecommuting policy for state employees, to include identification of broad categories of positions determined to be ineligible to participate in telecommuting and the justification for that determination. The bill also requires each agency head in his annual report to the Secretary of Administration to include specific budget requests for information technology, software, or other equipment needed to increase opportunities for telecommuting and participation in alternate work locations. HB 2612; CH. 421.

§ 2.2-203.2:1 added. **Secretary of Administration; state job elimination due to privatization; report.** Requires the Secretary of Administration, on or before November 30 of each year, to report to the Governor and the General Assembly on the number of state jobs eliminated in the immediately preceding fiscal year due to the privatization of commercial activities to a commercial source. HB 2557; CH. 476.

§ 2.2-213.1 added. **Long-term health care public information campaign.** Requires the Secretary of Health and Human Resources and the Commissioner of Insurance to develop a long-term health care public information campaign to inform the citizens of the Commonwealth of (i) the impending long-term health care crisis, its effect on the Virginia Medicaid program, and its effect on the finances of families and their estates; (ii) alternatives to institutional long-term health care; and (iii) common terminology contained in long-term care insurance policies and certificates and explanations therefor. HB 2166; CH. 92.

§ 2.2-215. See § 10.1-1186.5; SB 1103.

§ 2.2-221.1 added. **Secretary of Public Safety; duties.** Requires the Secretary to establish a system for coordinating offender transitional and reentry services among state, local, and non-profit agencies. The bill also states the intent of the General Assembly that funds used for these purposes be leveraged to the fullest extent possible. HB 1763; CH. 153.

§ 2.2-426 amended. **Lobbyist Disclosure and Regulation Act; reporting.** Changes from January 5 to December 15 the date on which registered lobbyists must provide statements to legislative and executive officials with whom they have lobbied. The bill also changes the reporting period for the statements from January 1 through December 31 to December 1 through November 30. This bill is a recommendation of HJR 186 (2004) Joint Subcommittee. HB 2112; CH. 90.

§§ 2.2-507 and 10.1-501 amended. **Attorney General; duties; representation of soil and water conservation districts.** Allows the Attorney General to represent soil and water con-

servation districts and district directors in civil litigation if requested by the attorney for the Commonwealth. Currently such representation is provided by the attorney for the Commonwealth of the county or city in which the suit or action arises. SB 1294; CH. 236.

§ 2.2-703. See § 63.2-1702; HB 2512/SB 1183.

§§ 2.2-711 and 2.2-712. See § 37.1-134.14:1; SB 719.

§§ 2.2-720, 3.1-14, 3.1-73.5, 3.1-249.29, 4.1-115, 5.1-30.9, 10.1-1018, 10.1-1021, 10.1-1322, 15.2-5912, 17.1-100, 22.1-209.1:3, 23-1.01, 23-9.2:3.1, 23-38.84, 30-34.15, 30-84, 59.1-369, 62.1-222, and 63.2-1529 amended. §§ 10.1-1018.1 and 30-19.8:1 added; §§ 23-101 and 23-102 repealed. **Reporting requirements of certain agencies and collegial bodies.** Changes or clarifies the reporting requirements of certain reports by the Commissioner of Agriculture and Consumer Services (farmers' market system report and consumer affairs activities report), the Alcoholic Beverage Control Board (annual report), the Alzheimer's Disease and Related Disorders Commission (annual report), the Virginia College Savings Plan (annual report), the Board of Education (Virginia advancement via individual determination (VAID) report), the Department of Environmental Quality (air permit program evaluation report), the Hampton Roads Sports Facility Authority (annual report), Virginia Military Institute (annual report of the treasurer), the Virginia Racing Commission (annual report), the Pesticide Control Board (annual report), the Virginia Resources Authority (airports revolving fund annual report and annual report on activities), the Supreme Court of Virginia (judicial performance evaluation report), the board of visitors of Virginia's public universities and colleges (retirement compensation plans and annual financial reports), joint subcommittees (study reports), and legislative statutory commissions (annual reports). The bill also gives the Director of the Division of Legislative Automated Systems the authority to enter into agreements with the publishing authority to provide equivalent access to the reports, such as the hosting of the information on the publisher's website with a link from the General Assembly's homepage. HB 2321; CH. 633.

§§ 2.2-720, 2.2-2452, 2.2-2503, 2.2-2514, 2.2-2621, 2.2-2628, and 2.2-2705. See § 30-73.2; SB 1115.

§ 2.2-1100 amended. **Department of General Services; authority of the director.** Clarifies the authority of the Director of the Department of General Services to establish divisions within the Department and to reassign the duties of the Department among its divisions. HB 1944; CH. 385.

§§ 2.2-1104, 2.2-2101, and 2.2-3802. See § 9.1-102; HB 2216/SB 1153.

§ 2.2-1111 amended. **Department of General Services; regulations of the Division of Purchases and Supply; sheltered workshops.** Requires the Division of Purchases and Supply to adopt regulations that establish conditions under which a public body shall demonstrate a good faith effort to ensure that state contracts or subcontracts for goods or services that involve the manual packaging of bulk supplies or the manual

assemblage of goods where individual items weigh less than 50 pounds be offered to nonprofit sheltered workshops or other nonprofit organizations that offer transitional or supported employment services for the handicapped. HB 2326; CH. 817.

§§ 2.2-1124, 2.2-1132, 2.2-1149, 2.2-1150, 2.2-1153, 2.2-1404.1, 2.2-1514, 2.2-2007, 2.2-2901, 2.2-5004, and 2.2-5005. See § 23-9.6:1; HB 2866/SB 1327.

§ 2.2-1201 amended. **Department of Human Resource Management; employee suggestions program.** Provides that state employees who make a suggestion or proposal under the Employee Suggestion Program shall receive initial confirmation of receipt within 30 days. A determination of the feasibility of the suggestion or proposal shall occur within 60 days of initial receipt. The bill also requires the Department of Human Resource Management to report annually to the Governor and the General Assembly on (i) the number of proposals received and what, if any, actions were taken on them; (ii) the number of proposals that were implemented and the results of those efforts in eliminating or reducing state expenditures or improving operations; (iii) the number of dollars and awards made to employees for adopted proposals; (iv) the actual cost savings realized as a result of implementing such proposals; and (v) the number of proposals that were not implemented or acted upon with an explanation or justification for inaction. HB 1946; CH. 386.

§ 2.2-1501 amended; § 2.2-1502.1 added. **Department of Planning and Budget; powers and duties; school efficiency review program.** The bill requires school divisions to pay 25 percent of the cost of the school efficiency review in the fiscal year immediately following the completion of the final school efficiency review report. Provides for the Director of the Department of Planning and Budget to develop, coordinate and manage a school efficiency review program. The bill also provides, that commencing with reviews completed in fiscal year 2006, partial recovery of the cost of individual reviews may be made in the fiscal year beginning not less than 12 months and not more than 24 months following the release of a final efficiency review report for an individual school division. Such recovery may occur if the affected school division superintendent or superintendent's designee has not certified that at least half the recommendations have been implemented or at least half of the equivalent savings of such efficiency review have been realized. Lacking such certification, the school division shall reimburse the state for 25 percent of the cost of the school efficiency review. Such reimbursement shall be paid into the general fund of the state treasury. HB 1967; CH. 620.

§ 2.2-1822.1 amended. **Department of Accounts; recovery audits of state contracts.** Eliminates the 10 percent cap on the percentage of payment errors a private contractor may retain for performing recovery audits of state agency contracts. HB 2478; CH. 109.

§ 2.2-1837. See § 24.2-121; HB 2383/SB 898.

§ 2.2-1839. See § 54.1-3900.01; HB 2549/SB 831.



**§ 2.2-2002 amended; § 2.2-2002.1 added. Department of Veterans Services; department personnel.** Provides that the Commissioner shall be responsible for appointing the personnel assigned to each service office and for determining the compensation to be paid to such personnel. In determining the number of personnel assigned to each service office, the Commissioner is required to ensure the number of employees assigned to the processing of benefit claims is sufficient to maintain a ratio of one staff person for every 26,212 veterans residing in the Commonwealth. The Commissioner is also required to ensure that the personnel assigned to processing benefit claims provide these services to veterans in locations other than the service office at least one day per week. HB 2851; CH. 888.

**§ 2.2-2010 amended; § 2.2-2032 repealed. Virginia Information Technologies Agency; Virginia Information Providers Network.** Dissolves the Virginia Information Providers Network as a separate division of the Virginia Information Technologies Agency (VITA) and gives its authority directly to VITA. SB 1027; CH. 939.

**§ 2.2-2101.** See § 22.1-212.17; HB 1769.

**§ 2.2-2101.** See § 23-14; HB 2071/SB 1293.

**§§ 2.2-2101 and 2.2-2648 amended. Comprehensive Services Act; State Executive Council.** Adds two General Assembly members to the State Executive Council for Comprehensive Services for At-Risk Youth and Families. HB 2787; CH. 930.

**§ 2.2-2220 amended. Innovative Technology Authority.** Repeals the requirement for the Innovative Technology Authority to establish a technical advisory committee. Other entities now fulfill that role. HB 2860; CH. 439.

**§ 2.2-2235 amended. Virginia Economic Development Partnership Authority; membership of the board of directors.** Increases the membership of the board of directors of the Virginia Economic Development Partnership Authority from 13 to 19 by adding four members appointed by the Speaker of the House of Delegates and two members appointed by the Senate Committee on Rules. Under the bill, the six members appointed by the General Assembly shall reside in regions of the Commonwealth that have a higher unemployment rate than the statewide unemployment average as reported by the Virginia Employment Commission for the preceding four years from the date of appointment. The bill also provides for staggered initial terms of the new members. SB 1298; CH. 900.

**§ 2.2-2238.1 amended. Virginia Economic Development Partnership Authority; economic development services in distressed areas.** Requires various authorities, state agencies, and institutions of higher education to jointly develop and implement a rural economic development strategic plan that at a minimum addresses: (i) education, including pre-kindergarten, primary, secondary and post-graduate resources, and comprehensive workforce development programs, as they may pertain to the Workforce Development Act; (ii) infrastructure, including capital for water and sewer upgrading, waste management,

law enforcement, housing, primary and secondary roads, and telecommunications; (iii) traditional industrial development and industry retention programs, including assistance in financing and in workforce training; (iv) recreational and cultural enhancement and related quality of life measures, including parks, civic centers, and theaters; (v) agribusiness incentives to promote the use of new technologies, and the exploration of new market opportunities; and (vi) a revolving loan fund or loan guarantee program to help start or expand entrepreneurial activities, especially small business activities in rural communities. The bill also requires an annual report until the strategic plan is fully implemented. HB 2027; CH. 797/SB 893; CH. 737.

**§ 2.2-2285.** See § 59.1-284.1; HB 2061.

**§ 2.2-2318 amended. Virginia Tourism Authority.** Requires the Virginia Tourism Authority to develop a comprehensive plan to promote destinations of historical and other significance located throughout the Commonwealth in anticipation of the 400th anniversary of the Jamestown settlement. SB 1307; CH. 360.

**§§ 2.2-2328 through 2.2-2335 added. Virginia Defense Industrial Authority.** Establishes the Virginia Defense Industrial Authority to promote business, technology, transportation, education, economic development and other efforts in support of the mission, execution and transformation of the United States government military and national defense activities located in the Commonwealth. HB 2925; CH. 858.

**§§ 2.2-2459, 2.2-2460, and 2.2-2461 added. Latino Advisory Board.** Establishes the Latino Advisory Board to advise the Governor regarding the development of economic, professional, cultural, educational, and government links between the Commonwealth of Virginia, the Latino community in Virginia, and Latin America. The Council is composed of 21 citizen members of whom at least 15 must be of Latino descent. In addition, Secretaries of the Commonwealth, Commerce and Trade, Education, Health and Human Resources, Public Safety, and Transportation, or their designees, serve as ex officio members. The bill has a delayed effective date of October 15, 2005. HB 2420; CH. 636 (effective 10/15/05).

**§ 2.2-2514 amended. Virginia Research and Technology Advisory Commission; membership.** Increases from 29 to 31 the membership of the Virginia Research and Technology Advisory Commission by adding the Vice-Provost of Research at the Eastern Virginia Medical School or his designee and one citizen member representing research- and technology-intensive industries appointed by the Governor. The bill also contains technical amendments. HB 1691; CH. 611.

**§ 2.2-2514 amended. Virginia Research and Technology Advisory Commission.** Increases the membership of the Virginia Research and Technology Advisory Commission from 29 to 31 by adding the Eastern Virginia Medical School as an academic research institution member and by adding an additional member representing research- and technology-intensive industries appointed by the Governor. The bill also includes

technical amendments to reference the correct titles and names of certain ex officio members and to alphabetize the research institutions. SB 1148; CH. 687.

**§§ 2.2-2628 and 2.2-2629 amended. Council on Indians.** Increases the membership of the Council on Indians from the current 16 members to 18. The bill gives the Council two new powers: (i) to advise the Governor on issues affecting Virginia's Indian communities and (ii) to educate the public on Virginia Indians. HB 1712; CH. 61.

**§ 2.2-2639 amended. Human Rights Council; limitation on causes of actions.** Increases from 180 to 300 days the time within which an action may be brought by an employee challenging an unlawful discharge. The bill contains technical amendments. HB 2907; CH. 857.

**§ 2.2-2639 amended. Employment discrimination; causes of action in cases alleging employment discrimination.** Provides that the current limitation of 180 days from the discharge for bringing a court action alleging employment discrimination is extended in instances where the employee has filed a discrimination complaint with the Virginia Human Rights Council or a local human rights or human relations agency. In such instances the time for bringing the court action is 90 days from the date that the Council or a local human rights or human relations agency or commission has rendered a final disposition on the complaint. SB 1079; CH. 756.

**§ 2.2-2639 amended. Virginia Human Rights Act.** Extends the amount of time that an employee has to bring an action under the Act from 180 days to 300 days after discharge from employment. SB 1258; CH. 770.

**§§ 2.2-2664, 2.2-5300, 2.2-5304, and 2.2-5305 amended; § 2.2-5304.1 added. Virginia Interagency Coordinating Council; establishment of local early intervention systems.** Authorizes the state lead agency for early intervention to contract with local lead agencies for the implementation of local early intervention systems statewide. Under the bill, a local lead agency shall have the duty to (i) establish and administer a local system of early intervention services that are in compliance with all relevant federal and state policies and procedures, (ii) implement consistent and uniform policies and procedures for the determination of parental liability and fees for intervention services, and (iii) manage relevant state and federal early intervention funds for the local early intervention system. SB 1188; CH. 695.

**§ 2.2-2666.1.** See § 46.2-744.1; SB 884.

**§§ 2.2-2690 through 2.2-2695 added. The Interagency Civil Admissions Advisory Council established.** Establishes the Interagency Civil Admissions Advisory Council (the Council) as an advisory council in the executive branch of state government. The purpose of the Council is to study issues related to the provisions of Virginia law regarding the emergency custody, temporary detention, admission, and involuntary inpatient and outpatient treatment of persons with mental illness, to propose recommendations and provide advice addressing those issues, and to improve the coordination and

effectiveness of the implementation of those recommendations. HB 2037; CH. 81.

**§§ 2.2-2690, 2.2-2691, 2.2-2905, and 2.2-3705.5.**  
See § 37.2-100; SB 1023.

**§ 2.2-2702.** See § 58.1-344.3; HB 2303.

**§ 2.2-2702.** See § 58.1-344.3; SB 803.

**§§ 2.2-2720 and 2.2-2723 amended. Center for Rural Virginia.** Provides that in the event of the dissolution of the Center, assets shall be distributed for one or more exempt purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code or shall be distributed to the Commonwealth or a local government for a public purpose. The bill contains an emergency clause. SB 1301; CH. 703 (effective 3/23/05).

**§§ 2.2-2725 through 2.2-2731.** See § 30-192.7; SB 804.

**§ 2.2-2818.** See § 38.2-5601; HB 1492/SB 1097.

**§ 2.2-2818.** See § 59.1-200; HB 2482.

**§ 2.2-2818.** See § 38.2-3407.13:2; SB 904.

**§ 2.2-2902.1 added. Virginia Personnel Act; rights of employees to contact elected officials.** Provides that nothing in the Virginia Personnel Act or Chapter 12 (§ 2.2-1200 et seq.) of Title 2.2 shall be construed to prohibit or otherwise restrict the right of any state employee to express opinions to state or local elected officials on matters of public concern, nor shall a state employee be subject to acts of retaliation because the employee has expressed such opinions. The bill defines "matters of public concern" as those matters of interest to the community as a whole, whether for social, political, or other reasons and shall include discussions that disclose any (i) evidence of corruption, impropriety, or other malfeasance on the part of government officials; (ii) violations of law; or (iii) incidence of fraud, abuse, or gross mismanagement. HB 2872; CH. 483.

**§§ 2.2-2903 and 15.2-1509 amended. Veterans; hiring preference.** Requires the state in its employment selection practices to give additional consideration to veterans who have a service-connected disability rating fixed by the United States Veterans Administration. The bill also requires local governing bodies to give a preference to veterans in their employment policies and practices. HB 2428; CH. 413.

**§ 2.2-3114 amended. Conflict of Interests Act; disclosure filings.** Provides that the Secretary of the Commonwealth distributes the required disclosure statement forms to state officers and employees, including officers appointed by legislative authorities. This bill is a recommendation of the Joint Subcommittee to Study the Appropriate Balance of Power between the Legislative and Executive Branches to Support a Two-Term Governor in the Commonwealth (HJR 13, 2004). HB 2136; CH. 169.

**§ 2.2-3118.1 added. State and Local Government Conflict of Interest Act; disclosure of economic interests.** Provides that the filing of a single current statement of economic interests or financial disclosure statement by a state officer or

employee shall suffice as the economic interest statement or financial disclosure statement for all state positions or offices held or sought during a single reporting period. The bill also provides that a state officer or employee who meets the annual January filing requirement shall not be required to file an additional statement upon such individual's reappointment provided that the reappointment occurs within 12 months after the submission of the annual filing. The bill is a recommendation of the HJR 186 (2004) Joint Subcommittee. HB 2111; CH. 397.

**§ 2.2-3306 amended. Arbor Day.** Changes the day that Virginia celebrates Arbor Day from the second Friday in April to the last Friday in April. This change brings Virginia's day into conformity with the day of the federally designated Arbor Day. The bill contains an emergency clause. SB 791; CH. 242 (effective 3/20/05).

**§ 2.2-3311.1 added. Designation of a day of recognition for direct care staff and other long term care professionals.** Designates the second Wednesday of every June as a day of recognition to acknowledge the contributions of and pay tribute to the direct care staffs and members of other professions that provide dedicated assistance and health care services to enhance the quality of life of persons receiving long term care in the Commonwealth. HB 1980; CH. 454.

**§§ 2.2-3601, 2.2-3602, 2.2-3605, 32.1-48.016, and 44-146.23 amended. Civil immunity; certain emergency services and preparedness personnel.** Amends the immunity provisions of the Virginia State Government Volunteers Act, the law relating to isolation of persons with communicable diseases of public health threat, and the emergency services and disaster statutes to cover persons who serve in a Medical Reserve Corps (MRC) unit or on a Community Emergency Response Team (CERT). HB 2520; CH. 474.

**§ 2.2-3705.2 amended. Freedom of Information Act (FOIA); public safety exemptions; certain 911 or E-911 records.** Exempts from the mandatory disclosure requirements of FOIA, subscriber data (defined as the name, address, telephone number, and any other information identifying a subscriber of a telecommunications carrier) collected by a local governing body in accordance with the Enhanced Public Safety Telephone Services Act (§ 56-484.12 et seq.), and other identifying information of a personal, medical or financial nature provided to a local governing body in connection with a 911 or E-911 emergency dispatch system or an emergency notification or reverse 911 system, if such records are not otherwise publicly available. The bill further provides that nothing shall prevent the release of subscriber data generated in connection with specific calls to a 911 emergency system, where the requester is seeking to obtain public records about the use of the system in response to a specific crime, emergency or other event as to which a citizen has initiated a 911 call. HB 2399; CH. 410.

**§ 2.2-3705.3 amended. Freedom of Information Act; exemptions; Department of Criminal Justice Services.** Exempts from mandatory disclosure records of active investi-

gations that are conducted by the Department of Criminal Justice Services involving applicants and regulants as private security businesses, special conservators of the peace, bail bondsmen, and bail enforcement agents. HB 2729; CH. 601.

**§ 2.2-3705.5.** See § 54.1-2969; HB 2516/SB 1109.

**§§ 2.2-3705.6 and 2.2-3711 amended. Virginia Freedom of Information Act; exemptions; local wireless service authorities.** Excludes from the mandatory disclosure requirements of the Virginia Freedom of Information Act (FOIA) confidential proprietary records and trade secrets developed by or for a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) that provides qualifying communications services as authorized by Article 5.1 (§ 56-484.7:1 et seq.) of Chapter 15 of Title 56 where disclosure of such information would be harmful to the competitive position of the authority. The bill also grants an open meeting exemption for discussions of such records by a local wireless service authority. The bill contains technical amendments. HB 2404; CH. 411.

**§§ 2.2-3705.6 and 2.2-3711.** See § 56-265.4:4; SB 959.

**§ 2.2-3705.7.** See § 44-146.18; HB 2032.

**§ 2.2-3705.7.** See § 17.1-913; SB 1157.

**§§ 2.2-3707, 2.2-3707.01, and 2.2-3708 amended. Freedom of Information Act; electronic communication meetings.** Reduces the notice required for electronic communication meetings from 30 days to seven working days. The bill also (i) eliminates the 25 percent limitation on the number of electronic meetings held annually; (ii) eliminates the requirement that an audio or audio/visual recording be made of the electronic communication meeting, but retains the requirement that minutes be taken pursuant to § 2.2-3707; (iii) allows for the conduct of closed meetings during electronic meetings; (iv) changes the annual reporting requirement from the Virginia Information Technology Agency to the Virginia Freedom of Information Advisory Council and the Joint Commission on Technology and Science; and (v) expands the type of information required to be reported. The bill specifies that regular, special, or reconvened sessions of the General Assembly held pursuant Article IV, Section 6 of the Constitution of Virginia are not meetings for purposes of the electronic communication meeting provisions. The bill also defines "electronic communication means." The bill is a recommendation of the VA Freedom of Information Advisory Council and the Joint Commission on Technology and Science. SB 1196; CH. 352.

**§ 2.2-3711.** See § 24.2-625.1; HB 2930.

**§§ 2.2-4006, 2.2-4021, 10.1-107, 10.1-502, 10.1-603.4, and 10.1-603.12:2 amended; § 10.1-566.1 added. Stormwater management program.** Updates the Department of Conservation and Recreation's stormwater management program authorities including: (i) exempting from the Administrative Process Act permits issued through a federally delegated program, (ii) changing the timing of the terms for the three at-large members of the Soil and Water Conservation Board, (iii) creat-

ing new reporting requirements for local plan-approving authorities, and (iv) authorizing the Soil and Water Conservation Board to establish a statewide permit fee schedule for stormwater management related to municipal separate storm sewer system permits. These changes are necessitated to clarify language related to the 2004 Stormwater Management Act consolidation. HB 2365; CH. 102.

**§§ 2.2-4007 and 2.2-4027 amended; § 2.2-4007.1 added. Administrative Process Act; regulatory flexibility for small businesses.** Requires the Department of Planning and Budget, in addition to the economic impact analysis currently required for proposed regulations, to identify and estimate the number of small businesses subject to the regulation; the projected reporting, recordkeeping and other administrative costs required for compliance by such small businesses with the regulation; the probable effect of the regulation on affected small businesses; and any alternative method for achieving the purpose of the regulation while minimizing adverse impact on small businesses. A small business is defined as a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million. An agency proposing a regulation is also required to prepare a regulatory flexibility analysis in which it considers utilizing regulatory methods that will accomplish the objectives of applicable law while minimizing the adverse effect on small businesses. Agencies are also required to periodically review their regulations to determine if they should be continued, amended or repealed, in order to minimize the economic effect on small businesses. The measure also gives small businesses the right to judicial review of agency compliance with these requirements. HB 1948; CH. 619/SB 1122; CH. 682.

**§§ 2.2-4303 and 2.2-4304 amended. Virginia Public Procurement Act; methods of procurement.** Requires approval of the Chief Information Officer of the Commonwealth for the purchase of information technology and telecommunications goods and services from a public auction or off of another public body's contract. The bill also provides that its provisions do not in any way amend or affect (i) the Commonwealth's institutions of higher education as such institutions are delegated the authority to purchase information technology facilities and services pursuant to any appropriation act adopted by the General Assembly or (ii) delegations of telecommunications procurement granted by the Virginia Information Technologies Agency. HB 2051; CH. 394.

**§ 2.2-4324 amended. Virginia Public Procurement Act; preference for Virginia firms.** Provides that whenever the lowest responsive and responsible bidder is a resident of any other state and such state under its laws allows a resident contractor of that state a preference, a like preference shall be allowed to the lowest responsible bidder who is a resident of Virginia. The bill provides if the lowest bidder is a resident of another state with an absolute preference, that bid shall not be considered. Currently, a preference for Virginia resident may be given. The bill further requires the Department of General Services to post and maintain certain information on the

agency's website regarding preferences provided by other states. HB 2151; CH. 894.

**§ 2.2-4343.1.** See § 57-16.1; HB 2697.

**§ 2.2-4363 amended. Virginia Public Procurement Act; contract disputes.** Provides a default contract claim procedure in the event a public body has not included such a procedure in the procurement contract. The bill also provides that a failure of a public body to render a final decision on a contractual claim shall be deemed a denial of the claim, for which the contractor would have the right to institute legal action. The bill contains technical amendments. HB 2283; CH. 815.

**§ 2.2-4510 amended. Investment of funds in corporate notes; Department of the Treasury.** Allows the Department of the Treasury to invest money belonging to it or within its control in high quality corporate notes with a rating of at least BBB or Baa2 by two rating agencies as long as one of the rating agencies is either Moody's Investors Service, Inc., or Standard and Poors, Inc. If investing in investment securities rated below A, the Commonwealth Treasury Board must establish guidelines concerning the investment and monitor their performance. HB 932; CH. 30.

**§§ 2.2-5100, 2.2-5101, 2.2-5103, 2.2-5104 amended; § 2.2-5102.1 added. Investment Partnership Act.** Authorizes the Virginia Economic Development Partnership authority to issue grants under certain circumstances and distinguishes between Virginia companies that are located in large metropolitan areas and those located in other areas of the state by establishing different criteria for eligibility in terms of job creation and capital investment. The bill makes certain businesses engaged in conducting research and experimental development that supports manufacturing in the physical, engineering, and life sciences eligible for Virginia Investment Performance Grants. The bill also caps investment performance grants at \$1.5 million for eligible projects. HB 2732; CH. 431.

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## TITLE 2.2. MISCELLANEOUS - ADMINISTRATION OF GOVERNMENT.

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**Alternative Dispute Resolution; pilot project.** Allows the Virginia Information Technologies Agency (VITA) to promulgate administrative rules concerning the use of alternative dispute resolution in lieu of the provisions set forth in the Virginia Public Procurement Act concerning procurement protests. The Chief Information Officer of the Commonwealth must report to the General Assembly on the implementation of the rules. The pilot project will expire on July 1, 2008. HB 2054; CH. 577.

**Clerks of court; posting certain information on the Internet; prohibitions.** Extends from July 1, 2005, to July 1, 2007, the sunset clause prohibiting clerks from posting certain information on a court-controlled website. Circuit court clerks are immunized against suit arising from any acts or omissions re-

lated to providing remote access on the Internet so long as the clerk was not grossly negligent and did not engage in willful misconduct. HB 2052; CH. 798.

**Competitive Government Act; reporting dates.** Changes from January 1, 2006, to October 1, 2005, the date by which the report of the commercial activities being performed by state employees at state agencies and institutions must be completed by the Secretary of Administration. The bill also changes from January 1 to October 1 of each biennium the date by which subsequent reports of examination of commercial activities not already examined must be completed. HB 2844; CH. 566.

**Electronic meetings of the Board of Visitors of the University of Virginia.** Extends from 2005 to 2007 the sunset for the exception to the Freedom of Information Act requirements for holding telephonic or video broadcast meetings that has been accorded to the Board of Visitors of the University of Virginia. The bill requires University of Virginia to report to the Virginia Freedom of Information Advisory Council on these meetings, in addition to the Secretary of Education and the General Assembly. SB 752; CH. 17.

**Posting and availability of certain information on the Internet.** Clarifies that circuit court clerks may provide secure remote access to any document that is filed among the land records in the circuit court, and also allows the clerks to provide secure remote access by any person and his counsel to documents filed in matters to which such person is a party. "Land records" are defined as those records authorized to be recorded that affect title to real property. Nothing in the revised statute prohibits the Supreme Court or other courts from providing online access to a case management system that may include abstracts of case filings and proceedings in the courts of the Commonwealth. The sunset clause applicable to this section is extended from July 1, 2005, to July 1, 2007. SB 1192; CH. 763.

**Veterans' Care Center; expansion.** Authorizes the Governor to request federal funds to expand the capacity of the Veterans' Care Center by an additional 80 beds. Upon receipt of the federal funds, the Treasurer shall advance a no-interest loan of \$2.8 million to the Department of Veterans Services for the state share of the expansion. HB 2850; CH. 852.

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## TITLE 3.1. AGRICULTURE, HORTICULTURE AND FOOD.

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§§ 3.1-14, 3.1-73.5, and 3.1-249.29. See § 2.2-720; HB 2321.

**§ 3.1-14.3 added. Right to consume farm products.** Provides that no regulation shall prohibit a person, his immediate family, or his guests from consuming products or commodities grown or processed on his property provided that the products or commodities are not offered for sale. HB 2295; CH. 882.

**§§ 3.1-18.13 through 3.1-18.25 added. Agricultural Enterprise Act of 2005; penalty.** Directs the Department of Agriculture and Consumer Services to establish, as an element of the Office of Farmland Preservation, agricultural enterprise districts upon application by localities with established agricultural or forestal districts, locally designated agricultural enterprise districts, or purchase of development rights programs. "Qualified agricultural businesses" and "qualified farm businesses" located in such districts may apply to the Department for assistance in developing a new business plan and grant funding for up to 50 percent of the associated costs of implementing that plan, up to a maximum \$500,000. "Qualified agricultural businesses" are agricultural businesses that establish a new business operation or plan to expand and improve an existing operation within a designated agricultural enterprise district. "Qualified farm businesses" are farm businesses that establish a new agricultural or forestal production operation or plan to expand or improve an existing operation within an agricultural enterprise district. This bill contains a delayed enactment clause of January 1, 2007, which is conditioned upon funding for the program being included in the appropriations act for fiscal years 2006-2008. HB 1947; CH. 795 (effective - see bill).

**§§ 3.1-22.53 through 3.1-22.77 added; §§ 3.1-22.38 through 3.1-22.51 repealed. Horse Industry Board; penalty.** Authorizes the Board of Agriculture and Consumer Services, upon petition, to conduct a referendum of horse owners in the Commonwealth on the question of whether or not an assessment of \$3 per ton or 7.5 cents per 50-pound bag of manufactured horse feed should be established to support additional market development, education, publicity, research, and promotion of the equine industry. HB 2423; CH. 588/SB 1009; CH. 497.

**§ 3.1-249.28 amended. Membership of the Pesticide Control Board.** Changes the membership of the Pesticide Control Board. Currently at least one member of the Board is to represent commercial applicators. Under this bill, at least one of the two appointees representing the commercial sale or application sector must be a structural commercial applicator. HB 1644; CH. 282/SB 699; CH. 238.

**§ 3.1-336.2 amended. Master Settlement Agreement; release of escrow funds.** Implements uniform language concerning the release of escrow funds to cigarette manufacturers that are not participating manufacturers under the Master Settlement Agreement. At the manufacturer's request, the new provisions will not be applied to those escrow funds associated with cigarettes sold prior to July 1, 2005, for which cigarettes the manufacturer places funds into escrow on or before April 15, 2006. HB 2629; CH. 4/ SB 1202; CH. 870.

**§ 32.1-366 amended; §§ 3.1-336.2:1, 3.1-336.2:2, and 58.1-439.15:01 added. Assignment of escrow funds by non-participating tobacco manufacturers; incentive payments for assignment.** Allows nonparticipating tobacco manufacturers to assign tobacco escrow funds to the Commonwealth and after certain amounts are used for incentive payments, the re-

mainder goes into the Virginia Health Care Fund. HB 2919; CH. 899.

**§ 32.1-366 amended; §§ 3.1-336.2:1, 3.1-336.2:2, and 58.1-439.15:01 added. Assignment of escrow funds by non-participating tobacco manufacturers; incentive payments for assignment.** Allows nonparticipating tobacco manufacturers to assign tobacco escrow funds to the Commonwealth and after certain amounts are used for incentive payments, the remainder goes into the Virginia Health Care Fund. SB 1332; CH. 901.

**§§ 3.1-358 and 3.1-389.** See § 8.01-2; SB 1118.

**§§ 3.1-383, 3.1-411, and 3.1-412.** See § 1-200; HB 2640.

**§§ 3.1-618 and 3.1-626 amended; §§ 3.1-636.1 through 3.1-636.12 added. Referendum on question of levying excise tax on apples; penalty.** Directs the Board of Agriculture and Consumer Services to authorize the holding of a referendum on the levy of an excise tax of 2.5 cents per tree run bushel of ungraded apples grown in the Commonwealth for sale by producers of at least 5,000 tree run bushels per calendar year. The bill defines “tree run bushel” as a bushel of harvested apples that have not yet been graded or sized. HB 1746; CH. 875/SB 1008; CH. 864.

**§ 3.1-796.84 amended. Permits to sell companion animals; penalty.** Authorizes localities that adopt an ordinance to require permits for pet shops or companion animal dealers to provide either a criminal penalty not to exceed a Class 3 misdemeanor or a civil penalty not to exceed \$500 for any violation of the ordinance. HB 2338; CH. 307.

**§ 3.1-796.94 amended. Enforcement of animal laws in towns.** Gives towns the option of adopting by reference any ordinance of the surrounding county to be applied within its town limits, instead of adopting an ordinance of its own. HB 2221; CH. 304.

**§§ 3.1-928, 3.1-969.10, and 3.1-969.12 amended. Weights and measures; inspections.** Eliminates (i) the annual minimum inspection of commercial weights and measures by the Department of Agriculture and Consumer Services and grants the Commissioner of Agriculture and Consumer Services discretion to determine the frequency of inspections, and (ii) the required official inspection of new or used weights or measures. This bill also (i) allows the Commissioner to accept private companies’ inspection of weights and measures as official inspections and (ii) requires that the Commissioner report annually to the General Assembly on the Department’s testing and inspection activities for the weights and measures program including the number and frequency of inspections. HB 2837; CH. 850.

**§§ 3.1-1089, 3.1-1090, and 3.1-1091 amended. Assessment on cotton.** Authorizes the Board of Agriculture and Consumer Services, upon petition, to conduct a referendum of cotton producers in the Commonwealth on the question of whether or not the Cotton Board should be authorized to increase the current assessment of \$0.85 per bale of ginned cotton by a maximum

of \$0.15 to support education, research, and promotion of the growth and use of cotton. HB 2737; CH. 326.

**§ 3.1-1108.** See § 30-73.2; SB 1115.

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## TITLE 4.1. ALCOHOLIC BEVERAGE CONTROL ACT.

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**§§ 4.1-100, 4.1-206, 4.1-231, and 4.1-233 amended. Alcoholic beverage control; wine and beer license for day spas.** Creates a day spa license that allows the licensee to give no more than two five-ounce glasses of wine or one 12-ounce glass of beer to customers of the day spa for on-premises consumption. The bill defines day spa and sets the amount of state and local license taxes and also amends the definition of alcoholic beverages to include flavored malt beverages under certain circumstances. The bill contains technical amendments. HB 1822; CH. 911.

**§ 4.1-115.** See § 2.2-720; HB 2321.

**§ 4.1-119 amended. Alcoholic Beverage Control Board; regulations; purchases by certain licensees.** Provides that the Alcoholic Beverage Control Board shall provide notice to licensees on Board policies relating to the assignment of government stores from which licensees may purchase products and any procedure for the licensee to elect to make purchases from an alternative government store. HB 2710; CH. 651.

**§ 4.1-126 amended. Alcoholic beverage control; mixed beverage licenses for certain properties.** Authorizes the Alcoholic Beverage Control Board to grant mixed beverage licenses to establishments to be located (i) on property fronting U.S. Route 11, with portions fronting Route 659, adjoining a city with a population between 17,000 and 18,000 and located approximately 2,700 feet north of mile marker 7.7 on Interstate 81; and (ii) on property bounded on the north by U.S. Route 11 and to the south by Interstate 81, and located between mile markers 8.1 and 8.5 of Interstate 81. Both properties are located in Washington County. The bill contains technical amendments. HB 2582; CH. 646/SB 1151; CH. 689.

**§§ 4.1-200, 4.1-305, 4.1-306, and 16.1-278.9 amended. Underage drinking and provision of alcohol; penalties.** The bill criminalizes underage consumption and punishes anyone who aids or assists in providing alcohol to an underage person with a Class 1 misdemeanor. HB 2255; CH. 895.

**§§ 4.1-209, 4.1-215, 4.1-231, and 4.1-233 amended. Alcoholic beverage control; limitations on manufacturers; exception.** Allows a manufacturer of beer or wine to obtain only one banquet license for a special event lasting no more than three consecutive days. Current law provides that a banquet license is required for each day of an event. The bill increases the state and local license tax for the three-day ban-

quet license to \$100 and \$20 respectively. The bill contains technical amendments. HB 1721; CH. 784.

**§ 4.1-209 amended. Alcoholic beverage control; wine and beer licenses.** Authorizes the granting of a retail on-premises wine and beer license to persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility which has capacity for more than 9,500 persons and is located in any county operated under the county manager form of government (Henrico County). HB 2740; CH. 652.

**§ 4.1-230 amended. Alcoholic beverage control; applications for licenses; criminal history checks.** Provides that the Alcoholic Beverage Control Board may waive, for good cause shown, the requirement for a criminal history records search and completed personal data form for officers, directors, non-managing members, or limited partners of any applicant corporation, limited liability company, or limited partnership. SB 1309; CH. 361.

**§ 4.1-306 amended. Purchase of alcohol for others; penalties.** Allows the court to suspend for up to one year the driver's license of someone who purchases alcohol for someone who is underage, intoxicated, or interdicted. A restricted permit is allowed. HB 2791; CH. 898.

**§ 4.1-352.** See § 9.1-102; HB 2216/SB 1153.

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## TITLE 5.1. AVIATION.

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**§ 5.1-30.9.** See § 2.2-720; HB 2321.

**§ 5.1-88.2 amended. Aircraft insurance requirements.** Allows proof of financial responsibility with respect to ultralight aircraft to be satisfied by a liability insurance policy issued by a surplus lines carrier. Currently, ultralight aircraft may be insured by a single-limit policy with limits of \$100,000, but the policy must be issued by an insurance company licensed in Virginia. Insurance on other types of aircraft may currently be obtained either from a licensed insurance company or through a surplus lines broker. HB 1792; CH. 451.

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## TITLE 5.1. MISCELLANEOUS - AVIATION.

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**Clarksville-Boydton Airport Commission.** Allows the towns of Boydton and Clarksville to create an airport commission with powers typical of other airport commissions. SB 1113; CH. 680.

**Roanoke Regional Airport Commission.** Allows the Commission to change the name of Roanoke Regional Airport, Woodrum Field to another name, provided the words "Woodruff Field" are part of the new name. The bill makes other technical and editorial corrections as well. HB 1597; CH. 279.

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## TITLE 6.1. BANKING AND FINANCE.

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**§ 6.1-2.9:8.** See § 38.2-5601; HB 1492/SB 1097.

**§ 6.1-2.23:2 added. Consumer Real Estate Settlement Protection Act; separate charge limited.** Prohibits settlement agents from charging more than \$10 for complying with requirements that settlement agents collect, maintain, and report to the Department of Taxation information regarding transactions involving the transfer of title to real estate. HB 1586; CH. 780/SB 875; CH. 734.

**§ 6.1-11 amended. Business of banks.** Enumerates the business activities in which banks are authorized to engage. Banks are authorized to engage directly in activities in which a controlled subsidiary corporation may engage, including transacting business as a real estate brokerage firm. Other enumerated business activities include acting as an agent in the sale of insurance and annuities; dealing in or making a market in securities; providing financial, investment, or economic advisory services; and providing other products and services that the State Corporation Commission deems to be financial in nature. HB 2571; CH. 320.

**§§ 6.1-43, 6.1-44.17, 6.1-44.19, 6.1-100.1, 6.1-194.88, and 6.1-194.150.** See § 13.1-603; SB 1228.

**§§ 6.1-63 and 6.1-66 amended. Mortgage loans by state banks.** Eliminates requirements that certain mortgage loans be amortized by periodic payments of principal and interest or by regular payments of principal. A provision of the Code that allows the Commissioner of Financial Institutions to authorize investment in mortgage loans that provide for lesser payments during early periods of maturity of such loans is eliminated. SB 1029; CH. 263.

**§§ 6.1-119.1, 6.1-194.93:1, 6.1-225.65, and 59.1-92.22 added. Use of the name, logo or symbol of a financial institution; penalty.** Prohibits any person from using the name, logo or symbol of a bank, trust company, savings institution, or credit union, or a deceptively similar name, logo or symbol, in any marketing material in a manner that would cause a reasonable person to believe that the material is from the financial institution. A violation is punishable as a Class 1 misdemeanor. In addition, a financial institution whose name, logo or symbol is used in such manner is entitled to injunctive relief, the destruction of the material, and a private action for damages, disgorgement of profit, and attorneys' fees, under the Virginia Trademark and Service Mark Act. SB 776; CH. 240.

**§§ 6.1-245, 6.1-254, and 6.1-256.1 amended; § 6.1-258.1 added. Consumer Finance Act licensing.** Requires a person to seek approval from the State Corporation Commission prior to acquiring 25 percent or more of the ownership interest in a lender licensed under the Consumer Finance Act. The measure also updates the Act by modifying the contents of the application for licensure, establishing qualifications for principals of new licensees, and requiring licensees to give notice to the

Commissioner of the Bureau of Financial Institutions of the opening or closing of offices and of changes in senior officers, members, partners, and directors. HB 1777; CH. 63.

**§ 6.1-330.54 amended. Judgment rate of interest.** Provides that the rate of interest on a judgment is that rate in effect at the time of entry of the judgment, and is not affected by any subsequent changes to the statutory rate of interest. HB 2010; CH. 455.

**§ 6.1-330.63 amended. Revolving credit agreements.** Affirms that a state bank or savings institution is authorized to amend the terms of a revolving credit agreement by following the procedures set forth in the agreement for effecting changes in its terms, subject to compliance with the federal Truth in Lending Act. This provision is stated to be declaratory of existing law. The measure also specifies that, unless a contract or plan otherwise expressly provides, the lender may amend the contract or plan in any respect at any time and from time to time, whether or not the amendment or the subject of the amendment was originally contemplated or addressed by the lender and borrower or is integral to their relationship. SB 936; CH. 670.

**§§ 6.1-363.2, 6.1-363.4, and 6.1-363.7 amended. Credit counseling.** Eliminates the requirement that licensed credit counseling agencies be nonprofit, tax-exempt organizations. The measure also requires that an applicant for licensure as a credit counseling agency not be the subject of a current material administrative or regulatory proceeding and not have received a material adverse determination in any past administrative or regulatory proceedings. An applicant is also required to file a consumer disclosure form with the State Corporation Commission. HB 2460; CH. 315.

**§ 6.1-371 amended. Money transmission services; exemption from licensure.** Exempts a person, firm, corporation or other entity from the requirement that it be licensed by the State Corporation Commission to engage in the business of money transmission, to the extent of providing money transmission services to or for banks or other financial institutions. HB 2457; CH. 314.

**§§ 6.1-444, 6.1-445, and 6.1-459 amended. Payday lending practices.** Prohibits a licensed payday lender from entering into a payday loan with a member of the armed forces from a location that has been declared off-limits by a military base commander. With respect to payday loans to military personnel or their spouses, lenders shall not garnish military wages or conduct collection activities when the service member is deployed to a combat or combat support posting. The measure also clarifies that loans based on income tax refunds are not payday loans, and prohibits unlicensed person from engaging in payday loans or arranging or brokering payday loans for consumers residing in Virginia, whether or not the lender has a location in Virginia. HB 1156; CH. 571.

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## TITLE 7.1. BOUNDARIES, JURISDICTION AND EMBLEMS OF THE COMMONWEALTH.

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**§§ 7.1-1 through 7.1-43.** See § 1-200; HB 2640.

**§ 7.1-40.7:1 added. Emblems of the Commonwealth; designation of the state bat.** Designates the Virginia Big-eared bat (*Corynorhinus townsendii virginianus*) as the official bat of the Commonwealth. HB 2579; CH. 557.

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## TITLE 8.01. CIVIL REMEDIES AND PROCEDURE.

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**§ 8.01-2.** See § 37.2-100; SB 1023.

**§§ 1-13.23:1, 3.1-358, 3.1-389, 8.01-2, 8.01-23, 8.01-33, 8.01-272, 8.01-282, 8.01-283, 8.01-331, 8.01-336, 8.01-426, 8.01-670, 9.1-406, 15.2-4119, 16.1-296, 17.1-124, 17.1-131, 17.1-213, 17.1-240, 17.1-249, 17.1-275, 17.1-278, 17.1-279, 17.1-513, 17.1-520, 18.2-500, 18.2-507, 19.2-385, 19.2-386.13, 20-96, 26-21, 26-29, 31-8.1, 40.1-49.4, 43-62, 51.5-46, 53.1-70, 55-19, 55-277, 56-521, 56-522, 57-9, 57-16, 58.1-1727, 64.1-106, and 64.1-179 amended; §§ 8.01-270 and 8.01-284 repealed. Circuit court civil actions.** Creates a single form of pleading for civil actions. Legal and equitable claims will remain distinct, and the situations where issues are heard by a jury are unchanged. The bill is scheduled to become effective January 1, 2006, and has been endorsed by the Judicial Council of Virginia. SB 1118; CH. 681 (effective 1/1/06).

**§ 8.01-4.3.** See § 18.2-434; HB 2652.

**§§ 8.01-15.2 and 8.01-428 amended. Servicemembers Civil Relief Act; attorney fees; failure to file affidavit.** Provides that (i) where appointment of counsel is required for a servicemember pursuant to federal law the court may assess attorneys' fees and costs against any party as the court deems appropriate, and (ii) failure to file an affidavit relating to the defendant's status as a servicemember is not grounds to set aside an otherwise valid default judgment against a defendant who was not, at the time of service of process or entry of default judgment, a servicemember. HB 1757; CH. 909.

**§ 8.01-27.4 amended. Civil recovery for professional services.** Corrects a cross-reference in the statute providing for civil recovery for professional services from a citation to the statute dealing with warranties made by attorney signatures and other actions to the statute providing for additional recovery in certain civil actions concerning checks. HB 1604; CH. 141.

**§ 8.01-44.4 amended. Civil action for shoplifting and employee theft.** Conforms the civil recovery provisions for shoplifting with the criminal shoplifting provisions by (i) bas-



ing civil recovery on retail value of the goods rather than the merchant's actual wholesale cost, and (ii) making the civil recovery provision applicable when an offender appropriates goods or cash to another. HB 1616; CH. 142/SB 1209; CH. 234.

**§ 8.01-127.1 amended. Unlawful detainer; removal.** Makes the provisions governing removal of residential unlawful detainer actions applicable to unlawful detainer actions involving commercial tenancies. HB 1588; CH. 138.

**§ 8.01-128 amended. Verdict and judgment; damages.** Provides that where the court awards a plaintiff judgment for unlawful detainer or entry, the plaintiff may choose to receive a final, appealable judgment for possession and continue the case for up to 90 days in order to establish final rent and damages. At least 15 days prior to any authorized continuance date, the plaintiff shall mail a notice to the defendant, at the defendant's last known address, advising of (i) the continuance date; (ii) the amounts of final rent and damages; and (iii) additional sums sought by the plaintiff. HB 1518; CH. 779.

**§ 8.01-156 amended. Sheriff's sales; reimbursement of excess costs associated with disposal of manufactured home.** Authorizes the sheriff, pursuant to an action of ejectment or unlawful detainer and at the request of the owner of the property upon which the home is located, to move a manufactured home to a designated storage area. Any excess costs relating to disposal of a manufactured home that remain after a sheriff's sale shall be paid by the owner of the property from which the home was removed. The sheriff may refuse to remove or dispose of a manufactured home until the owner of the real property pays to the sheriff the estimated removal and disposition costs. HB 1892; CH. 791.

**§ 8.01-184.1 amended. Declaratory judgment; personal jurisdiction.** Authorizes Virginia courts to exercise personal jurisdiction to the extent permitted by the Constitution of the United States over officials from other states in declaratory judgment actions relating to collection of sales taxes. A second enactment clause makes this act declaratory of existing law. HB 2094; CH. 800/SB 888; CH. 736.

**§§ 8.01-195.4 and 16.1-92 amended. Tort Claims Act; general district court jurisdiction.** Extends the concurrent jurisdiction of general district courts under the Tort Claims Act to claims up to \$15,000, and permits the removal of cases brought under the Act from general district court where the claim amount exceeds \$4,500. HB 1621; CH. 144.

**§ 8.01-217 amended. Change of name.** Provides that in cases involving a change in a minor's name, where one parent does not join in the name change application, service of the application shall be made on that parent in accordance with the provisions governing service of process in civil actions. Service is not required on any parent who files an answer to the application. HB 2109; CH. 579.

**§ 8.01-220.1:1.** See § 13.1-1002; SB 933.

**§ 8.01-220.1:2 amended. Civil immunity; school employees or volunteers reporting alleged acts of bullying or crimes.** Immunizes school employees or volunteers from civil liability for the prompt good faith reporting to the appropriate school official, in compliance with specified procedures, of any alleged acts of bullying or any crimes. HB 2267; CH. 462.

**§ 8.01-225 amended. Civil remedies; certain persons rendering emergency care who are exempt from liability.** Defines "first responders," exempt from liability under the administration of smallpox vaccine provision, as any law-enforcement officer, firefighter, emergency medical personnel, or other public safety personnel functioning in a role identified by a federal, state, or local emergency response plan. The bill also extends the effect of such smallpox vaccine provisions from July 1, 2005 to July 1, 2008. HB 2669; CH. 426.

**§ 8.01-225.1.** See § 57-16.1; HB 2697.

**§ 8.01-226.5:1.** See § 22.1-274.2; HB 1743.

**§ 8.01-227.2.** See § 1-200; HB 2640.

**§ 8.01-249 amended. Consumer Protection Act; accrual of cause of action.** Provides that a cause of action for violations of the Consumer Protection Act based upon misrepresentation, deception, or fraud accrues when such misrepresentation, deception, or fraud is discovered or, by the exercise of due diligence, reasonably should have been discovered. SB 832; CH. 213.

**§ 8.01-251 amended; § 8.01-252 repealed. Enforcement of judgments.** Makes consistent the treatment of foreign and domestic judgments with respect to the time frames for their enforcement. HB 1594; CH. 139/SB 722; CH. 203.

**§§ 8.01-285, 8.01-296, 8.01-299, 8.01-301, 8.01-303 through 8.01-306, and 8.01-320 amended; § 8.01-286.1 added. Service of process.** Allows a plaintiff, in circuit court cases, to ask the defendant for a waiver of service of process in lieu of official service and mandates that a defendant respond so as to avoid any unnecessary costs of service of process. The bill is modeled on Rule 4 of the Federal Rules of Civil Procedure and is a recommendation of the Boyd-Graves Conference. SB 1123; CH. 866.

**§ 8.01-341.1 amended. Jury duty; breast-feeding mothers exempt upon request.** Provides that a mother who is breast-feeding a child may be exempted from jury duty upon her request. The mother need not be "necessarily and personally responsible for a child or children 16 years of age or younger requiring continuous care... during normal court hours" as the existing statute provides. HB 2708; CH. 195.

**§§ 8.01-359 and 19.2-262 amended. Number of jurors constituting a panel.** Allows a judge to direct that more than the previous maximum number of jurors be called to make up a panel from which a jury is selected in criminal and civil cases. SB 1274; CH. 356.

**§ 8.01-367 amended. Indemnity bonds.** Allows an officer, if he has performed more than one levy for a single plaintiff, to

accept a single indemnifying bond for those multiple levies in an amount not less than the aggregate sum of the penalty amounts of the bonds necessary to bond each levy individually. SB 1158; CH. 690.

**§ 8.01-379.3 added. Civil procedure; jury interrogatories.** Allows the court to submit written interrogatories to the jury together with forms for a general verdict in certain cases where complex issues of fact must be decided in order to arrive at a verdict. The provision does not apply to personal injury or wrongful death negligence cases unless otherwise specifically authorized by law, cases where comparative negligence applies, or all parties agree. When answers to the interrogatories are inconsistent with the verdict, the court shall either order the jury to reconsider its answers and verdict or order a new trial. SB 1018; CH. 499.

**§§ 8.01-398 and 19.2-271.2 amended. Privileged marital communications.** Provides that in criminal and civil cases confidential communications made by one spouse to another during the course of the marriage may not be disclosed without the agreement of both spouses regardless of marital status at the time disclosure is proposed. The privilege may not be asserted in any proceeding in which the spouses are adverse parties or are charged with a crime or tort against the person or property of the other or against the minor child of either spouse. HB 2174; CH. 809.

**§§ 8.01-399 and 8.01-581.1 amended; §§ 8.01-20.1, 8.01-50.1, 8.01-52.1, 8.01-581.20:1, 16.1-83.1, 38.2-2228.2, and 54.1-2912.3 added. Medical malpractice.** Requires an expert witness to certify that the health care practitioner deviated from the standard of care, and that such deviation is a proximate cause of the injuries claimed, before service of process is made. An expression of sympathy or general sense of benevolence to a patient or a patient's relative is not admissible as evidence of an admission of liability or as evidence of an admission against interest. If the patient's physical or mental condition is at issue, signs and symptoms, observations, evaluations, and histories obtained or formulated as contemporaneously documented during the course of the practitioner's treatment may be disclosed. The bill revises the definition of malpractice to limit it to a tort or contract action for personal injuries or wrongful death. Medical malpractice liability insurers are required to submit annual reports to the State Corporation Commission stating information regarding claims made against health care providers. A similar requirement was in effect from 1985 until 1996. The Board of Medicine shall require a competency assessment of any person it licenses on whose behalf three medical malpractice claims are paid in a 10-year period. The bill is a recommendation of the Joint Subcommittee Studying Risk Management Plans for Physicians and Hospitals. HB 2659; CH. 649/SB 1173; CH. 692.

**§§ 8.01-400.2, 16.1-356, 16.1-361, and 60.2-219 amended. Marriage and family therapists.** Adds marriage and family therapists to certain Code sections that list other mental health professionals. These sections involve privileged communica-

tions in civil actions, evaluation of juvenile competency, compensation for expert testimony, and services falling outside of the definition of employment for purposes of unemployment compensation. HB 2503; CH. 110.

**§ 8.01-413.** See § 32.1-127.1:03; HB 2515/SB 1203.

**§ 19.2-187.02 amended; § 8.01-413.02 added. Blood alcohol tests in civil cases; admissibility of written reports or records.** Makes the written reports or records of blood alcohol tests conducted upon persons receiving medical treatment in a hospital or emergency room admissible in evidence in any civil proceeding as a business records exception to the hearsay rule. The reports or records may be disclosed in accordance with federal regulations, without consent or authorization. The protections against civil liability for those taking blood and conducting tests now applicable in criminal proceedings are extended to civil proceedings. HB 2118; CH. 801.

**§ 8.01-417 amended. Subpoenaed documents.** Requires that all subpoenaed documents, rather than only those concerning the other party, be made available to the other party, upon that party's written request, except for good cause shown. This bill is a recommendation of the Boyd-Graves Conference. SB 827; CH. 211.

**§ 8.01-420.4 amended. Depositions.** Differentiates between party and non-party depositions and specifies where the depositions shall be taken. HB 2654; CH. 597.

**§ 8.01-428 amended. Notification of final order; post-trial relief.** Provides that relief may be granted to a party who was denied the opportunity to pursue post-trial relief because through no fault of his own he did not receive notification of a final order. Under current law the provision is limited to denial of the opportunity to appeal. SB 790; CH. 333.

**§ 8.01-506 amended; § 8.01-506.2 added. Debtor interrogatories; supplemental proceedings.** Authorizes supplemental proceedings where a judgment creditor seeks to take debtor interrogatories before the court of the county or city where the debtor resides, or in a county or city contiguous thereto. If the judgment creditor chooses to undertake such supplemental proceedings in that court, he must file in that court an abstract of the judgment rendered, and pay the required filing fees. If the judgment is satisfied, the judgment creditor shall file a copy of any releases or certificates of satisfaction in that court. SB 723; CH. 726.

**§ 8.01-581.1 amended. Medical malpractice; Nurse Licensure Compact.** Adds persons holding a multistate privilege to practice nursing under the Nurse Licensure Compact to the definition of "health care provider" so that such persons are included under the Commonwealth's medical malpractice laws in the same manner as registered nurses or licensed practical nurses. HB 2833; CH. 482.

**§§ 8.01-607, 25.1-241, 56-522, and 58.1-3969 amended. Commissioners in chancery; appointment for good cause.** Provides that commissioners in chancery may be appointed only by agreement of the parties with the concurrence

of the court, upon motion of a party, or upon the court's own motion. The court must make a finding of good cause shown for appointing a commissioner in chancery in each individual case. HB 2583; CH. 885.

§ 8.01-654. See § 19.2-321.1; HB 2628.

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## TITLE 8.01. MISCELLANEOUS - CIVIL REMEDIES AND PROCEDURE.

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**Immunity for medical services; Board of Medicine to inform licensees.** Requires the Board of Medicine to provide its licensees with a full description of the protections from civil liability that may apply where health care services are provided without compensation to a patient of a clinic that is organized in whole or in part for the delivery of health care services without charge. HB 1556; CH. 134.

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## TITLE 9.1. COMMONWEALTH PUBLIC SAFETY.

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§ 9.1-101. See § 37.1-70.1; HB 1997.

§§ 2.2-1104, 2.2-2101, 2.2-3802, 4.1-352, 9.1-102, 9.1-501, 18.2-267, 18.2-268.1, 18.2-268.6, 18.2-268.7, 18.2-268.8, 18.2-268.9, 19.2-187, 19.2-187.01, 19.2-187.2, 19.2-188.1, 19.2-270.4:1, 19.2-310.2, 19.2-310.2:1, 19.2-310.3, 19.2-310.3:1, 19.2-310.4, 19.2-310.5, 19.2-310.6, 19.2-310.7, 19.2-327.1, 19.2-327.3, 19.2-327.4, 19.2-386.23, 19.2-386.27, 19.2-387, 19.2-389.1, 46.2-341.25, 46.2-341.26:1, 46.2-341.26:6, 46.2-341.26:7, 46.2-341.26:9, 54.1-3404, and 54.1-3431 amended; §§ 9.1-1100 through 9.1-1113 added; §§ 9.1-117 through 9.1-125 repealed. **Department of Forensic Science, the Forensic Science Board, and the Scientific Advisory Committee created.** Creates the Department of Forensic Science as a department within the executive branch of state government and assigns its powers and duties. The bill also creates the Forensic Science Board as a policy board, and the Scientific Advisory Committee as an advisory board and likewise assigns their respective powers and duties. The bill also abolishes the Division of Forensic Science within the Department of Criminal Justice Services. The bill contains numerous technical amendments to accomplish this. HB 2216; CH. 881/SB 1153; CH. 868.

§ 9.1-108 amended. **Executive Director of the Virginia Indigent Defense Commission.** Adds the Executive Director of the Virginia Indigent Defense Commission to the membership of the Criminal Justice Services Board. HB 2627; CH. 594.

§ 9.1-108 amended. **Criminal Justice Services Board; membership.** Increases the membership of the Criminal Justice Services Board from 27 to 28 by adding an active duty law-en-

forcement officer appointed after consideration of the names, if any, submitted by police or fraternal associations that have memberships of at least 1,000. SB 988; CH. 672.

§ 9.1-138 amended. **Department of Criminal Justice Services; private security; definitions.** Clarifies that the definition of electronic security equipment includes (i) electronic or mechanical signaling devices or (ii) cameras used to detect concealment or theft, both of which are used to safeguard and protect persons and property. SB 1346; CH. 365.

§§ 9.1-400 and 44-93.1 amended. **Line of Duty Act; disabled State Employees.** Extends the Act's benefits to any state public safety employee whose disability occurred on or after January 1, 1972. Retroactive to October 7, 2001, the bill also requires the state to provide an additional death benefit in the amount of \$20,000 for every employee of the Commonwealth or of a political subdivision called to federal active duty services to be paid if the employee is killed in action in any armed conflict while serving in the Army, Navy, Marine Corps, Air Force, or Coast Guard of the United States, or with any reserve component of these respective services. HB 1738; CH. 907/HB 1793; CH. 910.

§ 9.1-406. See § 8.01-2; SB 1118.

§§ 9.1-700 through 9.1-704 amended. **Overtime compensation for law-enforcement employees.** Expands the current overtime compensation provisions for fire protection employees to certain law-enforcement employees. Under the bill certain law-enforcement employees shall be required to be paid overtime at a rate of not less than one and one-half times the employee's regular rate of pay for all hours of work between the statutory maximum permitted under 29 U.S.C. 207 (k) and the hours for which an employee receives his salary, or if paid on an hourly basis, the hours for which the employee receives hourly compensation. A law-enforcement employee who is paid on an hourly basis shall have paid leave counted as hours of work in an amount no greater than the number of hours counted for other law-enforcement employees working the same schedule who are paid on a salaried basis in that jurisdiction. For purposes of computing law-enforcement employees' entitlement to overtime compensation for regularly scheduled work hours, all hours in which an employee works or is in a paid status shall be counted as hours of work. SB 873; CH. 732.

§§ 9.1-901, 9.1-902, and 9.1-903 amended. **Judicial discretion to require registration of minor who commits an otherwise registrable offense.** Provides that a juvenile sex offender or child criminal offender over the age of 13 who is tried as a juvenile and found delinquent of any registrable offense may be required to register after the court considers the following factors relevant to the case: (i) the age and maturity of the complaining witness, (ii) the age and maturity of the offender, (iii) the difference in the ages of the complaining witness and the offender, (iv) the nature of the relationship between the complaining witness and the offender, (v) the offender's prior criminal history, (vi) any other aggravating or mitigating factors relevant to the case, and (vii) whether the of-

fense was committed with force, threat or intimidation. The section applies to offenses that occur on or after July 1, 2005. Current law does not require the registration of juveniles unless they are tried and convicted as adults. HB 2318; CH. 586.

§§ 9.1-902, 9.1-908, and 9.1-910. See § 18.2-61; HB 2248.

§§ 9.1-902, 9.1-905, 9.1-907, and 9.1-913 amended. **Sex Offender and Crimes Against Minors Registry Act; registration; enforcement.** Amends the Sex Offender and Crimes Against Minors Registry Act to add murder of a child under 18 to the list of crimes for which registration and internet posting is required, and sexual battery against a child under six by a perpetrator 18 or older to those crimes classified as sexually violent offenses. The bill requires that a sex offender who must register in his home state register in Virginia when he moves here, regardless of whether the underlying criminal offense is similar to a Virginia offense. The bill also requires the registration of a nonresident in Virginia for an extended visit (30 days or more). Finally, the bill clarifies that local law-enforcement agencies have the authority to enforce the provisions of the Act. HB 2836; CH. 603.

§ 9.1-914. See § 57-16.1; HB 2697.

§ 9.1-1100 added. **Statewide communications interoperability.** Requires the Governor to ensure that the annual review and update of the statewide interoperability strategic plan is accomplished and implemented. The bill also requires all state agencies and localities to achieve consistency with and support the goals of the plan by July 1, 2015, in order to remain eligible to receive state or federal funding for communication programs. SB 963; CH. 221.

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## TITLE 10.1. CONSERVATION.

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§ 10.1-104.4 added. **Nutrient management plans.** Requires state governmental entities that own or lease land upon which nutrients are applied to develop and implement a nutrient management plan by July 1, 2006. The plans are submitted to the Department of Conservation and Recreation for review and approval every three years. Each plan has to be developed by a certified nutrient planner. The Department may provide technical assistance to state governmental agencies in developing and implementing their plans and is authorized to charge a fee to cover a portion of the cost of the services rendered. HB 1790; CH. 65.

§§ 10.1-107, 10.1-502, 10.1-566.1, 10.1-603.4, and 10.1-603.12:2. See § 2.2-4006; HB 2365.

§§ 10.1-107 and 33.1-223 amended. **Access roads and bike-ways to historic sites.** Involves the Director of the Department of Historic Resources in the Commonwealth Transportation Board's decision on construction and maintenance of access roads and bikeways to historic sites. SB 842; CH. 25.

§§ 10.1-116 and 15.2-1736 amended. **Jurisdiction of conservation officers and mutual aid agreements.** Expands the jurisdiction of conservation officers and allows the Department of Conservation and Recreation to enter mutual aid agreements. HB 2085; CH. 87.

§§ 10.1-117 and 19.2-81 amended. **Conservation officers.** Grants conservation officers, as law-enforcement officers for the Department of Conservation and Recreation, the power to arrest without a warrant and also allows them to coordinate the investigation of felonies if requested by the chief law-enforcement officer of a locality. This bill deletes all references to conservation officers as conservators of the peace. HB 2086; CH. 88.

§ 10.1-215 amended. **The Natural Area Preservation Fund.** Adds fees, lease proceeds, and funds accruing from the use or management of state natural area preserves acquired or held by the Department of Conservation and Recreation to the Natural Area Preservation Fund. HB 2212; CH. 94.

§ 10.1-501. See § 2.2-507; SB 1294.

§ 10.1-529.1 added. **Duties of district directors.** Enumerates seven new responsibilities of soil and water conservation district directors, including: (i) identifying soil and water issues; (ii) engaging in actions that will improve soil and water stewardship through the use of locally led programs; (iii) increasing understanding among community leaders of their role in soil and water quality protection and improvement; and (iv) participating in activities of the district and ensuring that district resources are used effectively and managed wisely. HB 1890; CH. 73.

§§ 10.1-560 and 10.1-561 amended. **Stream channel restoration.** Provides a definition of natural channel design concepts and exempts stream restoration and relocation projects that incorporate these concepts from any flow rate capacity and velocity requirements for channels that are in the Erosion and Sediment Control Law regulations. HB 2464; CH. 107.

§ 10.1-562 amended. **Erosion and sediment control plans.** Authorizes the Department of Conservation and Recreation to issue a special order to a locality that has not taken action to correct the manner in which it is administering its erosion and sediment control program. Those localities which have not initiated or implemented an approved corrective action agreement are subject to a civil penalty not to exceed \$5,000 per day with the maximum amount not to exceed \$20,000 per violation. Prior to issuing a special order, the Soil and Water Conservation Board is to conduct a formal hearing pursuant to the Administrative Process Act. HB 2937; CH. 129.

§ 10.1-603.19 amended; § 10.1-606.1 added. **Mapping of inundation zones.** Authorizes localities to map inundation zones for those areas that may be threatened by a break in a dam, and encourages localities to incorporate this information into their zoning and subdivision ordinances. The bill also authorizes the Director of the Department of Conservation and Recreation to

award grants to assist with mapping and digitization of dam break inundation zones. HB 2031; CH. 80.

**§ 10.1-610 amended. Inspection of dams.** Authorizes the Soil and Water Conservation Board or its designees to enter any property at a reasonable time and under reasonable circumstances in order to perform their dam safety responsibilities, provided they make a reasonable effort to obtain the consent of the landowner. If the landowner does not allow entry, they may apply to the magistrate for a warrant. HB 2616; CH. 117.

**§ 10.1-619 amended. Watershed improvement districts.** Requires a simple majority of the votes cast to pass a referendum held to create a watershed improvement district. Currently, at least two-thirds of the votes cast must be (i) in favor of the watershed improvement district and (ii) represent ownership of at least two-thirds of the land in the proposed district. HB 2902; CH. 128.

**§§ 10.1-1018, 10.1-1018.1, 10.1-1021, and 10.1-1322.** See § 2.2-720; HB 2321.

**§ 10.1-1018.** See § 30-73.2; SB 1115.

**§§ 2.2-215, 10.1-1186.5, 10.1-1194, 10.1-2101, 10.1-2106, 10.1-2125, 10.1-2129, and 28.2-1103 amended; § 10.1-2105 repealed. Chesapeake Bay Preservation Act.** Eliminates the Chesapeake Bay Local Assistance Department and transfers responsibility for administration of the Chesapeake Bay Preservation Act to the Department of Conservation and Recreation. The bill reflects language in Item 382, Subsection J, of Chapter 4 of the 2004-2006 Appropriation Act enacted during the 2004 Session (Special Session I) that eliminated the Chesapeake Bay Local Assistance Department and transferred its responsibilities to the Department of Conservation and Recreation. The Chesapeake Bay Local Assistance Board continues as the policy board for administration of the Preservation Act. SB 1103; CH. 41.

**§§ 10.1-1187.1 through 10.1-1187.7 added. Virginia Environmental Excellence Program.** Codifies the existing environmental excellence program and gives the Air Pollution Control Board, the Virginia Waste Management Board, and the State Water Control Board the authority to approve alternative compliance methods, including but not limited to changes to monitoring and reporting requirements and schedules, streamlined submission requirements for permit renewals, the ability to make certain operational changes without prior approval, and other changes that would not increase a facility's impact on the environment. Such alternative methods would be available only to those facilities that have demonstrated a strong compliance record, and only if the proposed compliance method would (i) meet the purpose of the applicable regulatory standard, (ii) promote achievement of those purposes through increased reliability, efficiency, or cost effectiveness, and (iii) afford environmental protection equal to or greater than that provided by the applicable regulatory standard. The Governor's Environmental Excellence Awards shall be awarded each year to recognize participants in the Virginia Environmental Excellence Program. SB 1088; CH. 705.

**§ 10.1-1308 amended. Vapor recovery equipment.** Provides that any air pollution control regulation requiring the use of stage 1 vapor recovery equipment at gasoline dispensing facilities may be applicable only in areas that have been designated at any time by the U.S. Environmental Protection Agency as nonattainment areas for the pollutant ozone. Current regulations require the use of such equipment for those areas that have been designated at any time as nonattainment areas. HB 1832; CH. 66.

**§§ 10.1-1309, 10.1-1316, 10.1-1455, 62.1-44.14, 62.1-44.15, 62.1-44.32, and 62.1-44.34:20 amended. Environmental enforcement; civil penalties.** Strengthens the Department of Environmental Quality's environmental enforcement programs by granting it the authority to impose civil penalties of up to \$32,500 for each violation, not to exceed \$100,000 per order, after a hearing before a hearing officer appointed by the Supreme Court if (i) the person has been issued at least two written notices of alleged violation by the Department for the same or substantially related violations at the same site, (ii) such violations have not been resolved by demonstration that there was no violation, by an order issued by the Board or the Director, or by other means, and (iii) at least 130 days have passed since the issuance of the first notice of alleged violation. The penalties would be subject to appeal. This bill also helps simplify water enforcement actions by allowing the Water Board to delegate approval of consent orders. It increases the maximum civil penalty for violations of the Air, Waste, and Water programs from \$25,000 to \$32,500. SB 1089; CH. 706.

**§§ 10.1-1408.4 and 10.1-1408.5 amended. Siting of landfills.** Reduces from five miles to three miles the distance that a landfill can be sited from a surface water or a groundwater supply intake or reservoir. However, a landfill can be constructed as close as one mile from any existing surface or groundwater supply if the landfill meets certain conditions. The bill also increases the acreage threshold for allowing a landfill to be constructed or expanded in a nontidal wetland. Under existing law, permits may be issued for the construction or expansion of a landfill that impacts less than 1.25 acres of nontidal wetlands. This bill would allow the issuance of a permit for a landfill that would impact less than two acres. The bill authorizes the Director of the Department of Environmental Quality to issue a permit for an expansion of a landfill located in a wetland only under certain specific conditions, such as the proposed site has to be at least 100 feet from any surface water body and one mile from any tidal wetland and that there is a minimum two-to-one wetlands mitigation ratio. HB 2192; CH. 920

**§ 10.1-1428 amended. Financial assurances for hazardous waste facilities.** Directs any forfeited financial assurances for abandoned hazardous waste storage, treatment, or disposal facilities be paid to the Director of the Department of Environmental Quality to assure proper closure and maintenance of the facilities. This is similar to how financial assurances are structured in the solid waste program and the federal hazardous waste program. Current law provides that, should a facility fail to properly close a hazardous waste management facility, the financial assurances provided are

available only to the locality to assure proper closure. HB 2440; CH. 180.

**§ 10.1-1454.1 amended. Transporting of solid waste.** Authorizes the Director of the Department of Environmental Quality to grant variances from the regulations that govern the commercial transportation of solid waste on Virginia waters. The conditions under which such variances can be granted include that the waste is nonhazardous, it is containerized so as to prevent the liquids, waste, and odors from escaping, and the amount of waste to be transported does not exceed 300 tons annually. This exemption would apply to the transportation of solid waste from the Town of Tangier to the landfill in Accomack County. HB 1499; CH. 130/SB 1176; CH. 232.

**§ 10.1-1455 amended. Solid waste management laws; penalty.** Increases the maximum penalties for violations of the solid waste management laws from \$25,000 to \$32,500. HB 1546; CH. 133.

**§ 10.1-1602 amended. Virginia Recreational Facilities Authority; membership of the board of directors.** Increases the membership of the board of directors of the Virginia Recreational Facilities Authority from 13 to 18. Of the five new members, three are appointed by the Speaker of the House and two by the Senate Committee on Rules. SB 1253; CH. 768.

**§§ 10.1-2117, 10.1-2128, 10.1-2129, 10.1-2131, and 10.1-2132 amended. Capitalizing the Water Quality Improvement Fund.** Appropriates \$50 million from the general fund to the Water Improvement Quality Fund on July 1, 2005. The money is to be used solely to finance the costs of design and installation of biological nutrient removal facilities or other nutrient removal technologies at publicly-owned sewage systems. In addition, beginning July 1, 2005, the annual appropriations to the Fund provided from the 10 percent general fund surplus and the 10 percent of any unreserved general fund year-end balance will have a different distribution formula. Seventy percent of these moneys will be allocated to the Department of Conservation and Recreation to be used for the implementation of best management practices that reduce nitrogen and phosphorous nonpoint source pollution, and 30 percent will be allocated to the Department of Environmental Quality to make grants to significant dischargers and to treatment works that utilize the Public-Private Education Facilities and Infrastructure Act, to design and install state-of-the-art nutrient removal technology. The amount of financing available to the treatment facility for point source nutrient removal technologies, whether the source of funding is the 10 percent surplus and 10 percent unexpended balance, or the \$50 million appropriation, will depend on the financial need of the community, which will be determined by comparing the annual sewer charges expended within the service area to the reasonable sewer costs established for the community.

The bill also directs the chairman of the committees of oversight to develop recommendations for a permanent source of funding that will clean up the Chesapeake Bay and its tributaries, as well as other impaired waters outside the Bay

watershed. HB 2777; CH. 709/SB 810; CH. 704/SB 1235; CH. 707.

**§§ 10.1-2135 through 10.1-2139 added. Foundation for Virginia's Natural Resources.** Creates the Foundation for Virginia's Natural Resources to assist in developing and to encourage the nonregulatory conservation programs within the agencies of the Secretariats of Natural Resources and Agriculture and Forestry and to foster collaboration and partnerships among businesses, communities, and the Commonwealth's environmental enhancement programs. The Foundation will expire on July 1, 2007, if no moneys have been received in the Foundation's fund by that time. SB 1141; CH. 351.

**§ 10.1-2202 amended; §§ 10.1-2208.1 and 10.1-2208.2 added. Virginia Historic Preservation and Museum Assistance Grant Program and Fund.** Creates the Virginia Historic Preservation and Museum Assistance Grant Program and Fund within the Department of Historic Resources. The source of funding for the Fund will be gifts, donations, grants, bequests, and other funds as may be appropriated. The Program will administer the Fund in order to provide grants to nonprofit organizations, localities, business entities, and individuals for the purpose of: (i) acquiring, rehabilitating, restoring, or interpreting historic properties; (ii) financing costs directly related to a rehabilitation or restoration project, which may include the costs of studies, surveys, plans and specifications, and architectural, engineering or other special services; or (iii) funding historic preservation education and promotion, including the research, survey, and evaluation of historic properties and the preparation of historic preservation planning documents and educational materials. The bill further provides that should no funds from any source be received in the fund by July 1, 2007, the provisions of the bill shall expire. HB 2079; CH. 85.

**§ 10.1-2213 amended. Appropriation of state funds for historic preservation.** Sets July 1 of even-numbered years as the cutoff date for requests and completed applications for state aid, or amendments to requests, to be submitted to the Department of Historic Preservation for consideration. This bill adds "interpretation" of sites and facilities as a funding priority along with the maintenance and operation of such sites owned by historical organizations.

This bill also establishes new requirements for organizations that apply for state aid, such as: (i) applicants must certify that they have read and acknowledged all information on how the grants will be administered and how funds will be disbursed, (ii) the purpose of the grant must be stated in the application and any change in scope of a project must be approved by the Department prior to implementation of any changes, (iii) documentation of matched funding and approved expenditures must be submitted with all requests for disbursements, (iv) the Department may require progress reports from each grant recipient, (v) expenditures of grant funds are subject to state procurement requirements, (vi) the Department must be given an opportunity to review the potential impact on any historic resources for new construction or ground disturbing activities

funded by grants, and (vii) for capital projects, funds will be disbursed only as reimbursement for approved activities. HB 2080; CH. 86.

**§ 10.1-2213.1 added. Matching grants for the material restoration of a presidential home.** Provides that certain material restoration work (i) that restores a historic home of a President of the United States located in Orange County to within the period of significance stated in the National Historic Landmark individual designation of such home and (ii) that is consistent with “The Secretary of the Interior’s Standards for Restoration” shall be eligible for matching grants from the Commonwealth. The grant match shall equal \$0.20 for each \$1 in private contributions for the restoration that is actually expended or spent for the restoration work. HB 2459; CH. 470.

**§§ 10.1-2300 and 10.1-2301 amended. Virginia Antiquities Act; penalties.** Authorizes the creation of the position of State Archaeologist, who shall assist the Director of the Department of Historic Resources in carrying out the agency’s responsibilities. HB 2078; CH. 457.

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## TITLE 10.1. MISCELLANEOUS - CONSERVATION.

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**Forest regulations.** Transfers current regulations that only pertain to the Department of Forestry’s duties and powers, specifically the Virginia State Forest Regulations and the Virginia Reforestation of Timberlands Regulations, from the Department of Conservation and Recreation to the Department of Forestry. HB 2620; CH. 324.

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## TITLE 12.1. STATE CORPORATION COMMISSION.

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**§ 12.1-21.1 amended. Waiver of filing fees; erroneous financing statements.** Authorizes the State Corporation Commission to waive the fee for filing a termination statement or correction statement with respect to a financing statement that falsely identified a person as a debtor. HB 2367; CH. 308.

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## TITLE 13.1. CORPORATIONS.

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**§§ 6.1-43, 6.1-44.17, 6.1-44.19, 6.1-100.1, 6.1-194.88, 6.1-194.150, 13.1-603 through 13.1-604.1, 13.1-607 through 13.1-611, 13.1-614, 13.1-615, 13.1-616, 13.1-619, 13.1-627, 13.1-628, 13.1-630 through 13.1-633, 13.1-636, 13.1-638, 13.1-639, 13.1-641, 13.1-642, 13.1-646, 13.1-647, 13.1-649, 13.1-651 through 13.1-658, 13.1-660, 13.1-662, 13.1-663,**

**13.1-664.1, 13.1-665, 13.1-669, 13.1-670, 13.1-671.1, 13.1-672.3, 13.1-672.4, 13.1-673, 13.1-675, 13.1-677, 13.1-679, 13.1-680, 13.1-685, 13.1-686, 13.1-688, 13.1-689, 13.1-691, 13.1-692, 13.1-693, 13.1-695, 13.1-696, 13.1-697, 13.1-699, 13.1-700.1 through 13.1-704, 13.1-706, 13.1-707, 13.1-708, 13.1-710, 13.1-711, 13.1-713 through 13.1-721, 13.1-722.13, 13.1-723, 13.1-724, 13.1-725, 13.1-727, 13.1-728.1 through 13.1-734, 13.1-737 through 13.1-743, 13.1-746 through 13.1-750, 13.1-752, 13.1-757, 13.1-758, 13.1-762, 13.1-765, 13.1-767 through 13.1-772, 13.1-774, 13.1-775, 13.1-775.1, 13.1-776, 13.1-898.1, 13.1-1070, 13.1-1276, 38.2-1000, 38.2-1017, 50-73.48:1, and 50-73.128 amended; §§ 13.1-660.1, 13.1-691.1, 13.1-715.1, 13.1-721.1, 13.1-735.1, 13.1-746.1, 13.1-746.2, 3.1-746.3, 13.1-749.1, and 13.1-773.1 added; §§ 13.1-722, 13.1-722.1, 13.1-735, and 13.1-736 repealed. Stock Corporation Act.** Updates the Virginia Stock Corporation Act to incorporate refinements to the Revised Model Business Corporation Act that have been adopted by the Business Law Section of the American Bar Association since its Model Act was enacted by Virginia. Substantive changes include permitting several corporate actions to be taken electronically; confirming that provisions in corporate documents filed with the State Corporation Commission may be made dependent on statistical or market indices or other objectively ascertainable facts; making the process for amending articles of incorporation more flexible; streamlining the process for combining corporations with other types of business entities; expanding situations where a shareholder can exercise appraisal rights; revising the test for determining whether a sale of corporate assets requires shareholder approval; establishing a shareholder buy-out alternative to court-ordered dissolution; and establishing a process for resolving contingent liabilities of a dissolving corporation. SB 1228; CH. 765.

**§§ 13.1-630, 13.1-754, 13.1-762, 13.1-829, 13.1-916, 13.1-924, 13.1-1012, 13.1-1214, and 50-73.2 amended. Names of business entities; emergency.** Clarifies that the words permitted to be in a business trust name pursuant to the Business Trust Act can be considered in determining whether a corporate, limited liability company, business trust or limited partnership name is distinguishable from the names of other such entities that have been recorded, reserved or registered in the office of the clerk of the State Corporation Commission. If the name of a corporation that has ceased to exist is not distinguishable from that of another entity, it shall change its name upon reinstatement to one that is distinguishable before engaging in business. The measure also narrows existing cross-references and makes technical corrections. HB 1829; CH. 379 (effective 3/21/05).

**§§ 8.01-220.1:1, 13.1-1002, 13.1-1005, 13.1-1010.3, 13.1-1014, 13.1-1015, 13.1-1022, 13.1-1023, 13.1-1038.1, 13.1-1064, and 58.1-513 amended; § 13.1-1014.1 added.**

**Limited liability companies.** Establishes a procedure for the filing of articles of restatement of a limited liability company as adopted by its members, managers, or persons who formed the limited liability company. Other provisions (i) clarify that limited liability company operating agreements may contain

provisions benefiting third parties; (ii) allow a successor in interest to the last member of a limited liability company to provide for the continuation of the limited liability company and the designation of a new member; (iii) clarify that the articles of organization or operating agreement may provide that a membership interest consists only of non-economic rights; and (iv) provide that existing civil immunity protections available to principals of certain tax-exempt organizations apply to principals of tax-exempt partnerships and limited liability companies. The measure also includes several technical corrections. SB 933; CH. 255.

§ 13.1-1069. See § 1-200; HB 2640.

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## TITLE 15.2. COUNTIES, CITIES AND TOWNS.

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§ 15.2-107 amended. **Procedure for enactment of certain local fees.** Rewrites and clarifies the advertisement requirements for enactment of certain local fees. HB 1889; CH. 72.

§§ 15.2-715, 15.2-2000, and 15.2-6301. See § 1-200; HB 2640.

§ 15.2-743 amended. **County manager plan; encroachments.** Adds encroachments to those items for which a county with the county manager plan of government (Arlington County) may charge an application processing fee. HB 2063; CH. 84/SB 1074; CH. 40.

§ 15.2-750 added. **Zoning; transfer of development rights.** Allows any county with the county manager plan of government to provide in its zoning ordinances for the dedication of density or other rights to develop real property, as defined by the county, from one or more parcels of property located in the county that are not the subject of a development application to one or more parcels of property located elsewhere in the county that are the subject of a development application. The provisions expire on July 1, 2008, if no eligible county adopts such an ordinance. Currently, Arlington County is the only county with the county manager plan of government. SB 1075; CH. 755.

§§ 15.2-820, 15.2-4901, 15.2-4902, 15.2-5214, and 15.2-5343. See § 57-16.1; HB 2697.

§ 15.2-903 amended. **Automobile graveyards.** Adds Campbell County to those counties that may require screening of automobile graveyards and junkyards. SB 1282; CH. 702.

§ 15.2-904 amended. **Inoperable motor vehicles; civil penalties.** Conforms civil penalty provisions for violations of inoperable motor vehicle ordinances to those currently existing for zoning violations. HB 2377; CH. 465.

§§ 15.2-904 and 15.2-905 amended. **Inoperable motor vehicles.** Amends the Code sections authorizing localities to restrict the keeping of inoperable motor vehicles on residential

or commercial property by requiring the one additional inoperable motor vehicle that is being used for restoration or repair, as well as the motor vehicle being actively restored or repaired, to be shielded or screened from view. SB 1313; CH. 775.

§ 15.2-917 amended. **Noise standards; shooting ranges.** Provides that no locality shall hold a sport shooting range to noise control standards more stringent than those in effect at the time an application was submitted for construction or operation of the range. The existing law refers to the time of construction, not the time of application. HB 2282; CH. 544.

§ 15.2-951 amended. **Sale of personal property by locality.** Provides that in an instance in which one of certain categories of personal property is sold with the intent to lease back the property, approval by the governing body, after notice and a public hearing, shall be required when the value of the proposed sale amount exceeds \$2 million. HB 1775; CH. 531.

§ 15.2-953 amended. **Charitable donations by localities.** Adds Habitat for Humanity to those organizations to which a locality may make a charitable donation. HB 2770; CH. 327.

§ 15.2-955 amended. **Emergency medical services; maintenance of services.** States that each locality shall seek to ensure that emergency medical services are maintained throughout the entire locality. HB 2521; CH. 418.

§ 15.2-1129.1 amended. **Arts and cultural districts.** Adds the cities of Falls Church, Petersburg, and Winchester to the list of localities that may establish an arts and cultural district for the purpose of increasing awareness and support for the arts and culture in the city. Each city may provide incentives for the support and creation of arts and cultural venues in the district. Each city may also grant tax incentives and provide certain regulatory flexibility in an arts and cultural district. SB 777; CH. 330.

§ 15.2-1132 amended. **Code enforcement by volunteers.** Adds the City of Portsmouth to the list of localities that may utilize volunteers to help enforce certain local ordinances. HB 2532; CH. 318/SB 1062; CH. 265.

§ 15.2-1209 amended. **Shooting of arrows in populated areas.** Adds the outdoor shooting of arrows from bows to existing provisions that allow counties to prohibit the shooting of firearms in heavily populated areas. Bows intended to be used as toys are excluded from the provisions. HB 2741; CH. 564.

§ 15.2-1215 amended. **Authority to cut grass.** Adds Isle of Wight County to the counties with authority to require that the owner of occupied residential real property cut the grass or lawn area of less than one-half acre on such property when growth on the grass or lawn area exceeds 12 inches in height; or may whenever the governing body deems it necessary, after reasonable notice, have the grass or lawn area cut by its agents or employees, in which event, the cost and expenses thereof shall be chargeable to and paid by the owner of the property and may be collected by the county as taxes and levies are collected. HB 2391; CH. 309.



**§ 15.2-1408 amended. Activities of certain former local officials.** Adds Charlottesville to those localities that may place certain limits on the activities of former officers and employees for one year after their service has ended. HB 1843; CH. 289.

**§ 15.2-1408 amended. Activities of certain former local officials.** Adds Charlottesville to those localities that may place certain limits on the activities of former officers and employees for one year after their service has ended. The bill also replaces population brackets with specific localities. SB 957; CH. 257.

**§ 15.2-1411 amended. Appointment of advisory boards, committees and commissions.** Removes limits on the number of monthly meetings by such board, committees, and commissions for purposes of compensation, and eliminates the cap on maximum compensation. HB 1916; CH. 879.

**§ 15.2-1411 amended. Appointment of advisory boards, committees and commissions.** Increases limits on compensation from \$75 to \$100 and removes the limit on the number of monthly meetings to be compensable. SB 938; CH. 740.

**§ 15.2-1416.1 added. Actions prior to convening of meeting.** States that during the time prior to the governing body's actual call to order or convening of business, any expressions by members of the governing body or members of the public shall be held consistent with the individual's First Amendment right of freedom of speech. HB 2615; CH. 592.

**§§ 15.2-1507 and 63.2-219 amended. Grievance procedures for local departments of social services.** Requires a local social service department or local board to adopt a grievance procedure that is either (i) adopted by the locality, or (ii) approved by the State Board of Social Services, consistent with the state grievance procedure. SB 894; CH. 714.

**§ 15.2-1509.** See § 2.2-2903; HB 2428.

**§§ 15.2-1610 and 15.2-1612 amended. Uniform requirements for sheriffs and sheriff's deputies.** Allows sheriffs and their deputies to wear any uniform that easily identifies the local law-enforcement officers to members of the public, so long as the design and style are approved by the sheriff and worn in accordance with policies established by the sheriff. HB 1911; CH. 452/SB 890; CH. 337.

**§ 15.2-1646 amended. Relocation of courthouse.** For purposes of courthouse relocation, "contiguous" includes contiguous property directly across a public right of way. The bill also replaces population brackets with specific localities. SB 1012; CH. 36.

**§ 15.2-1716 amended. Sheriffs; reimbursement of expenses incurred in responding to traffic incidents.** Allows a locality to adopt an ordinance making a person convicted of certain traffic infractions or crimes liable in a separate civil action for reasonable expenses incurred by the sheriff's office of such locality for emergency response to an accident related to the violation. Current law allows the same for the locality itself and for volunteer rescue squads, but because sheriffs' offices are constitutional offices and not technically departments of the locality, the amendment is needed for clarity. Volunteer fire

departments are also added to the provisions. HB 1514; CH. 366.

**§ 15.2-1716 amended. Reimbursement of expenses related to certain traffic incidents.** Includes juvenile defendants in existing provisions that allow localities to seek reimbursement of expenses related to providing an emergency response to certain traffic and DUI incidents. HB 1674; CH. 148.

**§ 15.2-1716.1 amended. Terrorism hoax; reimbursement of expenses.** Raises the flat fee that may be charged to a person convicted of certain terrorism hoax incidents in order to reimburse the locality for related expenses. HB 2667; CH. 479.

**§ 15.2-1736.** See § 10.1-116; HB 2085.

**§ 15.2-1800 amended. Conveyance of easements.** Eliminates the public hearing requirement for localities that convey certain site development easements across public property. HB 2386; CH. 822.

**§ 15.2-1812 amended. Memorials for war veterans.** Adds Operation Iraqi Freedom to the list of wars and conflicts for which localities may erect monuments and memorials. HB 2012; CH. 390.

**§ 15.2-1812.2 amended. Graffiti; mandatory minimum fine and jail.** Amends local graffiti ordinance provisions to require that any violation carry a mandatory minimum fine of \$500, where the defacement is (i) more than 20 feet off the ground, (ii) gang-related, or (iii) on an overpass. The bill also provides for cleaning of graffiti by a locality at its own expense. HB 1877; CH. 614.

**§ 15.2-1907.1.** See § 25.1-108; HB 2427.

**§§ 15.2-2108.18 and 15.2-2160.** See § 56-265.4:4; SB 959.

**§ 15.2-2110 amended. Water and sewer connections.** Adds Campbell County to those counties that may require connection to their water and sewage systems by owners of property that may be served by such systems. SB 1281; CH. 701.

**§ 15.2-2114 amended. Regulation of stormwater; combined billing.** Removes the requirement of passing an ordinance when a locality is establishing the order in which payments are applied for combined billing of stormwater charges and other charges. HB 2450; CH. 313.

**§ 15.2-2118 amended. Water and sewer liens.** Adds Cumberland County to the list of localities that may provide that taxes on water and sewer service may be a lien on the property served. SB 795; CH. 730.

**§ 15.2-2119 amended. Sewer fees and liens.** Provides that certain sewer fees and charges shall be a lien on the property served only if certain procedures are followed, including first obtaining a judgment against the lessee or tenant who contracted for the service. HB 1922; CH. 912.

**§§ 15.2-2121 and 15.2-2242 amended. Connection to public water systems.** Allows localities to require developers to extend and connect to abutting or adjacent public water or sewer systems. Also, localities may require that all buildings

constructed on lots resulting from subdivision of a larger tract that abuts or adjoins a public water or sewer system or main shall be connected to that public water or sewer system. HB 2865; CH. 567.

**§ 15.2-2157 amended. Nonconventional sewage disposal systems; local authority; civil penalties.** Authorizes localities to establish, by ordinance, a schedule of civil penalties for violations relating to the operation and maintenance of nonconventional sewage disposal systems. "Nonconventional sewage disposal system" means any Type II or Type III system, as defined in the Sewage Handling and Disposal Regulations 12 VAC 5-610-10 et seq., including holding tanks and residential discharging wastewater treatment systems. HB 2228; CH. 814.

**§ 15.2-2204 amended. Notice of certain planning and zoning amendments.** Adds licensed public-use airports to those entities that shall receive written notice of certain planning and zoning proposals that are located within 3,000 feet of a boundary of the entity. SB 1220; CH. 514.

**§ 15.2-2223 amended. Comprehensive plan; accessible housing.** Adds provisions regarding the elderly, persons with disabilities, age-restricted housing, nursing homes and assisted living facilities to the statutory guidelines for local comprehensive plans. The bill provides that localities shall implement these provisions by July 1, 2008. HB 2407; CH. 466/SB 1238; CH. 699.

**§ 15.2-2265 amended. Relocation of public easements.** Provides that all public easements, except those for public passage, easements containing improvements, those that contain private utility facilities, or common or shared easements for the use of franchised cable operators and public service corporations, may be relocated by recordation of plat or replat signed by the owner of the real property, approved by an authorized official of a locality, regardless of the manner of acquisition or the type of instrument used to dedicate the original easement. If the purpose of the easement is to convey stormwater drainage from a public roadway then the entity responsible for the operation of the roadway shall first determine that the relocation does not threaten either the integrity of the roadway or public passage. The bill requires the clerk to index the locality as grantor of any easement or portion thereof terminated and extinguished under this section. SB 926; CH. 937.

**§ 15.2-2275 amended. Vacation of boundary lines.** Authorizes localities to allow relocation or alteration of lot lines by recordation of a deed, without the requirement for a subdivision plat. SB 921; CH. 338.

**§§ 15.2-2286, 15.2-2311, and 15.2-2314 amended. Boards of zoning appeals.** Rewrites the criteria for instances in which the zoning administrator may grant a modification, currently referred to as a variance, from the zoning ordinance by including requirements related to the size, height, location or features of any building on the parcel of land. HB 2159; CH. 625/SB 1086; CH. 677.

**§ 15.2-2295 amended. Airport noise zones.** Provides that any locality in whose jurisdiction a United States Master Jet Base is located or any adjacent locality may adopt and enforce building regulations relating to the provision or installation of acoustical treatment measures applicable to certain nonresidential buildings and structures. SB 1160; CH. 509.

**§ 15.2-2303.2 amended. Proffer cash payments and expenditures by localities.** Makes numerous changes to the existing law on the use of cash proffers by localities, including amendments that provide that any locality accepting a cash payment voluntarily proffered on or after July 1, 2005, pursuant to § 15.2-2298, 15.2-2303, or 15.2-2303.1 shall, within seven years of receiving full payment, begin construction or other improvements for which the cash payment was proffered. A locality that does not begin construction of the improvements for which the cash payment was proffered within seven years of receipt of the proffered cash payment, or make other authorized alternative improvements, shall pay the amount of that proffered cash payment to the Commonwealth Transportation Board for allocation to the appropriate construction program. HB 2888; CH. 855.

**§ 15.2-2303.3 added. Cash proffers requested or accepted by a locality.** Provides that no locality shall require payment of a cash proffer prior to issuance of a building permit; however, a landowner may voluntarily agree to an earlier payment. Also, no locality shall either request or accept a cash proffer whose amount is scheduled to increase annually, from the time of proffer until tender of payment, by a percentage greater than the annual rate of inflation, as calculated by referring to the Consumer Price Index published by the United States Department of Labor, Bureau of Labor Statistics or the Marshall and Swift Building Cost Index. HB 2456; CH. 552.

**§ 15.2-2307.1 added. Protection of established commercial fishing operations.** Provides that registered commercial fishermen and seafood buyers who operate their businesses from their waterfront residences shall not be prohibited by a locality from continuing their businesses, notwithstanding the provisions of any local zoning ordinance. This section shall only apply to businesses that have been in operation by the current owner, or a family member of the current owner, for at least 20 years at the location in question. The protection granted by this section shall continue so long as the property is owned by the current owner or a family member of the owner. HB 2695; CH. 194.

**§ 15.2-2404 amended. Burying of high voltage power lines.** Provides that in Loudoun County and the Towns of Hamilton, Leesburg, and Purcellville, the governing body may enter into an agreement with a company providing electricity to the locality that calls for an additional charge to be included in the billing of customers that are in a special rate district for the purpose of placing proposed transmission lines underground, rather than overhead. The locality shall by ordinance set the boundaries of the special rate district and fix the amount of such tax. Thereafter, upon petition of over 60 percent of the owners of real estate within the boundaries of the proposed

special rate district who shall collectively own not less than 60 percent of the property of the proposed special rate district, the agreement shall be submitted to the SCC for approval. HB 2878; CH. 854.

**§ 15.2-2406 amended. Utility improvements; assessments.** Adds the City of Chesapeake to the list of localities that may charge to abutting property owners the entire cost of qualifying utility improvements. SB 1230; CH. 515.

**§ 15.2-2511.1 amended. Return of local surplus funds.** Allows any locality to develop a method for returning surplus real property tax revenues to taxpayers who are assessed real property taxes in any fiscal year in which the locality reports a surplus. Currently, this authority is granted to Albemarle County. HB 2622; CH. 835.

**§ 15.2-4119.** See § 8.01-2; SB 1118.

**§ 15.2-4203 amended. Appointment to planning district commissions.** Allows planning district 14 to include representatives of higher education institutions on the planning district commissions. HB 2364; CH. 819.

**§ 15.2-4303 amended. Agricultural and forestal districts processing fees.** Increases from \$300 to \$500 the cap on the fees that localities can charge for processing and reviewing an application for the creation of an agricultural or forestal district. SB 900; CH. 667.

**§ 15.2-4905 amended. Industrial development authorities; civil actions; attorneys' fees.** Provides that any written contract of the authority shall contain provisions addressing the issue of whether attorneys' fees shall be recoverable by the prevailing party in the event the contract is subject to litigation. The bill also provides that in any instance in which an authority has unsuccessfully challenged certain contracts related to easements, the authority shall be prohibited from bringing any further action against the landowner related to such matters. HB 1649; CH. 575.

**§ 15.2-5114 amended. Virginia Water and Waste Authorities Act; authorities' power to acquire property and grant security interests.** Authorizes authorities formed under the Virginia Water and Waste Authorities Act to grant security interests in any personal property or any interest, right or estate held by the authority. SB 869; CH. 666.

**§§ 15.2-5152, 15.2-5153, and 15.2-5158 amended. Community development authorities.** Removes population and tract size limitations for counties that want to establish a community development authority. No such limitations currently exist for cities and towns. Also, authorities are given powers related to the financing and funding of land acquisition. HB 2381; CH. 547.

**§ 15.2-5307 amended. Hospital authorities; commissioners.** Allows the director of a local health department to serve as a commissioner, but not as chairman, on a hospital authority. HB 2234; CH. 630.

**§ 15.2-5431.3 amended. Wireless service authority act.** Allows multiple localities to create a wireless service authority. HB 2158; CH. 299.

**§§ 15.2-5800, 15.2-5805, 15.2-5806, 15.2-5808, 15.2-5814, 15.2-5815, 58.1-3818, and 58.1-3840 amended; §§ 15.2-5822 and 15.2-5823 added. Entitlement to tax revenues; baseball stadiums.** Reinstates provisions to the Virginia Baseball Stadium Authority that expired on January 1, 2005, and extends them to January 1, 2008. These provisions entitle the Virginia Baseball Stadium Authority, subject to appropriation, to all personal income tax, corporate tax, and pass-through tax revenues collected by the Commonwealth as a result of the existence of a major league stadium. The locality in which the stadium is located may pledge all BPOL tax revenue generated on the premises of the stadium to the Authority. The Authority cannot issue bonds or lease the stadium to the Commonwealth if either would be considered a debt of the Commonwealth supported by state revenues or a direct or contingent financial obligation of the Commonwealth. The locality may levy an admissions surcharge to be used to reimburse the locality for its expenses in connection with the stadium. HB 2455; CH. 106.

**§ 15.2-5912.** See § 2.2-720; HB 2321.

**§§ 15.2-6203 and 15.2-6209 amended. Alleghany-Highlands Economic Development Authority.** Provides that all appointments to the authority shall be made by the participating local governing bodies and eliminates a mandatory funding component. SB 956; CH. 671.

**§§ 15.2-6300, 15.2-6301, 15.2-6302, 15.2-6304, 15.2-6306, 15.2-6308, and 15.2-6319 amended; §§ 15.2-6300.1, 15.2-6308.1, 15.2-6314.1, and 15.2-6322 added. Development of former federal areas.** Provides an alternative method for creating an authority under the Authorities for Development of Former Federal Areas Act, with such authority to be created by the City of Hampton rather than the governor, and expands the powers of such authorities. HB 2800; CH. 887 (effective 3/28/05)/SB 1189; CH. 869 (effective 3/28/05).

**§§ 15.2-6626 through 15.2-6651 added. Northern Neck Chesapeake Bay Public Access Authority Act.** Allows the Counties of Lancaster, Northumberland, Richmond and Westmoreland by resolution to declare that there is a need for a public access authority to be created. If an operating agreement is developed for the purpose of establishing or operating a public access authority for any such localities, these localities may form the Northern Neck Chesapeake Bay Public Access Authority. The Authority's duties shall include (1) identifying land, either owned by the Commonwealth or private holdings that can be secured for use by the general public as a public access site; (2) researching and determining ownership of all identified sites; (3) determining appropriate public use levels of identified access sites; (4) developing an appropriate mechanism for transferring title of Commonwealth or private holdings to the Authority; (5) developing appropriate acquisition and site management plans for public access usage; and (6) determining what holdings should be sold to advance the mission of the Authority. The Authority shall be governed by a

board of directors with authority to (i) acquire, establish, construct, enlarge, improve, maintain, equip, operate, and regulate any public access site within the territorial limits of the participating political subdivisions; (ii) construct, install, maintain, and operate facilities for managing access sites; (iii) determine fees, rates, and charges for the use of its facilities; (iv) apply for and accept gifts or other financial assistance; (v) appoint, employ, or engage such officers and employees as may be necessary or appropriate, and to fix their duties and compensation; (vi) contract with any participating political subdivision for such subdivision to provide legal services, engineering services, depository, and investment services; and (vii) borrow money and incur debt. Whenever it shall appear to the Authority that the need for the Authority no longer exists, the Authority, or in the proper case, any such subdivision, may petition the circuit court of a participating political subdivision for the dissolution of the Authority. HB 2692; CH. 842.

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## TITLE 15.2. MISCELLANEOUS - COUNTIES, CITIES AND TOWNS.

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**Handley Board of Trustees in City of Winchester; terms.** Decreases from 12 to six years the term for members of the Handley Board of Trustees. The board was created in 1896 for the purpose of carrying out the wishes of the late John Handley. Emergency. HB 1923; CH. 74 (effective 3/20/05).

**Maintenance of certain private roads.** Provides that Buchanan County may make appropriations, in such sums and at such times as the governing body deems proper, for maintenance of private roads that provide the sole access to private family cemeteries containing 10 or more graves. Appropriations shall be made for this purpose only when necessary to keep the roads passable by motor vehicle. HB 2574; CH. 555/SB 945; CH. 495.

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## CHARTERS, AUTHORITIES.

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**Coeburn, Town.** Provides that candidates for council shall not be identified on the ballot by party affiliation. HB 2406; CH. 549.

**Danville, City.** Amends the City of Danville's charter to provide for the direct election of school board members, pursuant to the 2004 passage of a local referendum. The bill also updates several obsolete Code references. HB 1779; CH. 613/SB 729; CH. 663.

**Fairfax, City.** Amends the city charter by deleting a specific starting time for the council organizational meeting, and granting the city attorney power to prosecute in the courts of the Commonwealth of Virginia all violations of law constituting misdemeanors and traffic violations committed within the city,

whether violations of city ordinances or the laws of the Commonwealth. HB 2492; CH. 641/SB 994; CH. 673.

**Halifax, Town.** Provides for the mayor and council members to take office on July 1 following their election, instead of September 1, as currently provided. HB 2072; CH. 538.

**Lovettsville, Town.** Eliminates the requirement that the town clerk be a resident of the town. HB 2475; CH. 553.

**Manassas Park, City.** Updates election provisions. HB 2618; CH. 560 (effective 3/22/05).

**New Castle, Town.** Extends council terms from two to four years beginning with the election to be held in 2006. HB 1899; CH. 617/SB 1068; CH. 675.

**Norfolk, City.** Provides that the City of Norfolk shall be divided into five single-member wards and into two single-member superwards. Also, beginning in 2006, the mayor shall be elected at-large. The mayor shall preside at meetings of the council and perform such other duties consistent with his office as may be imposed by the council. He shall be entitled to a vote, but shall possess no veto power. He shall be recognized as the official head of the city for all ceremonial purposes, by the courts for the purpose of serving civil process, and by the governor for military purposes. HB 2739; CH. 897 (effective - see bill)/SB 1174; CH. 893 (effective - see bill).

**Onley, Town.** Provides a new charter for the town and repeals the existing charter, adopted in 1950. HB 2756; CH. 654/SB 1175; CH. 693.

**Richmond, City.** Grants the mayor new powers, including veto authority over certain budget and fiscal measures and the ability to participate in the appointment of, assignment or use of, and removal of department heads. Other amendments will change the title of the vice mayor to president of the council; grant the mayor additional appointment powers; give the mayor and council greater control over the school budget; and make other technical changes. HB 2738; CH. 844.

**Stanley, Town.** Shifts council elections from May to November and deletes outdated provisions. HB 2176; CH. 627.

**Waynesboro, City.** Repeals the current city charter and replaces it with a new one. Most changes are organizational and technical in manner, such as updating Code references and deleting or amending outdated or unnecessary language. The substantive changes include revising the city budgeting schedule and authorizing indebtedness to conform with state law. HB 2210; CH. 629/SB 1007; CH. 674.

**Winchester, City.** Makes several changes to the election and composition of city council, including reducing the size of the council from 13 to nine members and changing the time of election from May to November. Other changes will alter the budget cycle and clarify the instances and manner in which council members may contract with the city for purchases. HB 2169; CH. 626 (effective 3/23/05).

**Peninsula Ports Authority.** Allows appointment to the commission of the Peninsula Ports Authority of persons who are

nonresidents of the localities embraced within the authority provided they have a principal place of business within one of those localities. HB 1723; CH. 529/SB 903; CH. 493.

**Virginia Biotechnology Research Partnership Authority; Biotechnology Macro Partnership.** Creates a panel to make decisions about the Commonwealth's biotechnology investments, upon implementation of any statewide program, referred to as the Virginia Biotechnology Macro. Certain provisions of the bill will expire on July 1, 2010. HB 1801; CH. 788.

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## TITLE 16.1. COURTS NOT OF RECORD.

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**§ 16.1-69.6:1 amended. Number of district judges.** Adds a new general district court judge to the 15th Judicial District (Fredericksburg, Essex, Caroline, Hanover, King George, Lancaster, Northumberland, Richmond, Spotsylvania, Stafford, Westmoreland), and a new juvenile court judge to the 20th Judicial District (Loudoun, Fauquier, Rappahannock). HB 2661; CH. 189/SB 1154; CH. 228.

**§§ 16.1-69.29 and 17.1-516 amended. Court jurisdiction.** Amends section that gives district and circuit courts for counties and cities lying on waters bounding the Commonwealth concurrent jurisdiction over the waters opposite the jurisdiction as far as the jurisdiction of the Commonwealth extends, to provide that it applies to the City of Norfolk. Under current law the cities of Norfolk and Richmond are the only jurisdictions, that do not have concurrent jurisdiction. HB 2527; CH. 114/SB 1180; CH. 45.

**§§ 16.1-69.35 and 16.1-241.** See § 1-200; HB 2640.

**§ 16.1-69.35 amended. Cross-designation of judges by chief district judge.** Increases the maximum duration of orders authorizing the cross-designation of juvenile and general district court judges from 90 days to one year. SB 806; CH. 207.

**§ 16.1-69.48:1.** See § 18.2-61; HB 2248.

**§ 16.1-69.55 amended. Enforcement of judgments.** Streamlines the process for enforcing judgments issued by a general district court and docketed in circuit court so as to extend enforcement timeframes by (i) eliminating the requirement for district court approval of the motion for extension, (ii) eliminating the requirement that all case documents in the district court must be filed in the circuit court, and (iii) permitting executions on the docketed civil judgments to issue from the general district court in which the judgment was obtained after the abstract of the circuit court judgment has been filed in the district court. HB 1580; CH. 135.

**§ 16.1-83.1.** See § 8.01-399; HB 2659/SB 1173.

**§ 16.1-88.03 amended. Pleadings and other papers by parties not represented by counsel; notice of address change.** Requires those certain parties that may represent themselves in certain civil proceedings to promptly notify the clerk of court and any adverse parties of address changes. If a party fails to

provide such notification, a mailing to or service upon a party at the most recent address contained in the court file of the case is deemed effective service or other notice. HB 1581; CH. 136.

**§ 16.1-88.2 amended. General district court; medical records.** Provides that if a personal injury case is removed from general district court to circuit court and the claim is under \$15,000, the parties may use general district court procedures to introduce medical evidence, rather than the circuit court procedures. In general district court a party may introduce evidence on injuries, treatment and examination and costs by a report and affidavit from the health care provider. In circuit court medical evidence is typically introduced by deposition or trial testimony of the health care provider. HB 2209; CH. 811.

**§ 16.1-92.** See § 8.01-195.4; HB 1621.

**§ 16.1-241.** See § 63.2-903; SB 854.

**§§ 16.1-241, 16.1-278.11, 16.1-339, 16.1-346.1, and 16.1-348.** See § 37.2-100; SB 1023.

**§ 16.1-248.1 amended. Criteria for detention of juvenile; appeal.** Authorizes the attorney for the Commonwealth to appeal the decision of the intake officer or magistrate to release a juvenile if the juvenile violated a term or condition of his release, is convicted of or taken into custody for an additional offense, or the attorney for the Commonwealth presents evidence that incorrect or incomplete information was relied upon in establishing the initial terms of release. The attorney for the Commonwealth may appeal the decision of a juvenile court judge if the juvenile is released over his objection. HB 2650; CH. 647.

**§ 16.1-266 amended. Juveniles; representation by attorney.** Provides that juveniles may waive representation by an attorney where the charged offense would be a felony if committed by an adult only after the juvenile consults with an attorney and the court determines that his waiver is free and voluntary. In addition, the waiver must be in writing, and the court must find that the child and parent consent and that the waiver is consistent with the interests of the child. HB 2670; CH. 427.

**§§ 16.1-269.2 and 16.1-272 amended. Notice of juvenile transfer hearing; sentencing.** Requires the attorney for the Commonwealth to notify the court service unit of the need for a transfer report upon motion of the Commonwealth for a juvenile transfer hearing. If a juvenile tried as an adult is sentenced as juvenile, the bill requires the clerk to provide a copy of the court's final order or judgment to the appropriate court service unit. HB 2529; CH. 590.

**§§ 16.1-269.2, 16.1-273, and 18.2-55.1 amended; § 52-8.6 added; § 16.1-299.2 repealed. Organized criminal gang reporting.** Repeals a provision relating specifically to reporting of organized youth gang activity, and creates a general law-enforcement reporting requirement of all gang activity to the Organized Criminal Gang File in the Virginia Criminal Information Network and the Violent Criminal Gang File of the

National Crime Information Center maintained by the Federal Bureau of Investigation. HB 2734; CH. 843.

**§ 16.1-278.8 amended. Delinquent juveniles; disposition.** Replaces the 12-month period during which the court may defer disposition of a delinquent juvenile with a provision that the court establish a specific period of time giving due regard to the gravity of the offense and the juvenile's history. HB 2206; CH. 810.

**§ 16.1-278.9.** See § 4.1-305; HB 2255.

**§ 16.1-278.18.** See § 20-78.2; HB 1988.

**§§ 16.1-281, 63.2-900, and 63.2-906 amended. Foster care plans and home studies.** Requires parent and child involvement in the development of foster care plans. The bill also requires home studies prior to any foster home placement, and requires the Board of Social Services to adopt regulations allowing for dual approval of homes as both foster and adoptive homes. HB 2744; CH. 653.

**§ 16.1-287 amended. Juveniles; information upon the commitment of a juvenile.** Places upon the Department of Correctional Education the primary duty of transferring academic, career and technical education, and related achievement information to local school boards when children are returned to the community from the Department of Juvenile Justice's care. HB 1789; CH. 154.

**§ 16.1-293.1 added. Mental health transition plan.** Requires the Board of Juvenile Justice, after consultation with the Board of Mental Health, Mental Retardation, and Substance Abuse Services and other related agencies, to promulgate regulations for the planning and provision of mental health, substance abuse or other therapeutic treatment services for persons returning to the community following commitment to a juvenile correctional center or postdispositional detention. HB 2245; CH. 405/SB 843; CH. 334.

**§ 16.1-296.** See § 8.01-2; SB 1118.

**§ 16.1-301.** See § 19.2-368.5; SB 1131.

**§ 16.1-309.1 amended. Confidentiality of juvenile records; escape exception.** Amends provisions allowing the public release of juvenile information (name, age, physical description, photograph, charge, and other information that might expedite apprehension) when a juvenile becomes a fugitive from justice to apply to juveniles who are being held in custody by a law-enforcement officer or in a secure facility. Under current law release of this information is allowed only if the juvenile is charged with certain felonies (rape, robbery, burglary, or a Class 1, 2, or 3). Current law further provides that the information may be released only upon court order. This bill provides that if the juvenile becomes a fugitive from justice at a time when court is not in session, the Department of Juvenile Justice, attorney for the Commonwealth or a court services unit may release such information. SB 1320; CH. 364.

**§ 16.1-319.** See § 57-16.1; HB 2697.

**§ 16.1-338.** See § 54.1-2969; HB 2516/SB 1109.

**§§ 16.1-340, 16.1-341, 16.1-342, 16.1-345, and 16.1-346.1 amended. Psychiatric Inpatient Treatment of Minors Act.** Adds a procedure for the hospitalization of a juvenile who is in detention or shelter care for a criminal offense pursuant to an order of a juvenile and domestic relations district court. SB 1070; CH. 346.

**§ 16.1-345.1.** See § 37.1-67.7; HB 578.

**§ 16.1-356.** See § 8.01-400.2; HB 2503.

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## TITLE 17.1. COURTS OF RECORD.

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**§ 17.1-100.** See § 2.2-720; HB 2321.

**§§ 17.1-113, 17.1-114, and 17.1-121 amended. Designation of courtrooms.** Restores a provision, repealed in a title revision, which allows the chief judges of the Twenty-first (Martinsville, Henry, and Patrick) and the Twenty-third (Roanoke, Salem, and Roanoke County) Judicial Circuits to designate particular courtrooms within their respective circuits as civil or criminal courtrooms. HB 1994; CH. 389.

**§§ 17.1-124, 17.1-131, 17.1-213, 17.1-240, 17.1-249, 17.1-275, 17.1-278, 17.1-279, 17.1-513, and 17.1-520.** See § 8.01-2; SB 1118.

**§ 17.1-207.** See § 1-200; HB 2640.

**§§ 17.1-258.2 through 17.1-258.5.** See § 55-108; SB 992.

**§ 17.1-275 amended. Fees collected by clerks of circuit courts; authorization to use funds for office expenses.** Provides that court clerks shall use the fees paid for copying to recoup the costs of providing the copies, with the balance of the funds paid to the Commonwealth. Funds sufficient to recoup the cost of making copies shall be deposited with the locality, which shall in turn appropriate funds to support copying costs. Such costs shall include lease and maintenance agreements, but shall not include salaries or related benefits. HB 1706; CH. 373.

**§§ 17.1-275.1, 17.1-275.2, 17.1-275.7, and 17.1-805.** See § 18.2-61; HB 2248.

**§ 17.1-279 amended. Technology Trust Fund Fee.** Prohibits, beginning July 1, 2006, transfers from the Technology Trust Fund Fee for purposes not specifically enumerated in the law, including transfers to the general fund. SB 902; CH. 738.

**§ 17.1-314 amended. Executive Secretary to the Supreme Court of Virginia; qualifications.** Removes the requirement that the executive secretary meet the qualifications of a judge of a court of record and allows, instead, the justices of the Supreme Court to prescribe any qualifications. SB 1341; CH. 237.

**§ 17.1-501 amended. Exercise of appointive powers by circuit court judges.** Removes the burden of each judge of a circuit having to sign an order of appointment and allows the

chief judge, or his designee, to do so on behalf of all the judges of the circuit. HB 2533; CH. 183.

**§ 17.1-507 amended. Number of circuit court judges.** Creates a new circuit court judgeship in the 28th Judicial Circuit (Bristol, Washington, Smyth). HB 2662; CH. 190/SB 1167; CH. 231.

**§ 17.1-516.** See § 16.1-69.29; HB 2527/SB 1180.

**§§ 17.1-619 and 17.1-623 amended. Courts of record; how jurors paid.** Allows jurors to be paid in cash or by electronic transfer. HB 2287; CH. 173.

**§ 17.1-802 amended. Virginia Criminal Sentencing Commission; membership.** Requires that the current composition of the Commission include the chairmen of the Committees for Courts of Justice or their designees. HB 2649; CH. 596.

**§§ 2.2-3705.7 and 17.1-913 amended. Judicial Inquiry and Review Commission; confidentiality; Freedom of Information Act.** Exempts the Commission from the Freedom of Information Act and also requires that ethical advice given to a judge by an attorney employed by the Commission and any attendant records be kept confidential. The bill allows the Commission to share such advice, without identifying the judge, with the judicial ethics advisory committee established by the Supreme Court. SB 1157; CH. 508.

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## TITLE 18.2. CRIMES AND OFFENSES GENERALLY.

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**§§ 46.2-208 and 46.2-382 amended; § 18.2-36.2 added. Involuntary manslaughter for a death caused by drunk boating; penalties.** Provides that any person who, as a result of operating a watercraft or motorboat while intoxicated, unintentionally causes the death of another person, is guilty of involuntary manslaughter. HB 1756; CH. 376.

**§§ 18.2-46.1, 19.2-11.2, 48-7, 48-8, and 48-9 amended; § 18.2-46.3:3 added. Crimes; criminal street gangs; penalties.** Adds to the list of crimes defined as “predicate criminal act” the following: § 18.2-42, assault by mob; § 18.2-56.1, reckless handling of a firearm; § 18.2-59, extorting money; § 18.2-286.1, shooting from a motor vehicle; § 18.2-287.4, carrying a loaded firearm in public areas in certain localities; and § 18.2-308.1, possession of a firearm, stun weapon or taser on school property. In addition, the bill provides that “predicate criminal act” includes the violation of any offense substantially similar to these newly added crimes as well as the existing listed crimes when committed in another state or territory of the United States, the District of Columbia, or the United States. The bill provides enhanced punishments for gang activities taking place at or near schools, colleges, and school buses. The bill allows a witness in a gang prosecution to request that certain information about the witness not be disclosed. Finally, the bill treats criminal street gangs as public nuisances and al-

lows for the enjoinder of such nuisances. HB 2217; CH. 813/SB 1217; CH. 764.

**§ 18.2-55.1.** See § 16.1-269.2; HB 2734.

**§§ 9.1-902, 9.1-908, 9.1-910, 16.1-69.48:1, 17.1-275.1, 17.1-275.2, 17.1-275.7, 17.1-805, 18.2-61, 18.2-67.1, 18.2-67.2, 19.2-218.1, 19.2-218.2, 19.2-299, 19.2-303.4, 19.2-335, and 19.2-336 amended; § 18.2-67.2:1 repealed. Sexual crimes.** Eliminates in the rape, forcible sodomy and object sexual penetration statutes the different standard that defines the offense if the victim and perpetrator are married to each other. This includes removing from the forcible sodomy and object sexual penetration statutes the provision that such crimes cannot be committed against a spouse unless the spouses were living separate and apart or there was bodily injury caused by force or violence, as the 2002 General Assembly did in the rape statute. Because of the equalization of the elements of the offense in the rape, forcible sodomy and object sexual penetration statutes, the marital sexual assault statute is repealed. The bill retains the provisions that allow for counseling and therapy, and allows discharge and dismissal if there has not been a previous discharge and dismissal under the statute. HB 2248; CH. 631.

**§ 18.2-62 amended. Persons arrested for certain crimes; testing for HIV, hepatitis B or C viruses.** Provides that the attorney for the Commonwealth may request that a person arrested for assault and battery where the victim was exposed to the body fluids of the person arrested, be tested for HIV and hepatitis B or C viruses. If the defendant refuses, the court may hold a hearing. Current law applies to persons charged with certain sex crimes and covers HIV testing only; however, the bill’s provisions for hepatitis B or C testing will apply to those persons also. HB 2906; CH. 661.

**§ 18.2-67.3 amended. What constitutes aggravated sexual battery; penalty.** Provides that the crime of aggravated sexual battery, a felony punishable by up to 20 years in prison, is committed when a person sexually abuses a person of any age who is physically helpless. Currently, sexual abuse of a person who is physically helpless is only punishable as aggravated sexual battery if the victim is 13 or 14 years old, the victim is seriously injured, or the accused uses a dangerous weapon. Under current law, sexual abuse of any child under age 13 is aggravated sexual battery. HB 2247; CH. 406.

**§§ 18.2-67.3, 18.2-361, 18.2-370, and 18.2-370.1 amended. Sexual offenses against children by a parent or grandparent; penalty.** Provides that sexual abuse of a child age 13-17 by a parent, step-parent, grandparent or step-grandparent is aggravated sexual battery, which is punishable by a term of imprisonment of one to 20 years. The bill provides that for purposes of the crimes against nature statute, parent includes step-parent and grandparent includes step-grandparent. The bill raises the age in the indecent liberties section from age 14 to age 15 and provides that violation of that section and certain violations of taking indecent liberties with a child by a person in a custodial or supervisory relationship, if the child is age 15 to 17 and is a child, step-child, grandchild or step-grandchild of

the perpetrator, is a Class 5 felony. If the child is less than 15 years of age it is a Class 4 felony. The bill amends the taking indecent liberties with child by a person in custodial or supervisory relationship to state that it does not apply if the child is emancipated or if the perpetrator is legally married to the child. HB 2564; CH. 185.

**§ 18.2-85 amended. Fire bombs; definition.** Amends the definition of a fire bomb to clarify that it includes a wick composed of any material capable of igniting the flammable material or chemical compound inside a container. SB 756; CH. 204.

**§§ 18.2-152.2 and 18.2-152.4 amended. Computer crimes; penalties.** Modernizes the Virginia Computer Crimes Act by updating definitions to comport with changing technology, removing superfluous language and relocating language. The bill adds unauthorized installation of software on the computer of another, disruption of another computer's ability to share or transfer information and maliciously obtaining computer information without authority as additional crimes of computer trespass, a Class 1 misdemeanor. The bill also reduces the felony (Class 6) threshold from \$2,500 to \$1,000 for property damage resulting from computer trespass. HB 2215; CH. 812.

**§§ 18.2-152.2, 18.2-152.3, 18.2-152.4, 18.2-152.5, 18.2-152.6, 18.2-152.7, 18.2-152.8, 18.2-152.12, and 19.2-8 amended; §§ 18.2-152.5:1 and 19.2-249.2 added; §§ 18.2-152.9 and 18.2-152.10 repealed. Virginia Computer Crimes Act; penalties.** Updates the Virginia Computer Crimes Act to include recommendations made by the 2004 joint study on Computer Crimes by the Joint Commission on Technology and Science and Virginia State Crime Commission. The bill modernizes definitions of "computer", "using a computer" and "without authority" to comport with changing technology. The bill revises provisions regarding computer trespass, a Class 1 misdemeanor, unless the damage to the property of another is \$1,000 (\$2,500 under current law) or more, in which case it is a Class 6 felony. Provisions regarding computer invasion of privacy are rewritten to include unauthorized gathering of identifying information and Class 6 penalties added for persons with previous convictions, selling or distributing the information to another or using the information in the commission of another crime. The bill adds as a new Class 6 felony using a computer to fraudulently gather identifying information of another (phishing), unless the information is sold or distributed to another or the information is used in the commission of another crime, in which case it is a Class 5 felony. Statute of limitation and venue provisions are relocated in the Code. HB 2471; CH. 827/SB 1163; CH. 761.

**§§ 18.2-152.3 and 18.2-152.5 amended; § 18.2-152.5:1 added. Computer crimes; penalties.** Revises provisions in the Virginia Computer Crimes Act relating to computer fraud and redefines computer invasion of privacy by including the unauthorized gathering of identifying information and punishes subsequent offenses and transferring the information to another or use of the information in the commission of another crime as a Class 6 felony. Currently, the offense is punishable

as a Class 1 misdemeanor. Additionally, the fraudulent gathering of such information is punished as a Class 6 felony, a new crime, and transferring the information to another or use of the information in the commission of another crime is a Class 5 felony. HB 2631; CH. 837.

**§§ 18.2-152.3 and 18.2-152.5 amended; § 18.2-152.5:1 added. Computer crimes; penalties.** Revises provisions in the Virginia Computer Crimes Act relating to computer fraud and redefines computer invasion of privacy by including the unauthorized gathering of identifying information. The bill punishes subsequent offenses and transferring the information to another or using the information in the commission of another crime as a Class 6 felony. Currently, the offense is punishable as a Class 1 misdemeanor. Additionally, the fraudulent gathering of such information is punished as a Class 6 felony, a new crime, and transferring the information to another or use of the information in the commission of another crime is a Class 5 felony. SB 1002; CH. 747.

**§ 18.2-152.5:1 added. Computer crimes; phishing; penalty.** Makes it a Class 6 felony to fraudulently obtain, record, or access from a computer the following identifying information of another: (i) social security number; (ii) driver's license number; (iii) bank account numbers; (iv) credit or debit card numbers; (v) personal identification numbers (PIN); (vi) electronic identification codes; (vii) automated or electronic signatures; (viii) biometric data; (ix) fingerprints; (x) passwords; or (xi) any other numbers or information that can be used to access a person's financial resources, obtain identification, act as identification, or obtain goods or services. Any person who sells or distributes such information or uses it to commit another crime is guilty of a Class 5 felony. SB 1147; CH. 760.

**§§ 18.2-152.6, 18.2-152.7, 18.2-152.8, 18.2-152.12, and 19.2-8 amended; § 19.2-249.2 added; §§ 18.2-152.9 and 18.2-152.10 repealed. Computer crimes; penalties.** Revises provisions in the Virginia Computer Crimes Act relating to theft of computer services, personal trespass by computer, embezzlement, larceny or receiving stolen goods by computer, and civil damages. The bill also relocates statute of limitation and venue provisions in the Code. SB 1001; CH. 746.

**§§ 18.2-154 and 18.2-279 amended. Homicide resulting from shooting into a vehicle or building.** Specifies that a death resulting from maliciously shooting or throwing a missile at a vehicle or occupied building is second degree murder unless the homicide is willful, deliberate and premeditated, in which case it is first degree murder. HB 1620; CH. 143.

**§ 18.2-182 amended. Payment of wages with bad checks; penalty.** Provides that an employer who pays wages with a bad check having a face value of \$200 or more shall be guilty of a Class 6 felony. HB 2674; CH. 598.

**§ 18.2-194 amended. Unauthorized possession of two or more signed credit cards or credit card numbers.** Clarifies that possession of two unauthorized credit cards is credit card theft and not forgery. HB 1860; CH. 157.



**§ 18.2-196.1 added. Unlawful use of payment card scanning devices and re-encoders; penalty.** Punishes as a Class 1 misdemeanor the malicious and unauthorized use of a scanner or re-encoder to unlawfully reproduce the information in the magnetic stripe of a payment card and as a Class 6 felony if the person sells or distributes such information to another or uses the information in the commission of another crime. HB 2059; CH. 166.

**§ 18.2-204.3.** See § 60.2-500; HB 2137/SB 1201.

**§ 18.2-216 amended. Crimes; untrue, deceptive or misleading advertising, inducements, writings, or documents.** Provides that the words “untrue, deceptive and misleading” include the use of any writing or document that appears to be, but is not in fact a negotiable check, draft, or other instrument unless the writing or document clearly and conspicuously has printed on its face in at least 14-point bold type the phrase “THIS IS NOT A CHECK.” Currently, the writing or document is considered “untrue, deceptive or misleading” even if it has written on it that it is nonnegotiable. HB 1690; CH. 150.

**§§ 18.2-246.6, 18.2-308, and 18.2-5.** See § 1-200; HB 2640.

**§ 18.2-248 amended. Possession of methamphetamine, methcathinone, or amphetamine precursors; penalty.** Provides that any person who possesses any two or more of the following substances with the intent to manufacture methamphetamine, methcathinone or amphetamine is guilty of a Class 6 felony: liquified ammonia, ether, hypophosphorus acid solutions, hypophosphite salts, hydrochloric acid, iodine crystals or tincture of iodine, phenylacetone, phenylacetic acid, red phosphorus, methylamine, methyl formamide, lithium metal, sodium metal, sulfuric acid, sodium hydroxide, potassium dichromate, sodium dichromate, potassium permanganate, chromium trioxide, methylbenzene, methamphetamine precursor drugs, sodium hydroxide, trichlorethane, or 2-propanone. The bill also requires the Virginia Department of State Police, Department of Environmental Quality, Department of Health, and Division of Forensic Science to establish a multi-agency work group to develop a best-practices protocol for use by law-enforcement and emergency response agencies regarding the clean-up of abandoned and deactivated methamphetamine production sites. HB 1974; CH. 796/SB 1121; CH. 759.

**§ 18.2-248 amended. Controlled substances; penalties.** Raises the penalty for manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or distribute a controlled substance classified in Schedule III to a Class 5 felony from a Class 1 misdemeanor and a controlled substance classified in Schedule IV from a Class 1 misdemeanor to a Class 6 felony. If the violation involves an imitation controlled substance in Schedule III or IV, the penalty is raised from a Class 1 misdemeanor to a Class 6 felony. The bill also provides that an accommodation sale is a Class 1 misdemeanor. HB 2291; CH. 174.

**§ 18.2-248 amended; § 18.2-248.02 added. Penalties for methamphetamine manufacture.** Increases the penalty for manufacturing certain amounts of methamphetamine or less

than 200 grams of a mixture containing methamphetamine from a range of five to 40 years to a range of 10 to 40 years. For a second conviction the range is increased from five years to life to 10 years to life, and for a third or subsequent conviction the range is established as 10 years to life with a mandatory minimum term of imprisonment of three years. There is a provision for the court to order restitution to an innocent property owner whose property is damaged, or rendered unusable, as a result of methamphetamine production. The bill makes it a felony punishable by imprisonment of 10 to 40 years for any person in a custodial relationship over a child under the age of 18 to knowingly allow that child to be present during the manufacture or attempted manufacture of methamphetamine. Certain state agencies are required to establish a multi-agency work group to create a best practices protocol for use by law-enforcement and emergency response agencies regarding the clean-up of abandoned and deactivated methamphetamine production sites. The Division of Forensic Science is required to create a best practices protocol regarding the retention and handling of the by-products of methamphetamine production after testing is conducted on behalf of law-enforcement officials. HB 2438; CH. 923/SB 1156; CH. 941.

**§§ 18.2-254 and 18.2-255.2.** See § 37.2-100; SB 1023.

**§ 18.2-254.1 amended. Drug Treatment Court.** Establishes a drug treatment court in Chesapeake. HB 2810; CH. 602/SB 1342; CH. 519.

**§§ 18.2-266, 18.2-268.2, 18.2-268.10, 18.2-269, 29.1-738, 29.1-738.2, 29.1-738.3, 46.2-341.24, 46.2-341.26:2, 46.2-341.26:10, and 46.2-341.27 amended. Driving motor vehicle after ingesting certain illegal drugs; penalty.** Makes it a violation of the DUI statute to drive with specified levels of the following illegal drugs in one’s blood: cocaine, methamphetamine, phencyclidine (PCP), and 3,4-methylenedioxymethamphetamine (MDMA ecstasy). HB 1896; CH. 616.

**§ 18.2-266 amended. Crimes; driving a motor vehicle while intoxicated.** Provides that the defined term “motor vehicle,” which includes mopeds while operated on the public highways of this Commonwealth, applies to all of the provisions of the article of the Code establishing the DUI laws. HB 2786; CH. 845.

**§§ 18.2-267, 18.2-268.1, 18.2-268.6, 18.2-268.7, 18.2-268.8, and 18.2-268.9.** See § 9.1-102; HB 2216/SB 1153.

**§§ 18.2-267, 18.2-268.2 through 18.2-268.5, 18.2-268.8, 18.2-268.9, 18.2-268.10, 18.2-272, 46.2-391.2, and 46.2-391.4 amended. Driving under the influence.** Clarifies provisions in the driving under the influence laws, particularly in the refusal statute. The bill states that a first offense of refusal is a civil offense and that subsequent offenses are criminal. Procedures for charging a person with refusal are specified. A law-enforcement officer will have to read the refusal form only to persons who refuse to take a blood or breath test. HB 2655; CH. 840/SB 1093; CH. 757.

**§ 18.2-268.4.** See § 46.2-398; SB 1205.

§ 18.2-271.2. See § 30-73.2; SB 1115.

§§ 18.2-280, 18.2-282, and 18.2-308.1. See § 57-16.1; HB 2697.

**§ 18.2-285 amended. Hunting while intoxicated; penalty.** Increases the penalty for hunting with a firearm while under the influence of alcohol or narcotic drug from a Class 2 to a Class 1 misdemeanor. The bill also includes within such prohibited hunting the hunting with bow and arrow or crossbow. SB 1149; CH. 507.

**§ 18.2-287.4 amended. Carrying certain loaded weapons in public.** Rewrites the prohibition against carrying certain loaded semi-automatic rifles or pistols and shotguns in public in certain localities to delete the definition of "firearm" and replace it with the existing substance of the definition. The bill also clarifies that the prohibition does not apply to a person who has a valid concealed handgun permit. HB 1915; CH. 160.

**§ 18.2-308 amended. Concealed handgun permits; fees.** Exempts special agents retired from the Alcoholic Beverage Control Board from paying a fee for issuance of a concealed handgun permit if the special agent retired after completing 15 years of service or after reaching age 55. HB 2562; CH. 420/SB 1026; CH. 344.

**§ 18.2-308 amended. Concealed weapons; retired law-enforcement officers.** Allows retired local auxiliary police officers and animal control officers to carry concealed weapons, subject to certain conditions. HB 2665; CH. 424.

**§ 18.2-308 amended. Concealed handgun permits; disqualifications.** Amends the provision disqualifying a person from receiving a concealed handgun permit on the basis of a written statement of a sheriff, chief of police, or attorney for the Commonwealth alleging that the applicant is likely to use the weapon in an unlawful or negligent manner to provide that in order to disqualify the applicant, the court must find by a preponderance of the evidence, based on specific acts by the applicant, that the applicant is likely to use a weapon unlawfully or negligently to endanger others. HB 2928; CH. 441.

**§ 18.2-308.1 amended. Possession of firearms on school property; concealed handgun permit exemption.** Allows the holder of a valid concealed handgun permit to possess a concealed handgun on school property while in a motor vehicle in a parking lot, traffic circle, or other means of vehicular ingress or egress to the school. HB 2535; CH. 830.

**§ 18.2-308.2 amended. Possession of explosive material.** Provides that if a person is prohibited from possessing, transporting or carrying explosive materials because of a felony conviction, such person may possess, transport or carry explosive materials if his right to do so has been restored pursuant to federal law. HB 2577; CH. 833.

**§ 18.2-308.2 amended. Possession and transportation of firearms, etc.; juveniles adjudicated delinquent of certain crimes; penalty.** Makes it unlawful for a person adjudicated delinquent on or after July 1, 2005, of murder, kidnapping, armed robbery, or rape who was 14 years of age or older at the

time of the offense to possess or transport firearms, stun weapons, tasers, or concealed weapons for the rest of his life. Under current law, such a person would be able to possess these weapons at age 29. Possession or transport of these weapons is a Class 6 felony. The mandatory minimum sentence of two years for a possession of a gun by a person who has been convicted of a felony is removed for persons whose felony conviction was more than ten years ago. HB 2722; CH. 600.

**§ 18.2-308.2:2 amended. Transfer of firearms; purchase of more than one handgun in a 30-day period; exemption.** Exempts law-enforcement officers from the provision limiting a person from purchasing more than one handgun in a 30-day period. HB 2060; CH. 578.

**§§ 18.2-308.2:2 and 54.1-4201 amended. Purchase of firearms.** Eliminates the requirement that a person who wishes to purchase a firearm fill out duplicate information on the form required by the Department of State Police as is required on the federal firearm purchase application form. Instead, the applicant will be required to provide written consent for a background check on a state form, and provide certain specified information necessary for the Department of State Police to complete the required background check. In addition, the bill allows the chief law-enforcement officer of a locality, in the course of a criminal investigation, to examine both federal and state firearm transaction records maintained by a licensed firearms dealer in the Commonwealth. HB 2931; CH. 859.

**§ 18.2-313.2.** See § 29.1-574; HB 2029.

**§ 18.2-340.33 amended; § 18.2-340.34:1 added. Charitable gaming; Department of Charitable Gaming; registration of bingo manager and a caller; payment of remuneration.** Authorizes the payment of remuneration to a bingo manager and a caller by a qualified organization, not to exceed \$100 per session for a manager and \$50 per session for a caller, provided the bingo manager and caller is registered with the Department. The bill sets forth the requirements for registration. The bill contains technical amendments. The bill also allows the Charitable Gaming Board to set the hours of operation of bingo games. HB 2454; CH. 826/SB 1322; CH. 776.

**§ 18.2-346.1 amended. Testing of persons convicted of certain crimes for hepatitis C.** Requires hepatitis C testing of persons convicted under statutes prohibiting prostitution, crimes against nature and certain drug offenses indicating intravenous use. Under current law persons convicted of prostitution and crimes against nature must be tested for HIV. This bill adds drug crimes to that provision. The bill also contains provisions related to the sharing and confidentiality of hepatitis C test results. HB 2854; CH. 438.

**§ 18.2-370 amended. Indecent liberties with children; penalties.** Raises the age of the victim, for the purposes of committing the crime of taking indecent liberties with children, from 13 to 14. SB 1170; CH. 762.

**§ 18.2-386.1 amended. Photographs of undergarments, etc., without consent; penalty.** Provides that the knowing and intentional creation of a videotape, photograph, film or

videographic or still image record created by placing the lens or image-gathering component of a recording device directly beneath or between a person's legs for the purpose of capturing an image of the person's undergarments or intimate parts, when the undergarments or intimate parts would not otherwise be visible to the general public, is punishable as a Class 1 misdemeanor. The offense is punishable as a Class 6 felony if the nonconsenting person is under the age of 18. HB 1741; CH. 375.

**§ 18.2-387.1 added. What constitutes indecent exposure; penalty.** Provides that a person who, while in a public place where others are present, intending that he be seen by others, intentionally and obscenely engages in actual or explicitly simulated acts of masturbation, is guilty of a Class 1 misdemeanor. HB 2623; CH. 422.

**§ 18.2-431.1 added. Illegal conveyance or possession of cellular telephone by prisoner; penalty.** Creates a Class 6 felony for a person without authorization to provide or cause to be provided a cellular telephone to an incarcerated prisoner, or for an incarcerated prisoner without authorization to possess a cellular telephone during the period of his incarceration. HB 2213; CH. 171.

**§ 18.2-434 amended; § 8.01-4.3 added. Unsworn declarations; perjury; penalty.** Permits the use of unsworn declarations in lieu of sworn affidavits and provides that it is perjury for a person to willfully subscribe as true any material matter that he does not believe to be true in a written declaration, certificate, verification, or statement made under penalty of perjury. HB 2652; CH. 423.

**§ 18.2-462 amended. Impeding a criminal investigation; penalty.** Provides that any person with actual knowledge of the commission of a felony under Chapter 4 of Title 18.2 (Crimes Against the Person) by another, who willfully conceals, alters, dismembers, or destroys any item of physical evidence with the intent to delay, impede, obstruct, prevent, or hinder the investigation, apprehension, prosecution, conviction, or punishment of any person regarding such offense, is guilty of a Class 6 felony. This provision does not apply to the victim or the spouse, parent, grandparent, child, grandchild, or sibling of the offender. HB 2288; CH. 408.

**§ 18.2-465.1 amended. Jury service by employed people.** Replaces the provision scheduled to become effective July 1, 2005, permitting a person to be absent from work on any day he serves on a jury with a provision that no person who is summoned and appears for jury duty for four or more hours shall be required to start any work shift that begins on or after 5:00 p.m. on the day of jury service or begins before 3:00 a.m. on the day following the day of jury service. HB 2795; CH. 931.

**§ 18.2-479 amended. Escape from custody without violence.** Provides that if any person lawfully confined in jail or in the custody of any court or court officer or of any law-enforcement officer, for a probation or parole violation, escapes, other than by force or violence or by setting fire to the jail, he is guilty of a Class 1 misdemeanor. Currently, misdemeanor es-

cape is punishable only when the person is being held on a misdemeanor charge or conviction. HB 1513; CH. 573.

**§§ 18.2-500 and 18.2-507.** See § 8.01-2; SB 1118.

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## TITLE 19.2. CRIMINAL PROCEDURE.

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**§§ 19.2-5 and 19.2-95.** See § 1-200; HB 2640.

**§§ 19.2-8 and 19.2-249.2.** See § 18.2-152.2; HB 2471/SB 1163.

**§§ 19.2-8 and 19.2-249.2.** See § 18.2-152.6; SB 1001.

**§ 19.2-11.2.** See § 18.2-46.1; HB 2217/SB 1217.

**§ 19.2-12 amended. Conservators of the peace.** Provides that attorneys for the Commonwealth are conservators of the peace. HB 1666; CH. 372.

**§ 19.2-13 amended. Special conservators of the peace.** Clarifies that individuals who qualify as special conservators of the peace, who meet certain training requirements, and who are employed by an agency that meets the definition of a private corporate criminal justice agency are exempt from registration and bonding requirements for special conservators of the peace. The bill also permits one judge to approve for all jurisdictions wherein a corporate applicant holds title to real property the appointment of such individual as a special conservator of the peace. SB 1013; CH. 498.

**§§ 19.2-61, 19.2-66, 19.2-68, and 19.2-70.2 amended. Location and jurisdiction of wiretaps.** Redefines jurisdiction for the purposes of electronic or wire interceptions to provide that such communications shall be deemed to be intercepted in the jurisdiction where the order is entered, regardless of the physical location or the method by which the communication is captured or routed to the monitoring location. The bill also provides that an application for an ex parte order authorizing a pen register or trap and trace device may be filed in the jurisdiction where the person or persons who subscribe to the communication system live, work, or maintain an address and that such installation shall be deemed to occur in the jurisdiction where the order is entered, regardless of the physical location or the method by which the information is captured. HB 2869; CH. 934.

**§ 19.2-73 amended. Summons in lieu of warrant for DUI.** Provides that if a person arrested for DUI has been taken to a medical facility for treatment or evaluation of his medical condition, the arresting officer at a medical facility may issue, on the premises of the medical facility, a summons for the DUI violation and for refusal of blood alcohol tests in lieu of securing a warrant. Currently, the summons is authorized only for a refusal. HB 2668; CH. 425.

**§ 19.2-81.** See § 10.1-117; HB 2086.

**§ 19.2-81 amended. Arrest upon a misdemeanor capias.** Provides that when a law-enforcement officer makes an arrest

upon a misdemeanor *capias*, it is not necessary that he have the *capias* in his possession. HB 2808; CH. 435.

**§ 19.2-120 amended. Release of a sex offender on bail.** Extends the presumption against bail to situations where a person is arrested for a sex offense enumerated in § 18.2-67.5:2 and the person had previously been convicted of an offense that is substantially similar to one listed in § 18.2-67.5:2 under the laws of another state or the United States. Current law does not specify that an offense in another jurisdiction creates the same presumption as an enumerated Virginia offense. HB 1542; CH. 132.

**§ 19.2-143 amended. Remission of forfeited bond.** Provides that if it is brought to the attention of the court that a defendant who has defaulted on his bond is incarcerated in another state or country within 48 months of the finding of default, thereby preventing his delivery or appearance within that period, the court shall remit any bond previously ordered forfeited. The current period is 12 months. HB 2315; CH. 585.

**§ 19.2-163.01 amended. Virginia Indigent Defense Commission; powers and duties.** Requires the Commission to report periodically to the Virginia State Crime Commission and the courts committees and money committees of the House and Senate on the caseload of each public defender office. SB 1165; CH. 230.

**§ 19.2-163.02 amended. Indigent Defense Commission; membership and dual office holding.** Provides that if the chairman of the Virginia State Crime Commission is the chairman of the House Committee for Courts of Justice, then the vice chairman of the Committee shall serve in the position designated for the Committee chairman. If the Crime Commission chairman is the chairman of the Senate Committee for Courts of Justice, then the Senate Committee on Rules, upon the recommendation of the chairman of the Committee, shall appoint a member of the Committee to serve in the position designated for the Committee chairman. HB 2305; CH. 176.

**§ 19.2-163.02.** See § 30-73.2; SB 1115.

**§ 19.2-169.5 amended. Criminal cases; mental health reports.** Provides that in any felony criminal case where the defendant's sanity is in issue and defendant obtains his own expert to evaluate him, the expert shall prepare a full report and shall provide it to the attorney for the Commonwealth. HB 2678; CH. 428.

**§§ 19.2-169.6, 19.2-177.1, 19.2-182.3, and 19.2-182.9.** See § 37.2-100; SB 1023.

**§§ 19.2-187, 19.2-187.01, 19.2-187.2, 19.2-188.1, 19.2-270.4:1, 19.2-310.2, 19.2-310.2:1, 19.2-310.3, 19.2-310.3:1, 19.2-310.4, 19.2-310.5, 19.2-310.6, 19.2-310.7, 19.2-327.1, 19.2-327.3, 19.2-327.4, 19.2-386.23, 19.2-386.27, 19.2-387, and 19.2-389.1.** See § 9.1-102; HB 2216/SB 1153.

**§ 19.2-187.02.** See § 8.01-413.02; HB 2118.

**§§ 19.2-218.1, 19.2-218.2, 19.2-299, 19.2-303.4, 19.2-335, and 19.2-336.** See § 18.2-61; HB 2248.

**§ 19.2-243 amended. Speedy trial.** Provides that an arrest on an indictment, warrant, information or presentment is deemed to have occurred only when the summons or *capias* to answer the indictment, warrant, or information is served and executed on the accused, and that the lodging of a detainer does not constitute an arrest. The bill also provides for tolling of the speedy trial statute upon the occurrence of a natural disaster, civil disorder, or act of God. HB 2663; CH. 650.

**§ 19.2-262.** See § 8.01-359; SB 1274.

**§§ 19.2-266.2 and 19.2-398 amended. Defense objections; criminal appeals by the Commonwealth.** Requires defense objections on speedy trial or double jeopardy grounds be filed in writing at least seven days before trial or at such time prior to trial as the grounds for the motion or objection arose, whichever occurs last. The bill also provides that in a felony case, a pretrial appeal from a circuit court may be taken by the Commonwealth from an order of a circuit court dismissing a warrant, information or indictment or any count or charge thereof, on the ground that the speedy trial statute was violated or that the defendant was subjected to double jeopardy. HB 1977; CH. 622.

**§§ 19.2-266.2 and 19.2-398 amended. Criminal procedure.** Requires defense objections on speedy trial or double jeopardy grounds to be filed in writing at such time prior to trial as the grounds for motion or objection shall arise, whichever occurs last. The bill also provides that the Commonwealth may appeal from dismissal of a prosecution on speedy trial or double jeopardy grounds. Currently, such appeal must be on the ground that a statute upon which the dismissal was based was found to be unconstitutional. The bill also provides that an arrest on an indictment, warrant, information or presentment is deemed to occur only when the summons or *capias* is served and executed on the accused and that the lodging of a detainer does not constitute an arrest. SB 1177; CH. 694.

**§ 19.2-271.2.** See § 8.01-398; HB 2174.

**§ 19.2-299 amended. Availability of presentence report to defendant.** Allows counsel for the accused to provide the accused with his presentence report. HB 2647; CH. 188/SB 910; CH. 219.

**§ 19.2-305.1 amended. Crimes; restitution for cleanup of illegal lab.** Requires the court to order a defendant to pay the costs associated with the removal and remediation of an illegal drug lab site. HB 2595; CH. 591.

**§ 19.2-305.4 amended. Criminal procedure; when interest is paid on an award of restitution.** Provides that interest on an award of restitution runs from the date of the loss or damage unless the court specifically orders interest to run from a different date. HB 2006; CH. 79/SB 695; CH. 14.

**§ 19.2-316.2 amended. Detention center incarceration.** Provides that a sentence to a Detention Center Incarceration Program shall not be imposed as an addition to an active sentence to a state correctional facility. HB 2114; CH. 580/SB 1168; CH. 512.

**§ 19.2-316.3 amended. Diversion center incarceration program.** Provides that participation in a diversion center incarceration program shall not be imposed in addition to an active sentence to a state correctional facility. HB 2920; CH. 604.

**§ 8.01-654 amended; §§ 19.2-321.1 and 19.2-321.2 added.**

**Delayed criminal appeal.** Sets out a procedure for a defendant to move for leave to pursue a delayed appeal from circuit court to the Court of Appeals and from the Court of Appeals to the Supreme Court when an appeal in a criminal case was never initiated or was dismissed for failure to adhere to proper form, procedures and time limits due to error, neglect, or fault of counsel representing the appellant, or of the court reporter, or of the court or an officer or employee of the court. The motion must be made within six months of dismissal or of the lower court judgment, whichever is later. HB 2628; CH. 836.

**§§ 16.1-301, 19.2-368.5, 19.2-368.10, and 19.2-368.11:1 amended; § 19.2-368.5:2 added. Criminal Injuries Compensation Fund.** Increases the maximum funeral payout from \$3,500 to \$5,000, reconciles inconsistent language in the definition of victim, specifies that the lack of a restitution order does not preclude the Fund from exercising its subrogation rights, provides that upon the filing of a claim, health care providers are prohibited from undertaking debt collection activities until an award is issued or determined to be noncompensable, and allows the Fund access to juvenile records in certain instances. SB 1131; CH. 683.

**§§ 19.2-385 and 19.2-386.13.** See § 8.01-2; SB 1118.

**§ 19.2-386.8.** See § 55-248.31; HB 2447.

**§ 19.2-389 amended. Free criminal history check for a Crime Stoppers, Crime Solvers or a Crime Line program board member.** Provides that any board member or any person who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program shall not be required to pay for a criminal history records check for appointment to such a board. HB 1676; CH. 149.

**§§ 19.2-389 and 19.2-389.1.** See § 37.1-70.1; HB 1997.

**§ 19.2-389 amended. Criminal history record information.** Allows a person, who has applied to be a volunteer with the council of the Girl Scouts of the USA or the Boy Scouts of America serving troops in Virginia, to receive his own criminal history information at no charge. The bill will not become effective unless an appropriation of funds effectuating the purposes of the bill is included in the general appropriation act. HB 2301; CH. 175.

**§ 19.2-389.** See § 57-16.1; HB 2697.

**§ 19.2-390 amended; § 19.2-390.02 added. Criminal procedure; Central Criminal Records Exchange.** Requires, as of January 1, 2006, the law-enforcement agency making a report to the Exchange to include within its report, along with the fingerprints, a photograph of the individual arrested. The State Police and local law enforcement are required to establish writ-

ten procedures for conducting in-person and photographic lineups. HB 2632; CH. 187/SB 1164; CH. 229.

**§ 19.2-392 amended. Criminal procedure; fee for fingerprints.** Increases fingerprint fees for noncriminal prints from \$5 per card to \$10 for the first card and \$5 for each successive card. SB 1084; CH. 347.

**§ 19.2-392.02 amended. Criminal procedure; national criminal background checks by businesses and organizations providing care to children, the elderly and disabled.** Provides that only one set of fingerprints needs to be provided by the prospective employee of a business or organization providing care to children, the elderly or disabled as part of such entity's request for a national criminal background check on the prospective employee. Currently, two sets are required; however, electronic reproduction eliminates the need for two sets. SB 895; CH. 217.

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## TITLE 19.2. MISCELLANEOUS - CRIMINAL PROCEDURE.

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**Execution of pregnant inmate.** Requires the Department of Corrections to promulgate regulations assuring that no inmate will be executed while she is pregnant. HB 1812; CH. 155.

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## TITLE 20. DOMESTIC RELATIONS.

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**§§ 16.1-278.18, 20-78.2, and 63.2-1960 amended. Child support arrearages; attorneys' fees; retention by Department of Social Services.** Provides for attorneys' fees in court-ordered judgments for support arrearages equal to or greater than three months of support and maintenance. The Department of Social Services is authorized to retain any attorneys' fees it collects in a special fund dedicated to the support of the Division of Support Enforcement. HB 1988; CH. 880.

**§§ 20-88.32 through 20-88.36, 20-88.39, 20-88.40, 20-88.41, 20-88.42, 20-88.43, 20-88.44, 20-88.46, 20-88.47, 20-88.48, 20-88.50, 20-88.51, 20-88.53, 20-88.54, 20-88.56, 20-88.57, 20-88.59, 20-88.60, 20-88.62 through 20-88.64:2, 20-88.64:5, 20-88.65, 20-88.67, 20-88.69, 20-88.70, 20-88.72, 20-88.75, 20-88.76, 20-88.77, 20-88.78, 20-88.80, 20-88.81 amended; §§ 20-88.43:1, 20-88.43:2, and 20-88.77:3 added. Uniform Interstate Family Support Act (UIFSA).** Updates the Act, which Virginia adopted in 1994 to replace the Uniform Reciprocal Enforcement of Support Act, by making most of the amendments proposed by the National Conference of Commissioners on Uniform State Laws (NCCUSL) in 2001 to clarify UIFSA and reflect changes in federal law. The purpose of UIFSA is to limit modification of child support orders to a single state to reduce the number of interstate jurisdictional disputes. Except in narrowly defined circumstances, the only

state able to modify a support order is the one that continues to have exclusive jurisdiction over the matter. The definition of “state” is expanded to allow other countries to have their orders enforced in the United States. An individual state can arrange with a foreign country for reciprocal enforcement of child support. SB 1040; CH. 754.

§ 20-96. See § 8.01-2; SB 1118.

§ 20-108.2. See § 30-73.2; SB 1115.

**§ 20-121.03 added. Confidential information in divorce cases; separate addendums.** Requires that the record of any divorce suit not contain the social security number of any party or of any minor child, or any financial information. If such information must be provided to a government agency or recorded for the benefit of the parties, it shall be contained in a separate addendum. The addendum can be used to distribute the information as required by law but shall otherwise be made available only to the parties, their attorneys, and to such other persons as the court in its discretion may allow. SB 1019; CH. 500.

§ 20-124.1. See § 63.2-903; SB 854.

§ 20-124.6. See § 54.1-2969; HB 2516/SB 1109.

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## TITLE 21. DRAINAGE, SOIL CONSERVATION, SANITATION AND PUBLIC FACILITIES DISTRICTS.

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§ 21-119. See § 1-200; HB 2640.

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## TITLE 22.1. EDUCATION.

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**§ 22.1-4.3 amended. Noncustodial parent as emergency contact.** Provides that, unless a court order has been issued to the contrary, the noncustodial parent of a student enrolled in a public school or day care center must be included, upon the request of such noncustodial parent, as an emergency contact for events occurring during school or day care activities. SB 981; CH. 34.

§§ 22.1-7, 22.1-180, 22.1-212.5, 22.1-212.8, 22.1-218, 22.1-271.1, and 22.1-296.3. See § 57-16.1; HB 2697.

**§ 22.1-32 amended. School board salaries.** Increases from \$3,600 to \$4,800 the maximum salary to be paid members of the Salem school board. HB 1989; CH. 536.

**§ 22.1-32 amended. School board salaries.** Increases from \$3,600 to \$4,800 the maximum salary to be paid members of the Salem school board and increases from \$3,400 to \$5,000 the maximum salary to be paid for members of the Richmond County school board. SB 767; CH. 489.

§§ 22.1-60.1, 22.1-212.2:2, 22.1-253.13:1, 22.1-253.13:2, 22.1-253.13:3, 22.1-253.13:5, 22.1-253.13:6, 22.1-253.13:8, and 22.1-294 amended. **Standards of Quality.** Revises the Standards of Quality to require local school boards to (i) provide for data collection and analysis and to use such results in instructional program evaluation; (ii) implement any actions identified through the academic review of schools accredited with a warning; (iii) analyze and report annually the results of industry certification examinations; (iv) annually review their professional development programs; and (v) report compliance with the Standards of Quality annually to the Board of Education.

In addition, the bill (i) increases from 10 to 17 the full-time equivalent instructional positions for each 1,000 students identified as having limited English proficiency; (ii) provides that teacher, administrator, and superintendent evaluations shall be consistent with the performance objectives included in the Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, Administrators, and Superintendents developed by the Board of Education; (iii) replaces Board- and locally-adopted six-year statewide or divisionwide plans, as the case may be, (including those for educational technology) with “comprehensive” statewide or divisionwide plans; and (iv) replaces individual school six-year plans with “comprehensive” plans.

The measure also includes a number of technical or clarifying amendments and additional cross-references for other Code sections. HB 1762; CH. 450/SB 779; CH. 331.

**§ 22.1-129 amended. Sale of school property; transportation purposes.** Empowers a local school board of a school division comprised of a city having a population of 350,000 or more and adjacent to the Atlantic Ocean (Virginia Beach) to sell property to the Virginia Department of Transportation or the Commonwealth Transportation Commissioner (i) when the Commissioner has determined that such conveyance is necessary and (ii) when eminent domain has been authorized for the construction, reconstruction, alteration, maintenance, and repair of the public highways of the Commonwealth, and for all other purposes incidental thereto, including, but not limited to, the relocation of public utilities as may be required. HB 1685; CH. 446.

**§ 22.1-200 amended. Elementary schools; physical education.** Provides that physical education in elementary schools shall include activities such as, but not limited to, cardiovascular, muscle building, or stretching exercises, as appropriate. SB 1130; CH. 350.

§§ 22.1-200.03 and 23-9.2:3.5 added; §§ 22.1-200.02 and 22.1-208.2:3 repealed. **Economics education and financial literacy in the public schools and institutions of higher education.** Requires instruction in economics education and financial literacy in public middle and high schools. The Board of Education is required to develop and approve objectives for economics education and financial literacy in grades six through 12. The principles of the American economic system and financial literacy must also be systematically infused in the

Standards of Learning, and in career and technical education programs. However, these objectives are not required to be included in the Standards of Learning assessments. In addition, to provide for experiential learning and practical application of economic and financial literacy principles, public schools may establish on-site banking programs for students. In addition, public institutions of higher education must make provisions for the promotion of the development of student life skills through inclusion of principles of economics education and financial literacy within an existing general education course, the freshman orientation process, or other appropriate venue. The provisions of §§ 22.1-200.02 and 22.1-208.2:3, which provide for instruction in certain mathematics and finance objectives, and the Banking-at-School Partnership Program, respectively, have been incorporated in this bill and have been repealed. SB 950; CH. 741.

**§§ 22.1-208.01, 22.1-279.3:1, and 22.1-279.6 amended. School boards; policies on bullying.** Directs the Board of Education to include bullying in its standards for school board policies on student conduct and requires school boards to include (i) instruction on the inappropriateness of bullying in their character education programs and (ii) bullying provisions in their student conduct codes. In addition, the measure requires the reporting of incidents of stalking to principals and division superintendents. Finally, except as may be prohibited by federal law, regulation, or jurisprudence, principals must report certain violent acts, stalking, and other conduct to parents of the minor student who is the target of the conduct; included in this report is disclosure that the incident has been reported to law enforcement, and that the parent may contact law enforcement for further information. HB 2266; CH. 461/HB 2879; CH. 484.

**§§ 22.1-208.01 and 22.1-212.1.** See § 1-200; HB 2640.

**§ 22.1-208.2:4 added. Entrepreneurship Education Program.** Creates the Entrepreneurship Education Program, consisting of grants administered by the Board of Education to public secondary schools to support innovative educational programs designed to assist students in the development of their entrepreneurial, academic, and life skills. The programs shall, among other things, (i) incorporate experiential learning; (ii) include partnerships with business and higher education; and (iii) assist students in practicing and mastering business concepts, such as negotiation, pricing, and the development and implementation of plans for individual student businesses. This act will expire on July 1, 2007, if no gifts, donations, bequests, or other funds effectuating its purposes are received by that date. SB 969; CH. 33.

**§ 22.1-209.1:3.** See § 2.2-720; HB 2321.

**§ 2.2-2101 amended; §§ 22.1-212.17 through 22.1-212.22 added. Commission on Civics Education.** Creates the 23-member Commission on Civics Education, comprised of the Governor, Lieutenant Governor, legislators, executive branch officials, and citizens. The Commission is to, among other things, (i) identify civic education projects in the Commonwealth and provide technical assistance as may be needed,

(ii) build a network of civic education professionals to share information and strengthen partnerships, and (iii) make recommendations to the Board of Education regarding revisions to the Standards of Learning for civics and government. HB 1769; CH. 786.

**§ 22.1-253.13:3.** See § 30-231.1; HB 2588/SB 1034.

**§ 22.1-253.13:4 amended. Diplomas; student-selected verified credits.** Directs the Board of Education to provide for the award of verified credits for passing scores on industry certifications, state licensure examinations, and national occupational competency assessments approved by the Board of Education. School boards shall report annually to the Board of Education the number of industry certifications obtained and state licensure examinations passed, and will include this number as a category on the school's achievement report card.

Currently, the Standards of Accreditation (SOA) require the accumulation of a specific number of standard and verified units of credit for standard diplomas. The verified unit of credit is awarded upon passage of the relevant Standards of Learning (SOL) test (additional tests approved by the Board of Education), as well as the course (8 VAC 20-131-110 A, B). The Standard Diploma requires 22 credits, six of which must be verified units of credit, while the Advanced Studies Diploma requires 24 credits, with nine verified units. The SOA currently require verified units of credit in specific subjects, such as English, mathematics, science, history and social science. The Modified Standard Diploma is awarded to students with disabilities who are "unlikely to meet the credit requirements for a Standard Diploma" (8 VAC 20-131-50).

School accreditation is based on pass rates for the SOL assessments (8 VAC 20-131-300). SB 1045; CH. 345.

**§ 22.1-254.1 amended. Home instruction; notification regarding examinations.** Directs local school boards to implement a plan for the notification of students receiving home instruction and their parents of the availability of Advanced Placement (AP) and Preliminary Scholastic Aptitude Test (PSAT) examinations and the availability of financial assistance to low-income and needy students to take these examinations.

The definition of "parent" is deleted, as it is duplicative of the definition already set forth in § 22.1-1 as applicable to the entire title. HB 1767; CH. 377.

**§ 22.1-264.1 added. False statements; school division residency; penalty.** Creates a Class 4 misdemeanor charge for knowingly making a false statement concerning the residency of a child in a particular school division or school attendance zone. HB 2382; CH. 178.

**§§ 8.01-226.5:1 and 22.1-274.2 amended. Self-injected epinephrine; self-administration by students.** Adds self-injected epinephrine to those medications that public school students diagnosed with asthma or anaphylaxis, or both, may self-administer under certain conditions. School and health department personnel supervising the administration of

this medication are immune from civil liability. In addition, principals and school board employees are not liable for any civil damages for any injuries or deaths resulting from the misuse of such auto-injectable epinephrine. Additional amendments add auto-injectable epinephrine to current provisions addressing other self-administered medications. HB 1743; CH. 785 (effective - 7/1/05).

**§§ 22.1-276.3 and 22.1-292.2 added. Interscholastic athletic ineligibility.** Provides that the Virginia High School League must establish rules requiring that, upon disclosure, a public school student athlete who uses anabolic steroids during the training period immediately preceding or during the sport season of the school athletic team on which he is a member be ineligible to participate in interscholastic athletic competition for two years, unless the steroid was prescribed by a licensed physician for a medical condition. Student use of anabolic steroids during the training period immediately preceding or during the sport season of the school is required to be reported, unless the steroid was prescribed by a licensed physician for a medical condition. The bill also requires the Board of Education to suspend or revoke the administrative or teaching license of any person who knowingly and willfully with the intent to compromise the outcome of an athletic competition procures, sells, or administers anabolic steroids or causes these drugs to be procured, sold, or administered to students, or by failing to report student use of anabolic steroids. HB 2832; CH. 481.

**§ 22.1-277.06 amended. Expulsion of students; petition for readmission.** Provides that the local school board, or a committee thereof, or the division superintendent may review petitions for readmission by expelled students. If the division superintendent or a school board committee denies the petition, the student may petition the full school board for review of the denial of readmission. HB 2223; CH. 96.

**§ 22.1-279.3:1 amended. Reporting of offenses by school authorities.** Provides that principals and division superintendents, in reporting certain serious incidents and crimes for annual recordation and publication by the Department of Education, shall accurately indicate any offenses, arrests, or charges as recorded by law-enforcement authorities and required to be reported by such authorities. HB 1716; CH. 528.

**§ 22.1-279.6 amended. Education; gang-related activity in public schools.** Directs the Board of Education to include provisions addressing gang-related activities in its model guidelines for codes of student conduct. HB 1573; CH. 520.

**§ 22.1-279.8 amended. School safety audits.** Directs the Virginia Center for School Safety to prescribe a standardized report format for school safety audits, develop a list of items to be reviewed and evaluated, and additional reporting criteria, which may include instructions for electronic submission. HB 1615; CH. 904.

**§ 22.1-281.** See § 37.2-100; SB 1023.

**§§ 22.1-289 and 63.2-900 amended; § 22.1-3.4 added. School enrollment of children placed in foster care.** Requires that whenever a student has been placed in foster care

and the social services agency is unable to produce the required documents for enrollment, the student must be immediately enrolled and the person enrolling the student must provide a written statement that, to the best of his knowledge, sets forth the student's age, compliance with notice requirements regarding good standing in the previous school, and that the student is in good health and is free from communicable or contagious disease. The sending and receiving school divisions must cooperate in facilitating the enrollment of the foster child across jurisdictional lines and may agree to allow the child to continue to attend the school in which he was enrolled prior to the most recent foster care placement, upon the agreement of the placing social services agency that such attendance is in the best interest of the child. If the student is allowed to continue to attend the previous school, the receiving school division will be accorded foster children education payments and may enter into financial arrangements with the sending school division. Local school divisions are required to expedite the transfer of the scholastic record of the student. Social Services agencies are required to notify, within 72 hours of placing a child in foster care placement, the principal of the school in which the student is to be enrolled and the superintendent of the relevant school division or his designee and to inform the principal of the status of the parental rights. The bill clarifies that no foster child can be charged tuition. However, the provisions relating to immediate enrollment and across jurisdictional placements will only apply to children who are subjects of foster care placements through entrustments or commitments to the local social services board or licensed child-placing agency and will not apply to children whose parents have an agreement with the local board or public agency through the community policy and management team where legal custody remains with the parents. The second enactment clause requires the Superintendent of Public Instruction and the Commissioner of the Department of Social Services to issue a memorandum as soon as practicable after the enactment of this bill to inform local school division superintendents and local social services agencies of its provisions. SB 1006; CH. 343.

**§ 22.1-296 amended. Teachers; sick leave.** Requires local school boards to adopt policies providing for leave without pay for school board employees with debilitating or life-threatening illness or injury, without regard to the employee's length of service with the school board. HB 2912; CH. 486.

**§§ 22.1-298 and 23-9.2:3.4 amended. Teacher licensure qualifications.** Requires the Board of Education, in its regulations governing teacher licensure, to establish criteria and a procedure to allow persons seeking initial licensure as teachers through an alternative route as defined by Board regulations to substitute experiential learning in lieu of coursework. The bill also includes a technical amendment to provide appropriate cross references between relevant statutes. HB 2790; CH. 903.

**§ 22.1-298 amended. Teacher licensure by reciprocity.** Provides for teacher licensure by reciprocity for an individual who has obtained a valid out-of-state license that is in force at the time the application for a Virginia license is made. The individual must establish a file in the Department of Education by



submitting a complete application packet, which shall include official student transcripts. No professional teacher's assessment or service requirements shall be imposed for these licensed individuals.

Current Board of Education regulations (8 VAC 20-21-90) require a professional teacher's assessment (PRAXIS) for out-of-state applicants who (i) have completed a state-approved teacher training program through a regionally accredited four-year college or university, or (ii) hold a valid out-of-state teaching license in force at the time the license application is made. These persons must also provide student transcripts. SB 949; CH. 891.

§ 22.1-323.2. See § 63.2-1737; HB 2461/SB 1304.

§§ 22.1-337 and 22.1-346.1. See § 30-73.2; SB 1115.

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## TITLE 22.1. MISCELLANEOUS - EDUCATION.

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**Critical teacher shortage areas.** Extends from 2005 to 2010 the current sunset on the requirements that (i) division superintendents identify and report critical shortages to the school board, upon request (§ 22.1-70.3); and (ii) local school boards identify and report critical shortages to the Superintendent of Public Instruction and the Virginia Retirement System (VRS)(§ 22.1-79). The measure does not address use of this reported information by VRS. Also sunsetting in 2005, and not included in this bill, is the requirement that the Superintendent of Public Instruction annually survey school divisions to identify critical teacher shortage areas and report these shortages to the Virginia Retirement System (§ 22.1-23). HB 1781; CH. 608/SB 761; CH. 607.

**Critical teacher shortage areas.** Extends from 2005 to 2010 the current sunset on the requirements that the Superintendent of Public Instruction annually survey school divisions to identify critical teacher shortage areas and report these shortages to the Virginia Retirement System (VRS) (§ 22.1-23). The measure does not address use of this reported information by VRS. Also sunsetting in 2005, and not included in this bill, are the requirements that (i) division superintendents identify and report critical shortages to the school board, upon request (§ 22.1-70.3); and (ii) local school boards identify and report critical shortages to the Superintendent of Public Instruction and the Virginia Retirement System (§ 22.1-79). HB 1782; CH. 609.

**No Child Left Behind Act; Board of Education to seek waivers.** Directs the Board of Education to seek waivers from compliance with provisions of the No Child Left Behind Act that (i) are in conflict with Title IX, Section 9527 (a) of the federal Code, which prohibits federal authorities from mandating, directing, or controlling state or local allocation of resources and from mandating state or local expenditure of funds or incursion of any costs not paid for under the Act; (ii) are

duplicative of the Standards of Quality, Standards of Learning, and Standards of Accreditation; or (iii) are lacking in effectiveness. Further, the Board must examine the fiscal and other implications for the Commonwealth and its local governments in the event that Virginia continues its compliance with, or withdraws from participation in, the federal No Child Left Behind Act. The Board must convey its findings from such examination to the House Committees on Education and Appropriations and the Senate Committees on Education and Health and Finance no later than October 1, 2005. HB 2602; CH. 13 (effective 3/16/05)/SB 1136; CH. 11 (effective 3/16/05).

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## TITLE 23. EDUCATIONAL INSTITUTIONS.

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§§ 23-1.01, 23-9.2:3.1, 23-38.84, 23-101, and 23-102. See § 2.2-720; HB 2321.

**§ 23-2.3 added. Annual reporting of the use of student activity fees.** Requires each public two- and four-year institution of higher education in the Commonwealth to publish annually a descriptive report detailing the (i) amount and distribution of student activity fees assessed each semester or during an academic year; and (ii) the name of each organization, including the nature of the organization's activity, that receives funding of \$100 or more from student activity fees. The bill also requires each institution to post the annual report on its website to facilitate access and availability of the report to students enrolled at the institution and their parents. HB 1816; CH. 532.

**§ 23-4.3:1 added. Higher education; textbook sales and bookstores.** Prohibits employees at Virginia public institutions of higher education from demanding or receiving any payment, loan, subscription, advance, deposit of money, services or anything, present or promised, as an inducement for requiring students to purchase a specific textbook required for coursework or instruction. An exception allows the employee to receive (i) sample copies, instructor's copies, or instructional material, not to be sold; and (ii) royalties or other compensation from sales of textbooks that include such instructor's own writing or work.

The measure also requires the governing boards to implement procedures for making available to students in a central location and in a standard format on the relevant institutional website listings of textbooks required or assigned for particular courses at the institution.

Finally, institutions maintaining a bookstore supported by auxiliary services or operated by a private contractor must post the listing of such textbooks when the relevant instructor or academic department identifies the required textbooks for order and subsequent student purchase. HB 1726; CH. 530.

**§ 23-7.4:1 amended. Virginia War Orphans Education Act.** Adds the children of parents who are killed or disabled as a result of service in military operations against terrorism, a

peace-keeping mission, or a terrorist act subsequent to December 6, 1941, to the list of children eligible to attend public institutions of higher education or other public accredited post-secondary institutions granting a certificate, diploma, or degree, free of tuition, room and board, and required fees. Clarifies that the children of members of the United States Armed Services Reserves and the Virginia National Guard Reserve called to active military duty and who are killed in action or are totally and permanently disabled are also eligible for such benefits.

This bill also makes the benefits consistent between eligible children of members of the military and eligible children and spouses of persons who are killed in the line of duty while employed or serving as law-enforcement officers, firefighters, correctional officers, local and regional jail farm superintendents, sheriffs, deputy sheriffs, or in emergency medical services. Further, this bill provides technical amendments to clarify for whom tuition and required fees are waived. HB 1682; CH. 783/SB 1288; CH. 773.

**§ 23-9.5 amended. Higher education; vaccination for hepatitis B.** Provides that full-time students enrolled for the first time in any four-year public institution of higher education shall be vaccinated against hepatitis B unless the student signs a waiver that he has received and reviewed information on hepatitis B and the availability and effectiveness of being vaccinated. SB 712; CH. 15.

**§§ 23-9.2:3, 23-9.6:1, and 23-9.14:2 amended; § 23-9.2:3.02 added. Articulation agreements.** Requires the governing board of each four-year public institution of higher education, beginning with academic year 2006-2007, to develop additional articulation and transfer agreements with uniform application to all institutions within the Virginia Community College System that (i) meet appropriate general education and program requirements at the four-year institutions; and (ii) provide additional opportunities for associate degree graduates to be admitted and enrolled. The State Council of Higher Education, consistent with its responsibility to facilitate the development of articulation agreements, must develop guidelines for such agreements.

Current law requires the State Council to develop a State Transfer Module designating those general education courses that are offered within various associate degree programs at the public two-year institutions that are transferable for credit or admission with standing as a junior (third year) to the public four-year institutions. HB 2337; CH. 818.

**§ 23-9.2:3.4.** See § 22.1-298; HB 2790.

**§ 23-9.2:3.5.** See § 22.1-200.03; SB 950.

**§§ 2.2-1124, 2.2-1132, 2.2-1149, 2.2-1150, 2.2-1153, 2.2-1514, 2.2-2007, 2.2-2901, 23-9.6:1, 36-98.1, 51.1-124.3, 51.1-505, and 51.1-506 amended; §§ 2.2-1404.1, 2.2-2518 through 2.2-2523, 2.2-5004, 2.2-5005, 23-9.2:3.02, 23-9.6:1.01, 23-38.88 through 23-38.121, and 30-133.1 added. Restructured Higher Education Financial and Administrative Operations Act.** Sets forth enabling legislation for the restructuring

of public institutions of higher education (institutions) that will extend, upon the satisfaction of various conditions, autonomy, which includes but is not limited to, capital building projects, procurement and personnel, while providing oversight mechanisms and establishing certain expectations. Under the bill, three levels of autonomy will be available to all public institutions of higher education with the level of autonomy depending on each institution's financial strength and ability to manage day-to-day operations. The bill also requires such institutions to develop six-year academic, financial and enrollment plans that outline tuition and fee estimates as well as enrollment projections, to develop detailed plans for meeting statewide objectives, and to accept a number of accountability measures, including meeting benchmarks related to accessibility and affordability. The Governor is required to submit his recommendations for the third level of autonomy as of part the budget bill or amendments to the budget bill for review and approval by the General Assembly. HB 2866; CH. 933/SB 1327; CH. 945.

**§§ 23-9.8:1 and 23-38.53:21 through 23-38.53:24.**

See §30-231.1; HB 2588/SB 1034.

**§§ 2.2-2101 and 23-14 amended; §§ 23-231.24 through 23-231.29 added. Southern Virginia Higher Education Center.** Continues the Southern Virginia Higher Education Center, previously established as an off-campus center of Longwood University, as an educational institution charged to, among other things, encourage the expansion of higher education, including adult and continuing education, associate, undergraduate, and graduate degree programs and foster partnerships between the public and private sectors to enhance higher education in the region.

The Center is governed by a 15-member Board of Trustees, consisting of the Director of the State Council of Higher Education for Virginia or his designee; the Chancellor of the Virginia Community College System or his designee; the presidents or chancellors, as appropriate, or their designees of Longwood University, Danville Community College, and Southside Virginia Community College; the division superintendent of Halifax County Public Schools; three legislators; and six gubernatorially-appointed nonlegislative citizen members. The Board is authorized to establish agreements with public and private institutions of higher education to provide associate, undergraduate, and graduate level instructional programs at the Center.

Currently, the Center is located in South Boston and is governed by the Southern Virginia Higher Education Consortium, which includes Longwood University, Southside Virginia Community College, and Danville Community College. HB 2071; CH. 799/SB 1293; CH. 774.

**§ 23-41 amended. College of William and Mary; rector.** Extends the term of the current rector of the College of William and Mary for one year, to June 30, 2006. The measure also authorizes the expansion of the 17-member board to 18 members from July 1, 2005, to June 30, 2006. Finally, the measure deletes obsolete language. SB 1310; CH. 12.

§ 23-50.16:12. See § 57-16.1; HB 2697.

**§ 23-231.3 amended. Southwest Virginia Higher Education Center.** Increases from five to seven the citizen members of the Southwest Virginia Higher Education Center, (thereby increasing the board membership from 21 to 23) and specifies that the citizen members shall include two business and industry leaders, and three individuals, one each representing the technology, tourism, and health care industries, respectively. Current law requires that a public school teacher or a division superintendent be included among the citizen members. HB 2422; CH. 550.

**§§ 23-276.1 through 23-276.8 and 23-276.11 amended. Certification of postsecondary schools.** Clarifies the role of the State Council of Higher Education (SCHEV) in the certification of postsecondary schools (degree-granting schools other than public institutions of higher education and noncollege degree schools). Previously, SCHEV approved programs of study; this measure provides for the certification of schools rather than program approval. This certification authority does not address professional or training programs subject to a Virginia health regulatory board or other state or federal governmental agency. HB 1719; CH. 447.

**§§ 23-286.1 and 23-286.2 added. Christopher Reeve Stem Cell Research Fund.** Establishes a special nonreverting, revolving and permanent fund for the support of stem cell research in honor of Christopher Reeve. The Fund will be used to support medical and biomedical stem cell research conducted in Virginia institutions of higher education relating to the causes and cures of disease, including, but not limited to, paralysis caused by spinal cord injury, diabetes, cancer, heart disease, and neurological disorders, such as Lou Gehrig's disease. No moneys from the Fund may be provided to any entity that conducts human stem cell research from stem cells obtained from human embryos, or for conducting such research; however, research conducted using stem cells other than embryonic stem cells may be funded. The Fund will consist of appropriations, gifts, grants, and donations from public or private sources, will be administered by the Commonwealth Health Research Board (an existing board with appropriate expertise), will not require matching funds from the institutions, and may be used to support stem cell research that is not eligible for federal research funds through the National Institutes of Health. SB 1194; CH. 696.

**§§ 23-287 and 23-297.** See § 30-73.2; SB 1115.

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## TITLE 23. MISCELLANEOUS - EDUCATIONAL INSTITUTIONS.

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**Property transfer; College of William and Mary.** Authorizes The College of William and Mary, with the approval of the Governor and in a form approved by the Attorney General, to

exchange certain real estate within the City of Williamsburg. SB 1312; CH. 362.

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## TITLE 24.2. ELECTIONS.

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**§§ 24.2-101, 24.2-906.1, and 24.2-922 amended. Elections; campaign finance; definitions; reports.** Defines "candidate" for campaign finance purposes to include persons raising or spending campaign funds to seek office. Also requires that local candidates who raise and spend minimal campaign funds and gain an exemption from reporting requirements file a final report before taking office. HB 1941; CH. 384.

**§§ 24.2-106, 24.2-108, and 24.2-114 amended. Elections; training for electoral boards and registrars.** Requires at least one member of the electoral board and the general registrar or a staff member designated by him to attend annual training programs provided by the State Board of Elections. The bill also provides that the expenses for electoral board attendance at training sessions will be considered part of the expense plan for electoral boards. HB 1847; CH. 380.

**§§ 24.2-115 and 24.2-120 amended. Elections; officers of elections; oaths.** Gives the local electoral board discretion to appoint officers of election for a term not to exceed three years. Authorizes members of the electoral board and registrars to administer the oath of office to officers of election. HB 2376; CH. 820.

**§ 24.2-118.1 added. Officers of elections; employment protections; penalty.** Provides employment protections to officers of election similar to those enjoyed by jurors. The bill also provides that a person who serves for more than four hours as an officer shall not be required to start any work shift beginning after 5:00 p.m. on his day of service or before 3:00 a.m. on the following day. A violation by an employer is punishable as a Class 3 misdemeanor. HB 1840; CH. 790.

**§§ 2.2-1837 and 24.2-121 amended. Defense of electoral board members and general registrar staff; costs.** Requires the Division of Risk Management to select counsel and the Commonwealth to pay the costs and legal fees associated with the defense of electoral board members and general registrar's staff in any legal or equitable action. Under current law, such costs and fees are not supported in actions that do not seek monetary damages. HB 2383; CH. 548/SB 898; CH. 492.

**§ 24.2-304.02 amended. House of Delegates districts; composition.** Adjusts the House of Delegates line between the Thirtieth and Fifty-eighth Districts through Orange County in order to eliminate two split precincts. The adjustment leaves the population deviations of the districts at -2.1 percent and -1.2 percent, respectively. HB 2853; CH. 658.

**§ 24.2-310 amended. Elections; polling place requirements.** Authorizes local governments, local electoral boards, and the State Board of Elections to make monetary grants to non-gov-

ernmental entities for the purpose of providing accessible polling places. SB 928; CH. 340.

**§ 24.2-404 amended. Elections; pollbooks.** Requires the State Board of Elections to provide instructions for the division of pollbooks and voter lists into sections for the efficient processing of voter lines at the polls. HB 1808; CH. 378.

**§ 24.2-524 amended. Elections; primary candidate filing fees.** Provides for payment of fees by candidates for congressional and statewide offices to the State Board of Elections rather than to the Treasurer of the Commonwealth. The fees are to be used in paying the Commonwealth's expenses for the primary. SB 1003; CH. 748.

**§ 24.2-622 amended. Elections; sample ballots.** Provides that official sample ballots shall be printed on white or yellow paper and that unofficial sample ballots must be printed on a different color paper. HB 1647; CH. 370.

**§ 2.2-3711 amended; § 24.2-625.1 added. Voting equipment security; Freedom of Information Act provisions.** Provides limited exemptions from certain Freedom of Information Act requirements for documents and meetings of the State Board of Elections and local electoral boards pertaining to the security of ballots and voting equipment and related security risk assessment procedures. HB 2930; CH. 568.

**§ 24.2-643 amended. Elections; procedures at polling places.** Requires a voter to remain in the polling place in the presence of the officers of election from the time that his name is marked on the pollbook as being present to vote until he has cast his vote. HB 2101; CH. 539/SB 990; CH. 496.

**§ 24.2-649 amended. Assistance for certain voters at polls.** Requires that the person assisting a blind person to vote sign the request just as is currently required of a person assisting any other voter who requests assistance by reason of physical disability or inability to read or write. A person assisting a blind voter currently must provide his name and address but is not actually required to sign the statement. HB 2934; CH. 569.

**§§ 24.2-653 and 24.2-671 amended. Elections; provisional ballots; ascertaining results of election.** Requires an officer of election to give a voter who has cast a provisional ballot written notice of the meeting of the electoral board at which provisional ballots will be reviewed and denied or voted. The bill provides for possible extensions of the electoral board meeting to allow a voter to provide proof of his right to vote. HB 2415; CH. 824.

**§§ 24.2-910.1 and 24.2-929 amended. Campaign Finance Disclosure Act; referendum committees; civil penalty.** Provides that a referendum committee that continues in existence more than six months after the referendum is held may either file a final report or continue as a political committee subject to the filing requirements for political committees. There is a civil penalty of \$500 for the failure to file or late filing of an appropriate statement of organization. SB 996; CH. 745.

**§ 24.2-918 amended. Campaign finance; special elections filings.** Provides that candidates who run in a special election

for public office and who have not filed a final report closing their past campaign are required to file reports on an election year schedule in succeeding election years for the same office. A similar bill was passed in 2004 that applied to general, but not special, elections. HB 2540; CH. 831.

**§§ 24.2-919.1 and 24.2-929 amended. Campaign finance; reports of large contributions to governing body members.** Requires the reporting of any single contribution of \$500 or more made to a governing body member in a non-election year to be filed with the local electoral board by the end of the fifteenth business day, rather than the fifth business day, after receipt, and eliminates provisions on aggregating contributions. SB 1080; CH. 676.

**§§ 24.2-923 and 24.2-929 amended. Campaign finance reports by PACs and committees; penalties.** Provides for the quarterly filing of reports by PACs and committees in lieu of the present series of required reports and requires prompt reporting of single contributions of more than \$10,000. Emergency. HB 2539; CH. 9 (effective 3/14/05).

**§§ 24.2-929 and 24.2-930 amended. Campaign Finance Disclosure Act; penalties and enforcement.** Increases penalties for violations of Act and requires State Board of Elections, or an appropriate local elections official, to report violations to the attorney for the Commonwealth within 90 days of the report deadline. HB 1664; CH. 371.

**§§ 24.2-943 and 24.2-944 amended. Requirements for political campaign advertisements.** Allows for minor variations in the text of the disclosure legend or statement that must appear on the advertisements. The bill provides that it will not be a violation of the basic ad requirements and radio and television ad requirements so long as the "contents of the disclosure legend or statement convey the required information." HB 1608; CH. 369.

**§ 24.2-1002.01 amended; § 24.2-416.6 added. Voter registration applications; destruction of, or failure to mail or deliver, applications; instructions; other offenses; penalty.** Requires the State Board of Elections, local electoral board, and general registrar to provide notice of the penalty (a Class 1 misdemeanor) for destruction of, or failure to mail or deliver, signed voter registration applications in any instructions given for voter registration drives or with distributions of multiple voter registration applications. The bill also makes it a Class 5 felony to solicit multiple registrations from one person or to falsify a registration application. HB 2412; CH. 412/SB 923; CH. 339.

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## TITLE 25.1. EMINENT DOMAIN.

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**§§ 15.2-1907.1 and 25.1-108 added. Eminent domain; wetlands mitigation.** Prohibits condemnation of any property for compensatory wetlands mitigation unless (i) the property sought to be acquired is located within the same locality as the

project affecting wetlands, or (ii) the governing body of the locality where the property sought to be acquired consents to its acquisition for such purpose. The prohibitions do not apply to property acquired by the Commonwealth Transportation Commissioner pursuant to its power of eminent domain. HB 2427; CH. 311.

**§ 25.1-108 added. Eminent domain.** Provides that if property acquired by the power of eminent domain is declared surplus within 15 years of the condemnor's being vested with title, the condemnor must offer to sell the property to the former owner at the original sale price plus interest at an annual rate of six percent, with price adjustments made for any improvements to the property. SB 301; CH. 2.

**§ 25.1-203 amended. Eminent domain; right of entry to inspect.** Modifies the provisions associated with a condemnor's entry onto property by (i) expanding the information provided in the initial request for permission to inspect and strengthening delivery requirements; (ii) requiring that the notice of intent to enter be posted or otherwise delivered to the owner in person, in addition to being sent by certified mail; and (iii) providing that if the owner files an action to recover damages caused by entry and is awarded judgment in an amount 30 percent or more than the condemnor's final written offer, or if the court finds that the condemnor maliciously, willfully or recklessly damaged the owner's property, the court may award the owner reasonable court costs, attorney fees, and fees for up to three expert witnesses testifying at trial. HB 1820; CH. 877.

**§§ 25.1-204 and 25.1-245 amended. Eminent domain; acquisition of property.** Modifies the provisions associated with acquisitions under eminent domain by (i) requiring that a state agency's acquisition of real property be conducted in accordance with provisions that are only precatory under current law, including that the state agency establish an initial amount that is no less than the agency's approved appraisal of the fair market value of the property and that no owner can be required to surrender possession until the state agency pays the agreed purchase price or deposits funds with the court, and (ii) providing that if an owner is awarded at trial as compensation for the taking of or damage to property an amount that is 30 percent or more greater than the amount of the petitioner's written offer, the court may award the owner reasonable appraisal and engineering fees, and reasonable fees and travel costs for up to three expert witnesses testifying at trial. The cost award provisions do not apply to cases involving easements valued at less than \$10,000 or to cases in which a petition in condemnation or certificate of take or deposit was filed prior to July 1, 2005. HB 1821; CH. 878.

**§ 25.1-241.** See § 8.01-607; HB 2583.

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## TITLE 26. FIDUCIARIES GENERALLY.

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**§§ 26-1.2 and 26-8.1 amended. Fiduciaries; obligation to report nonresident status; penalty.** Requires a fiduciary to

notify the clerk and commissioners of accounts when he no longer is a resident of Virginia and to provide them with his new address within 30 days after the change in residency. Failure to report the change in resident status and new address may result in imposition of a \$50 civil penalty upon the fiduciary. This requirement does not apply to any fiduciary whose co-fiduciary is a Virginia resident. HB 2547; CH. 644.

**§§ 26-5.1, 26-5.2, 26-30, 26-49, 26-51, 26-53, 26-54, 26-55, 26-64, 26-65, and 26-66.** See § 55-7; SB 891.

**§ 26-8 amended. Commissioners of accounts; fees.** Authorizes a commissioner of accounts, for any services he may perform, to accept a lesser fee than that prescribed by the court or to waive a fee altogether. HB 2170; CH. 400.

**§ 26-17.7 amended. Accountings to the commissioner of accounts; no requirement where beneficiary is trustee.** Eliminates the requirement to account to a commissioner of accounts with respect to a testamentary trust where the sole beneficiary is also a trustee. A "sole beneficiary" means a person who is (i) the only income beneficiary who is entitled to the principal, or the remaining principal goes to the trustee's estate, or (ii) the only income beneficiary and has either a general power of appointment over the principal or has a special power of appointment that is not limited to a particular class of persons. HB 2384; CH. 821.

**§ 26-17.9 amended. Commissioners of accounts; vouchers and statements of assets.** Eliminates the authority of a commissioner of accounts to require a fiduciary to produce the original check as proper verification of a specific payment or distribution to a beneficiary or distributee. HB 1577; CH. 277/SB 995; CH. 261.

**§§ 26-21 and 26-29.** See § 8.01-2; SB 1118.

**§ 26-40.01 amended. Fiduciaries; obligation to comply with prudent investor rule.** Provides that the investment protections associated with the "legal list" do not operate to relieve a fiduciary of his obligations under Virginia's prudent investor rule. HB 1715; CH. 62.

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## TITLE 28.2. FISHERIES AND HABITAT OF THE TIDAL WATERS.

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**§ 28.2-101 amended. Jurisdiction of the Marine Resources Commission.** Expands jurisdiction of the Marine Resources Commission to include all structures and improvements built or proposed by riparian property owners in the Potomac River appurtenant to the shore of the Commonwealth. HB 2671; CH. 191.

**§ 28.2-106.1 amended. Patrol of security zones.** Authorizes the Virginia Marine Resources Commission's Marine Patrol to patrol and enforce violations of federal security zones located in Virginia's tidal waters. This will enable the Marine Patrol to arrest a mariner for violation of an exclusionary zone, with the

criminal case being forwarded to the U.S. Attorney for prosecution. Currently, the Marine Patrol has enforcement powers only in safety zones. This bill has an emergency clause. SB 1232; CH. 516 (effective 3/22/05).

**§§ 28.2-226.1 and 28.2-302.1 amended. License required for certain fishing gear.** Requires a person fishing with a cast net, dip net, or using up to two eel pots to obtain a saltwater recreational fishing license. Currently, such a license is required if a fisherman uses a rod and reel or handline, or while spearing or gigging. HB 2815; CH. 124.

**§ 28.2-302.8 amended. Fishing guide license.** Allows the recreational fishing license issued to a headboat and charterboat owner to cover all the passengers on his boat. Under current law, nonpaying customers on a licensed headboat or charterboat have to possess an individual saltwater recreational license. The bill also allows a headboat or charterboat owner to obtain an individual saltwater recreational license at no charge when he is issued the license for his boat. HB 2816; CH. 198.

**§ 28.2-826 added. Nonnative oysters.** Authorizes the Commissioner of the Marine Resources Commission to allow the placement of nonnative *Crassostrea ariakensis* oysters on state-owned bottomlands. This bill requires that 30 to 60 days before diploid or fertile *C. ariakensis* oysters are placed in state waters, the Commission is to hold at least one public hearing for the purpose of receiving data, views, and argument concerning the placement. HB 2452; CH. 551.

**§ 28.2-1000.1 added. Menhaden management measures.** Authorizes the Governor to issue a proclamation to implement measures to manage the menhaden fishery, if such measures are required by the Atlantic States Marine Fisheries Commission and the General Assembly is not in session to enact a statute to adopt such measures. Prior to issuing such a proclamation, the Governor, in consultation with the Secretary of Natural Resources and the Commissioner of the Virginia Marine Resources Commission, would have to determine whether the measures are (i) necessary for the conservation of the Atlantic menhaden fishery and (ii) in accordance with scientific, biological, and social data. HB 2809; CH. 123.

**§ 28.2-1103.** See § 10.1-1186.5; SB 1103.

**§ 28.2-1205.** See § 1-200; HB 2640.

**§§ 28.2-1205.1 and 62.1-44.15:5.01 added. Coordination of review of water resources projects.** Establishes a coordinated process to review water resources projects that require both a permit from the Virginia Marine Resources Commission and an individual Virginia Water Protection Permit from the Department of Environmental Quality. The joint review process will also involve other agencies such as the Virginia Institute of Marine Science, the Department of Game and Inland Fisheries, the Department of Health, the Department of Conservation and Recreation, the Department of Agriculture and Consumer Services, as well as other interested agencies. The bill also provides a preapplication review process to those applicants who request it. A panel would be established to provide information and guidance to the applicant on the potential natural

resource impacts and regulatory implications of the applicant's proposed project. SB 1248; CH. 49.

**§ 28.2-1303 amended. Wetlands board membership.** Allows members of a local board that hears cases relating to the locally adopted Chesapeake Bay Preservation ordinance to also serve on a local wetlands board. Currently, there is a prohibition on members of the wetlands board holding a public office in the county or city. However, there is an exception that allows members of some bodies such as the local planning and zoning commissions, the local erosion commission, and the board of zoning appeals to also serve on the local wetlands board. This bill would add members of this locally established Chesapeake Bay Preservation ordinance board to the list of exceptions. HB 2378; CH. 104.

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## TITLE 29.1. GAME, INLAND FISHERIES AND BOATING.

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**§ 29.1-101.** See § 58.1-344.3; HB 2303.

**§ 29.1-101.** See § 58.1-344.3; SB 803.

**§§ 29.1-306 and 29.1-519 amended; § 29.1-306.1 added. Crossbow license.** Authorizes the Board of Game and Inland Fisheries to create a special crossbow license that would be purchased to hunt with such a weapon during special archery seasons. The cost of the license will be set by the Board of Game and Inland Fisheries, but cannot exceed one and one-half times the cost of a basic hunting license. Under current law, only disabled people who meet certain agency criteria are allowed to hunt with a crossbow. To hunt with a crossbow, a person must also purchase the special archery license and the basic hunting license. HB 2200; CH. 8 (effective 3/4/05).

**§ 29.1-336 amended. Hunter education.** Requires any person (i) who is 12 years of age or older; (ii) who is required to present a certificate of completion in hunter education to obtain a hunting license; and (iii) who is issued a hunting license by telephone, the Internet, or other electronic or computerized means, to carry his certificate of completion in hunter education on his person while hunting. This bill exempts any person who is 12 years of age through 15 years of age from this requirement if he is accompanied and directly supervised by an adult who has, on his person, a valid Virginia hunting license and certificate, if required. HB 1646; CH. 145.

**§ 29.1-339.2 added; § 29.1-339.1 repealed. Duck stamp.** Establishes the Virginia Migratory Waterfowl Conservation Stamp. A person must obtain this \$9.75 stamp in order to hunt migratory waterfowl. The proceeds from the sale of the stamp will be deposited in a special account to be used to fund (i) expenses associated with administering the stamp program, (ii) habitat improvement grants to nonprofit organizations, and (iii) Department of Game and Inland Fisheries initiatives to protect, restore, enhance, and develop waterfowl habitat. HB 2887; CH. 127.

**§ 29.1-521 amended. Wildlife mounts.** Allows nonprofit 501 (c) (3) organizations to sell wildlife mounts as part of their fundraising activities. HB 1827; CH. 533.

**§ 29.1-521 amended. Carrying a gun on Sunday; hunting.** Clarifies that a person lawfully carrying a gun, firearm, or other weapon on Sunday in an area that could be used for hunting will not be presumed to be hunting on Sunday in violation of existing law, absent evidence to the contrary. HB 1917; CH. 534.

**§§ 29.1-521 and 29.1-553 amended. Selling of animal parts at auction.** Allows licensed Virginia auctioneers and auction firms to sell, as a legitimate item of an auction, wildlife mounts that have undergone the taxidermy process. HB 2155; CH. 170.

**§ 29.1-530.1 amended. Blaze orange exception.** Exempts persons hunting with a bow and arrow from having to wear blaze orange when they are hunting in areas where the discharge of firearms is prohibited by state law or local ordinance. HB 2102; CH. 167.

**§ 29.1-530.3 added. Remote hunting prohibited; penalty.** Prohibits anyone from engaging in computer-assisted remote hunting, or provide or operate a facility that allows a person to engage in such "hunting." Violations are Class 1 misdemeanors and will result in revocation of any hunting license for between three and five years. HB 2273; CH. 172/SB 1083; CH. 226.

**§ 29.1-530.3 added. Hunting incidents causing severe physical injury; reporting.** Requires any law-enforcement agency or emergency medical service provider that receives a report that a person engaged in hunting has suffered serious bodily injury or death to give notice to the Department of Game and Inland Fisheries. SB 1150; CH. 688.

**§ 29.1-574 amended; § 18.2-313.2 added. Nonindigenous aquatic nuisance species; penalty.** Imposes Class 1 misdemeanor penalty on anyone who knowingly introduces a snakehead fish into the Commonwealth or knowingly places zebra mussels or their larvae into state waters. Under the current law any person who imports, possesses, transports, sells, purchases or introduces into the Commonwealth any nonindigenous aquatic nuisance species is subject to a civil penalty of not more than \$25,000, which is paid into the Game Protection Fund, as well as the costs incurred by the state and local government for the investigation, control, and eradication of the species. The bill includes an exemption from this civil penalty for a person who catches a snakehead fish if the individual has lawfully taken the fish, killed it, and reported his actions to the Department of Game and Inland Fisheries. HB 2029; CH. 916.

**§ 29.1-733.1 amended. Title to abandoned vessel.** Reduces from 12 months to 60 days the time that has to elapse before a landowner, his lessee, or his agent may begin the process to acquire title to any vessel abandoned on his land or the water immediately adjacent to his land. The current law establishes a procedure a property owner must follow, which includes requirements for notification of the owner of the abandoned vessel, in order to obtain title to such a vessel. SB 1057; CH. 225.

**§§ 29.1-738, 29.1-738.2, and 29.1-738.3.** See § 18.2-266; HB 1896.

**§ 29.1-739.2 added. Game wardens.** Requires the Department of Game and Inland Fisheries to have at least one game warden whose primary responsibility is to patrol during the daylight hours of boating season on those lakes in Virginia that (i) are the size or larger than Smith Mountain Lake and (ii) have a boating accident record comparable to Smith Mountain Lake. SB 1197; CH. 233.

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## TITLE 29.1. MISCELLANEOUS - GAME, INLAND FISHERIES AND BOATING.

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**Carrying loaded firearms.** Repeals a 1950 Act of Assembly that prohibited a person who is not authorized to hunt on private property on both sides of a highway from carrying a loaded firearm while on any part of the highway. This act applies in any county falling under certain population classifications. A person violating this act is subject to a fine of between \$10 and \$50. The act is no longer needed because the language of § 15.2-1209.1 is substantively the same, except the statute gives all counties the discretion of adopting an ordinance, while the uncodified act gives these counties no such discretion. HB 1671; CH. 525.

**Game warden salaries.** Repeals a 1950 Act of Assembly that requires Dickenson and Buchanan Counties to pay the salaries of the game wardens providing services to those counties. This law is no longer needed since all regular game wardens are employees of the Department of Game and Inland Fisheries and as such are paid by the Commonwealth. HB 1668; CH. 522.

**Hunting game.** Repeals a 1952 Act of Assembly that prohibits hunting game in Buckingham County with a rifle larger than .22 caliber. This local act is no longer necessary since the County has adopted an ordinance that prohibits hunting game with such rifles. A locality is given the authority to adopt such a prohibition under § 29.1-528. HB 1670; CH. 524.

**Hunting with a rifle.** Repeals a 1954 Act of Assembly that prohibits persons from hunting deer with a rifle in Essex County. This local act is no longer necessary since (i) the County has adopted an ordinance that prohibits the hunting of deer with a rifle greater than .22 caliber and (ii) the Game Department's regulations prohibit the hunting or killing of deer and bear with a rifle less than .23 caliber. HB 1669; CH. 523.

**Offshore blind stake sites; penalty.** Gives the owners, their lessees or permittees of land that is adjacent to the waters in Stafford, Prince William, and Fairfax, the exclusive privilege of erecting stationary blinds on their shoreline. Under this bill, which amends a 1928 Act of Assembly, they are also given the prior right to erect stationary blinds in the waters in front of their property. However, they forfeit the privilege and the prior right if they do not erect the blind by November 1. This bill would increase the penalty to a Class 2 misdemeanor from the

current fine of between \$10 and \$100 or confinement in jail for no more than a year, or both. The bill also removes the prohibition on hunting migratory waterfowl from floating blinds in the waters of Caroline, Essex, King George, Richmond and Westmoreland Counties, and in portions of creeks, streams, and bays flowing into the Rappahannock and Potomac Rivers, through the establishment of an offshore blind stake site license. The cost of a stake site license is \$5 and there is a limit of four stake site licenses per applicant. The bill describes the various siting requirements and times when the stake site license has to be obtained and by whom. The penalty for violation of the act is increased from a fine of not less than \$50 nor more than \$250 or by confinement in jail for not more than 30 days, or both, to a Class 2 misdemeanor. HB 2689; CH. 841.

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## TITLE 30. GENERAL ASSEMBLY.

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**§§ 30-13, 30-14, and 30-28.18.** See § 1-200; HB 2640.

**§ 30-19.1:10.** See § 58.1-344.3; HB 2303.

**§ 30-19.1:10.** See § 58.1-344.3; SB 803.

**§ 30-19.4 amended. Session per diem for General Assembly administrative assistants.** Increases the session per diem of administrative assistants to equal the amount received by members of the General Assembly. Administrative assistants currently receive 85 percent of the amount authorized for members of the General Assembly. HB 2131; CH. 802.

**§§ 30-34.15 and 30-84.** See § 2.2-720; HB 2321.

**§§ 2.2-720, 2.2-2452, 2.2-2503, 2.2-2514, 2.2-2621, 2.2-2628, 2.2-2705, 3.1-1108, 10.1-1018, 18.2-271.2, 19.2-163.02, 20-108.2, 22.1-337, 22.1-346.1, 23-287, 23-297, 30-73.2, 30-168.1, 30-172, 30-208, 30-212, and 53.1-176.3 amended.**

**Appointment and organizational requirements for certain collegial bodies.** Makes certain technical or clarifying changes to the appointment and organization of the following collegial bodies: the State Council for Interstate Adult Offender Supervision, the Joint Commission on Administrative Rules, the Alzheimer's Disease and Related Disorders Commission, the Child Support Guidelines Review Panel, the Commonwealth Competition Council, the Consumer Advisory Board to assist the Commission on Electric Utility Restructuring, the Education Commission of the States, the Frontier Culture Museum, the Joint Commission on Health Care, the Council on Indians, the Indigent Defense Commission, the Virginia Commission on Intergovernmental Cooperation, the Jamestown-Yorktown Foundation, the Virginia Land Conservation Board of Trustees, the Special Advisory Commission on Mandated Health Insurance Benefits, the Advisory Commission on the Virginia Schools for the Deaf and the Blind, the Virginia Delegation to Multistate Tax Administration Discussions, the Tobacco Indemnification Community Revitalization Commission, the Commission on VASAP, the Board of Veterans Services, the Virginia War Memorial Foundation. Most of the revisions are

related to changing the Senate appointing authority from the Senate Committee on Privileges and Elections to the Senate Committee on Rules. The other amendments are technical and follow the legislative guidelines established by the Joint Rules Committee regarding the organization of collegial bodies. SB 1115; CH. 758.

**§§ 30-85 through 30-88 amended. Joint Commission on Technology and Science; clarifications for collegial bodies.** Conforms the Joint Commission on Technology and Science's requirements to meet legislative guidelines adopted by the Joint Rules Committee. The bill also makes procedural amendments such as reducing the quorum from six to five members, increasing the term of the chair and vice-chair to a two-year term coincident with the term of office for House members, and changing references from Commission to JCOTS. HB 2586; CH. 322.

**§ 30-133 amended. Auditor of Public Accounts; maintenance of database containing historical information.** Requires the Auditor of Public Accounts to establish and maintain each year on its Internet website a searchable database that contains certain state expenditure, revenue, and demographic information for the 10 most recently ended fiscal years of the Commonwealth. The online database shall be made available to citizens of the Commonwealth to allow public access to historical revenue collections and appropriations with related demographic information. The bill also authorizes the Auditor of Public Accounts to perform an audit of the monies furnished to the Washington Metropolitan Transit Authority by the Commonwealth. SB 934; CH. 494.

**§ 30-133.1.** See § 23-9.6:1; HB 2866/SB 1327.

**§ 30-192.7 amended; §§ 2.2-2725 through 2.2-2731 added; §§ 30-192.8 through 30-192.14 repealed. Martin Luther King, Jr. Living History and Public Policy Center Board of Trustees.** Establishes the Martin Luther King, Jr. Living History and Public Policy Center as an independent nonprofit corporation exempt from taxation pursuant to § 501 (c) (3) of the Internal Revenue Code for the purpose of implementing the provisions of subdivision 6 of § 30-192.4, which requires the Commonwealth to establish a permanent statewide memorial to Dr. Martin Luther King, Jr. The bill amends the membership of the Board of Trustees for the Martin Luther King, Jr. Living History and Public Policy Center to provide for two members of the Senate, four members of the House of Delegates, one representative of the named institutions of higher education upon the recommendation of the president, and four nonlegislative citizen members to be appointed by the Senate Committee on Rules and the Speaker of the House of Delegates. Reappointment to the Board is contingent upon members attending at least one-half of the Board meetings during their current term of service. In addition, the provision pertaining to the initial hiring of certain employees by the Board has been removed in order that the Board's authority may be consistent with similar nonprofit, federal tax exempt organizations.



This bill is a recommendation of the Martin Luther King, Jr. Living History and Public Policy Center Board of Trustees. SB 804; CH. 731.

**§ 22.1-253.13:3 amended; §§ 23-9.8:1, 30-231.1 through 30-231.10 added; §§ 23-38.53:21 through 23-38.53:24 and 30-226 through 30-231 repealed. Brown v. Board of Education Scholarship Program and Fund.** Amends, reorganizes, and moves the statute creating the Brown v. Board of Education Scholarship Program and Fund to Title 30. Currently, a part of the law is codified in Title 23. The bill also (i) includes several technical amendments to provide clarity and consistency; (ii) reinstates language inadvertently omitted; (iii) prohibits the use of scholarship funds for theological education; (iv) authorizes the Awards Committee to seek, receive, and expend nonstate funds; and (v) resolves the issue of the separation of powers by requiring the State Council of Higher Education to advise and provide technical assistance to the Awards Committee in a manner consistent with its statutory responsibilities for higher education in the Commonwealth. Under the current law, the Scholarship Program and the Awards Committee are created within the legislative branch; however, administration of the Program is shared between the legislative and executive branch agencies. The bill also waives the Standards of Learning requirements and assessments for persons awarded a scholarship under the Program and who are enrolled in a preparation program for the General Education Development (GED) certificate or an adult basic education program for the high school diploma. Also, for the purpose of verifying the domicile of applicants, the Awards Committee is authorized to establish a list of acceptable documents consistent with those required to obtain a Virginia driver's license or identification card, and to access vital records. In addition, the Awards Committee must establish a protocol to facilitate the dual enrollment of eligible students in adult basic education programs and degree programs, and the conventional enrollment of such students in public and private two-year institutions of higher education. Further, the Awards Committee is charged to develop and implement a system that provides transition programs and services to prepare eligible students for academic success in GED preparation and adult basic education programs, and college.

The second enactment clause allows students who are enrolled in an approved education program when the Program expires to complete their education through the renewal of the scholarship, if they demonstrate satisfactory academic achievement. The third enactment clause delegates to the State Council of Higher Education the responsibility to review and approve applications for renewal of scholarship awards of students who were enrolled in approved education programs when the Program expired. The fourth enactment clause repeals Chapter 4.4:5 of Title 23, consisting of §§ 23-38.53:21 through 23-38.53:24, and Chapter 34 of Title 30, consisting of §§ 30-226 through 30-231. This bill has an emergency clause and is a recommendation of the Brown v. Board of Education Scholarship Awards Committee. HB 2588; CH. 834 (effective 3/26/05)/SB 1034; CH. 753 (effective 3/26/05).

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## TITLE 30. MISCELLANEOUS - GENERAL ASSEMBLY.

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**Capitol restoration; sale of surplus property and transfer of proceeds.** Provides for the sale of surplus property from the Virginia Capitol restoration and expansion project and the transfer of the net proceeds from the sale to the Virginia Capitol Preservation Foundation. The bill also provides that the Department shall conduct a separate sale of the chairs used in the chambers of the houses to the current and former members of the General Assembly. SB 905; CH. 936 (effective 4/6/05).

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## TITLE 31. GUARDIAN AND WARD.

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**§ 31-8.1.** See § 8.01-2; SB 1118.

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## TITLE 32.1. HEALTH.

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**§§ 54.1-2901 and 54.1-2957.01 amended; § 32.1-11.5 added. Pilot programs for obstetrical and pediatric care in certain areas.** Permits the Board of Health to approve pilot programs to improve access to obstetrical and pediatric care in areas of the Commonwealth where these services are severely limited. Obstetrical care includes prenatal, delivery, and post-partum care. The pilot programs will be jointly developed and submitted to the Board by nurse practitioners licensed in the category of certified nurse midwife, certain perinatal centers as determined by the Board, obstetricians, family physicians, and pediatricians. Nurse practitioners licensed by the Boards of Medicine and Nursing in the category of nurse midwife who participate in a pilot program shall associate with perinatal centers recommended by the Board and physicians, but shall not be required to have physician supervision. The Department shall convene stakeholders, including nurse practitioners licensed by the Boards of Medicine and Nursing in the category of certified nurse midwife, pediatricians, and family physicians, to establish protocols to be used in the pilot programs no later than October 1, 2005. The pilot programs shall not provide or promote home births. The Department shall evaluate and report on the impact and effectiveness of the pilot programs in meeting the program goals and submit a report to the Joint Commission on Health Care by November 15, 2006, and annually thereafter. The bill requires the Boards of Medicine and Nursing, the Departments of Health Professions and Medical Assistance Services, and the Division of Risk Management of the Department of the Treasury to provide assistance to the Department of Health in establishing and evaluating the pilot programs. HB 2656; CH. 926.

**§ 32.1-23.1 amended. Pharmaceutical assistance; The Pharmacy Connection program.** Requires, in order to maximize the benefits of the new Medicare pharmaceutical discount card program for Virginia's Senior Citizens, that the Commissioner of Health annually for two years commencing on July 1, 2005, (i) analyze access to The Pharmacy Connection program vis-a-vis the Medicare pharmaceutical discount card program, the \$600 transitional coverage provided under federal law, and pharmaceutical companies' offers of "wrap-around" coverage for low-income seniors; and (ii) recommend to the Virginia Health Care Foundation, the Secretary of Health and Human Resources, and the Governor, appropriate localities for expansion of access to The Pharmacy Connection program in Virginia, particularly in areas having high concentrations of low-income seniors. The goal of the Commissioner's analysis will be to facilitate statewide implementation of The Pharmacy Connection program. The Commissioner must complete this analysis by October 31 of each year and shall immediately request an estimate of the costs of the recommended expansion of such access from the Virginia Health Care Foundation to be forwarded to the Secretary and the Governor, for inclusion in the appropriation act, in so far as possible and appropriate to promote the health and safety of Virginia's senior citizens. SB 953; CH. 715.

**§ 32.1-35.1 added. Information on nosocomial infections.** Requires acute care hospitals to report information about nosocomial infections to the Centers for Disease Control and Prevention's National Healthcare Safety Network. Nosocomial infections are acquired in a hospital or other health care setting. The hospitals must release their infection data to the Board of Health. The Board's regulations will determine the hospitals that will be required to report, and the specific infections and patient populations to be included in the data. Upon request, hospital infection rate data may be released to the public by the Board. The bill takes effect July 1, 2008. HB 1570; CH. 444.

**§ 32.1-46 amended; § 32.1-46.01 added. Virginia Immunization Information System (VIIS).** Requires the Board of Health, to the extent funds are appropriated by the General Assembly or otherwise made available, to establish the Virginia Immunization Information System, a statewide immunization registry that consolidates patient immunization histories from birth to death into a complete, accurate, and definitive record that may be made available to participating health care providers throughout Virginia. The Board must promulgate regulations addressing voluntary participation, a secure system for data entry or delivery, incorporation of the data already reported on children's immunizations, the nature of the data to be reported, data-sharing agreements with other state and regional immunization registries, use of vital statistic data, requests for records in compliance with existing requirements, release of aggregate data without personal identifiers, and the use of the data in an epidemic or outbreak of a vaccine-preventable disease.

The bill also establishes the criteria for disclosure of protected health information to VIIS, i.e., ensuring the integrity of the health care system and prevention of disease. Immunity is pro-

vided to participants, the Board and Commissioner of Health, and employees of the Department of Health. Current responsibilities for record maintenance and obtaining immunization of children are retained as well as existing exemptions on religious or health grounds. HB 2519; CH. 643/SB 1132; CH. 684.

**§ 32.1-48.016.** See § 2.2-360; HB 2520.

**§ 32.1-73.7.** See § 37.1-24.001; HB 2796/SB 889.

**§ 32.1-102.6 amended. Medical care facilities certificate of public need; parties to the case.** Revises the designation of the parties to the case if an informal fact-finding conference is determined to be necessary by the Department of Health or is requested by a person seeking good cause standing. In such cases, the designation of the parties to the case will include the relevant health planning agency. In present law, the health planning agency is only a party to the case if its recommendation was to deny the application. HB 2243; CH. 404.

**§ 32.1-111.2 amended. Wheelchair interfacility transport services and vehicles; emergency medical services.** Exempts wheelchair interfacility transport services and wheelchair interfacility transport service vehicles from regulation under the emergency medical services law. However, such services and vehicles are required to comply with Department of Medical Assistance regulations regarding transportation of Medicaid recipients to covered services. Currently, a license must be obtained by the service and a permit must be obtained for the vehicle. Wheelchair interfacility transport services and wheelchair interfacility transport service vehicles are the entities engaged in the business, service, or regular activity, whether or not for profit, of transporting wheelchair-bound passengers between medical facilities in the Commonwealth. The bill requires the Boards of Health and Medical Assistance Services to promulgate regulations to be effective within 280 days of enactment. SB 1344; CH. 778.

**§ 32.1-111.3 amended. Statewide Emergency Medical Services Plan.** Adds several new requirements to the Statewide Emergency Medical Services Plan developed by the Board of Health. These requirements include (i) publishing the Plan, (ii) expanding paramedic and advanced life support training, (iii) establishing and maintaining a process for crisis intervention and peer support services for emergency medical services and public safety personnel, a statewide emergency medical services for children program, a statewide system of health and medical emergency response teams, and a program to improve dispatching of emergency medical services, and (iv) identifying and establishing best practices for managing agencies and improving response times. The bill also deletes an obsolete cross-reference relating to automated external defibrillators. HB 2253; CH. 632.

**§ 32.1-111.3 amended. Statewide Emergency Medical Services Plan; additional programs.** Amends the objectives of the Statewide Emergency Medical Services Plan by striking the now defunct registration program for automated external defibrillators and establishing new objectives including the identification and establishment of best practices for managing

and operating agencies and improving and managing emergency medical response times as well as the establishment of (i) a process for crisis intervention and peer support services for emergency medical services and public safety personnel; (ii) a statewide emergency medical services for children program; (iii) a statewide system of health and medical emergency response teams; and (iv) a program to improve dispatching of emergency medical services. The bill further provides that the Board of Health's Statewide Emergency Medical Services Plan may be posted on the Department of Health's website to satisfy the publication requirement. SB 1146; CH. 686.

**§ 32.1-111.4 amended. Board of Health regulations; emergency medical services personnel training, agency response times, and enforcement provisions; civil penalties.** Requires the State Board of Health to prescribe, in regulation, requirements for (i) training for emergency medical services personnel; (ii) a uniform definition of "response time" and requirements for measuring response times from the time a call is received until the time the unit responds and the arrives at the scene as well as collection and reporting of emergency response times; and (iii) enforcement provisions, including civil penalties, to be assessed by the State Health Commissioner against any agency, or other entity found to be in violation of the emergency medical services statutes or regulations. All amounts paid as civil penalties are to be allocated to the emergency medical services special fund. HB 2238; CH. 921.

**§ 32.1-111.10 amended. State Emergency Medical Services Advisory Board; membership.** Increases Board membership from 25 to 28 by including one representative from each of the regional emergency medical services councils. Current law states that each of the "eight" regional councils shall be represented, but 11 such councils actually exist. The bill also deletes an obsolete cross-reference regarding the automated external defibrillator registry, which no longer exists. HB 2522; CH. 112.

**§ 32.1-111.10 amended. State Emergency Medical Services Advisory Board.** Increases the State Emergency Medical Services Advisory Board from 25 to 28 members appointed by the Governor. The change reflects the increase in the number of regional emergency medical services councils. SB 1145; CH. 506.

**§ 32.1-111.14 amended. Localities' authority to charge insurers for ambulance services.** Clarifies that localities are currently permitted to charge insurers for ambulance services provided to any person covered by an accident and sickness insurance policy that provides coverage for ambulance services. HB 2523; CH. 182.

**§ 32.1-127 amended. Hospitals sharing patient health data.** Requires the Board of Health to implement regulations that require hospitals to have interoperability and sharing of patient health data through common data reporting formats and standardized methods of transmission while maintaining protections for the privacy of personal health information. The law will not go into effect unless it is reenacted by the 2006 General Assembly. HB 2236; CH. 401 (effective - see bill).

**§ 32.1-127.1:03 amended. Health records privacy.** Emphasizes the right of an individual to have access to his health records with certain exceptions; defines the term "psychotherapy notes"; clarifies the list of persons to whom disclosure of protected health information may be made; underscores the confidentiality of psychotherapy notes and prohibits the disclosure of such psychotherapy notes, with exceptions for training programs, legal processes, protection of third parties, and various law-enforcement and regulatory investigations; and states specifically that state law controls the procedures for requesting health records. HB 2363; CH. 101/ SB 1064; CH. 39.

**§§ 8.01-413, 32.1-127.1:03, and 54.1-111 amended. Charge for copying health records.** Distinguishes between the charges that may be levied by a health care provider (also referred to as "health care entity") for copies of health records when the patient requests his own health records and the records are subpoenaed or otherwise requested by a third party. The patient (individual who is the subject of the record) will be charged "a reasonable cost-based fee" that will only include costs of supplies and labor, postage, and preparation of any summary of the information. Current charges authorized for copies in anticipation of litigation or in the course of litigation will not apply to patients requesting their own records. HB 2515; CH. 642/SB 1203; CH. 697.

**§ 32.1-134.01 amended. Certain information on shaken baby syndrome required.** Requires information on shaken baby syndrome to be made available to maternity patients by nurse midwives, licensed midwives, and hospitals with maternity services. HB 1296; CH. 518.

**§ 32.1-164.1:1 amended. Validity of certain septic tank permits; waivers.** Excludes certain transfers of real property from the current provision that waivers granted for certain failing onsite sewage systems are nontransferable and limits the waiver provisions to systems on real property with 1 to 4 dwelling units. Currently, whenever any onsite sewage system is failing and the Board's regulations for repairing the system impose (i) a requirement for treatment beyond the level of treatment provided by the existing onsite sewage system when operating properly or (ii) a new requirement for pressure dosing, the owner may request a waiver from such requirements; however, the waivers are not transferable, except between a husband and a wife. In addition to the new transfer exclusions for these residential properties, the bill requires the owner of the residential real property with the waived onsite sewage system to provide a written disclosure to the purchaser; the purchaser will have certain time lines and processes for terminating the contract. Real estate licensees will have a duty to inform owners and purchasers of their rights. The Real Estate Board is charged with enforcement of the disclosure, termination, and real estate licensees' duties under this provision. HB 2451; CH. 469.

**§§ 32.1-164.5 and 62.1-44.19:3 amended. Testing of sewage sludge.** Allows an individual to make a timely request of the Department of Health or the Department of Environmental Quality that it obtain a sample of sewage sludge at a specific

site prior to the land application. The Department shall submit the sample to a certified laboratory for analysis. The person requesting the testing is responsible for paying the cost of obtaining and analyzing the sample. HB 2073; CH. 396.

**§§ 32.1-164.5 and 62.1-44.19:3 amended. Notice of sewage sludge application.** Requires a person holding a permit to apply sewage sludge to the land to give notice to the local government at least 100 days prior to applying the sewage sludge. The notice will identify the location of the permitted site and the expected sources of the sewage sludge to be applied to the site. This requirement may be satisfied by providing a list of all available permitted sites in the locality at least 100 days prior to commencing the application at any site on the list. The notice requirement shall not apply to any application commenced prior to October 10, 2005. HB 2197; CH. 459.

**§ 32.1-164.5 amended. Training for sewage sludge testers.** Requires the Board of Health and the Department of Health to establish a program to train employees of those local governments that have adopted a biosolids ordinance in the testing and monitoring of sewage sludge. The bill states what, at a minimum, the training shall include. The Health Department is authorized to charge trainees a reasonable fee to recover the costs of preparing course materials and providing facilities and instructors for the program. HB 2198; CH. 460.

**§§ 32.1-164.5 and 62.1-44.19:3 amended. Injection of sewage sludge.** Provides that surface incorporation into the soil of sewage sludge applied to cropland may be required when practicable and compatible with a soil conservation plan meeting the standards and specifications of the U.S. Department of Agriculture Natural Resources Conservation Service. This bill also directs the Board of Health to develop regulations specifying and providing for extended buffers to be employed for application of sewage sludge (i) to hay, pasture, and forestland, or (ii) to croplands where surface incorporation is not practicable or is incompatible with a soil conservation plan. The extended buffers may be included by the Department as site specific permit conditions. HB 2624; CH. 593.

**§§ 32.1-164.5 and 62.1-44.19:3 amended. Sewage sludge; penalty.** Directs that sewage sludge be treated to meet standards for land application as required by Board regulation prior to delivery at the land application site. This bill prohibits any person from altering the composition of sewage sludge at the site where the sewage sludge is being applied. However, the addition of lime or deodorants to sewage sludge that has been treated to meet land application standards shall not constitute alteration of the composition. HB 2805; CH. 197.

**§§ 32.1-212, 32.1-215, and 32.1-225 amended. Bedding and upholstery.** Provides that a retailer may sell, give away or rent used upholstered furniture that has been purchased by the retailer as new when such upholstered furniture has been used in the course of business. Such used furniture must be (i) conspicuously identified as used and (ii) reduced in price, sold at auction, donated to charity, or made available for a rental fee,

and so tagged. Technical amendments are also included. HB 2018; CH. 391.

**§§ 32.1-229.01 and 32.1-325.1:1.** See § 1-200; HB 2640.

**§§ 32.1-267 and 32.1-268 amended; § 32.1-268.1 added. State Registrar of Vital Records; compilation of certain marriage, divorce, and annulment information.** Requires marriage records and divorce and annulment reports to include the age and race of the parties. Divorce and annulment reports must also contain the number of minor children involved. This bill also requires the State Registrar of Vital Records to compile, publish, and make available to the public aggregate data on the number of marriages, divorces, and annulments that occur each year in the Commonwealth from 2000 forward. The data shall be organized according to the locality in which the marriage license is issued or in which the divorce or annulment report is certified, and shall include but not be limited to information regarding age and race of the parties. The data on divorce and annulments shall also include information regarding the number of minor children involved. The State Registrar is required to post, update, and maintain this information on the Department of Health website. Names, addresses, social security numbers, and any other personal identification information shall not be included. This is a recommendation from the Virginia Commission on Youth. SB 1111; CH. 679.

**§ 32.1-271 amended. Vital records; grandchild's birth certificate.** Requires the State Registrar or the city or county registrar to disclose data about or issue a certified copy of a birth certificate of a child to the grandparent of the child upon the written request of the grandparent when the grandparent has demonstrated to the State Registrar evidence of need, as prescribed by Board regulation, for the data or birth certificate. HB 1687; CH. 60.

**§ 32.1-272 amended. Vital statistics; death certificates.** Requires the Board of Health, in its regulations on public or private agencies or persons obtaining copies of death certificates in the conduct of their official duties, to include within its definition of "legal representative" (i) any attorney licensed to practice law in Virginia, upon presentation of his bar number and evidence of need to obtain such copy; and (ii) any funeral director licensed to practice by the Board of Funeral Directors and Embalmers, upon presentation of evidence of licensure to so practice and evidence of being in charge of final disposition of the registrant's remains or evidence of need to obtain such copy. HB 1727; CH. 448.

**§§ 32.1-276.4 and 32.1-276.5 amended. Health care provider data services.** Requires the nonprofit organization (Virginia Health Information) with which the Commissioner of Health contracts for compiling, storing, and making available health care provider data to collect data on safety services and quality of health care services rendered by physicians. The board of directors of the nonprofit organization must work with the Board of Medicine to determine the information to be collected and the costs thereof, and identify sufficient funding sources to appropriate to physicians for such data collection. The bill includes a reenactment clause and will not go into ef-

fect unless reenacted by the 2006 Session of the General Assembly. HB 2430; CH. 467 (effective - see bill).

**§ 32.1-283.4 added. Office of the Chief Medical Examiner; confidentiality of certain information and records collected and maintained.** Provides that confidential records and information obtained from private and public entities and provided to the Office of the Chief Medical Examiner (OCME) during the course of a death investigation and records collected and maintained during the course of investigations, surveillance programs or research or studies of deaths having a public health importance by the OCME are not subject to the provisions of the Freedom of Information Act. The bill also provides that confidential records received by the OCME from third-parties continue to be confidential and are protected from legal discovery. SB 1030; CH. 37.

**§ 32.1-288.** See § 54.1-2807; HB 1683.

**§§ 32.1-325.03 and 63.2-503.1 added. Public benefits; proof of legal presence.** Provides that no person who is not a U.S. citizen or legally present in the United States is eligible for any state or local public benefits. The bill defines state and local public benefits, and sets forth a series of exceptions to this eligibility rule. The bill also requires applicants for state or local assistance to provide proof of legal presence in the United States and establishes a process for temporary receipt of benefits when applicants cannot provide such proof. HB 1798; CH. 876 (effective 1/1/06)/SB 1143; CH. 867 (effective 1/1/06).

**§ 32.1-351 amended. Children's health insurance through employer-sponsored health insurance programs.** Removes the requirement that the Family Access to Medical Insurance Security Plan provide wraparound benefits through supplemental insurance when benefits equivalent to the Virginia Medicaid program are not included in the employer-sponsored health insurance benefit plan. HB 2284; CH. 584.

**§§ 32.1-357 and 32.1-364 amended. Virginia Tobacco Settlement Board of Trustees; executive committee; annual report.** Authorizes the Virginia Tobacco Settlement Board of Trustees to establish an executive committee to transact the business of the Board in its absence. The executive committee is composed of the chairman, vice chairman, and three additional members of the Board. The bill also specifies March 31 as the date for the Board to provide its annual report to the Governor and General Assembly. SB 792; CH. 19.

**§ 32.1-366.** See § 3.1-336.2:1; HB 2919.

**§ 32.1-366.** See § 3.1-336.2:1; SB 1332.

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## TITLE 32.1. MISCELLANEOUS - HEALTH.

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**Certificate of Public Need; relocation of certain nursing home beds under limited circumstances.** Establishes criteria for applications for limited relocation of nursing home beds for facilities under common ownership and control, if required cri-

teria are met relating to (i) occupancy rates of both the facility from which and the facility to which the beds are to be relocated, and (ii) temporary staffing hours and the origin of residents for the facility from which the beds are being moved. The Commissioner is authorized to issue a certificate under these circumstances regardless of the components of any Request for Applications, etc. HB 2316; CH. 99.

**Department of Medical Assistance Services; implementation of Medicare Part D benefit.** Grants the Board of Medical Assistance Services emergency regulatory authority to implement the provisions of the Medicare Part D prescription drug benefit that becomes effective January 1, 2006. The bill also directs the Department of Medical Assistance Services to convene a task force, upon the implementation of the Medicare Part D program, of public and private stakeholders to assist the Department in evaluating the federal program and make recommendations for enhancing, coordinating, and integrating the existing pharmacy assistance programs for low-income Virginians and the Medicare Part D benefit. The Department must report its findings and recommendations to the Governor and General Assembly by November 1, 2006. HB 1624; CH. 56/SB 841; CH. 24.

**Health; publication of certain data on clinical drug trials.** Requires the Secretary of Health and Human Resources to make available on appropriate state health-related websites, information directing citizens to publicly available information on clinical drug trials and other clinical studies. HB 2831; CH. 199/SB 1278; CH. 235.

**Licensure of hospitals and nursing homes; Board of Health.** Directs the Board of Health to promulgate regulations for the licensure of hospitals and nursing homes that must include minimum standards for the design and construction of hospitals, nursing homes, and certified nursing facilities consistent with the current edition of the Guidelines for Design and Construction of Hospital and Health Care Facilities issued by the American Institute of Architects Academy of Architecture for Health. The Board is required to promulgate emergency regulations to implement this provision. HB 2366; CH. 177/SB 1024; CH. 222.

**Medical care facilities certificate of public need.** Requires the Commissioner of Health to reissue a Request for Applications for 60 new nursing home or nursing facility beds in Planning District 12 when the scheduled construction date has passed, the company issued a certificate pursuant to a 1997 Request for Applications has not begun construction, and the certificate has expired. The Commissioner may give preference to an application that proposes a new facility within three miles of the boundary of the county seat or in the county seat of the county in which the nursing facility granted the previously issued certificate is located. HB 2639; CH. 838.

**Newborn screening.** Broadens the Commonwealth's newborn screening program for genetic disorders to include approximately 30 or more conditions that cause mental retardation, serious disability, or death if left untreated. The screening tests to be included in Virginia's panel of disorders will be consis-

tent with, but not necessarily identical to, the uniform condition panel recommended by the American College of Medical Genetics in its report, Newborn Screening: Toward a Uniform Screening Panel and System. Upon the issuance of a panel of recommended tests by the federal Department of Health and Human Services, Virginia's testing program will be consistent with, but not necessarily identical to, the federal guidance document. The Board of Health's regulations must include a list of conditions for which newborn screening tests are conducted pursuant to § 32.1-65, follow-up and referral protocols and necessary provisions to implement the newborn screening services, and any services available to the infants and children through the Children with Special Health Care Needs Program. The mandate for the increased testing will become effective on March 1, 2006; however, the Board of Health is required to promulgate emergency regulations. The second enactment clause of a 2002 Act of the General Assembly that required certain funding is repealed in order to ensure the integrity of the law. HB 1824; CH. 721 (effective 3/1/06)/SB 1184; CH. 717 (effective 3/1/06).

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## TITLE 33.1. HIGHWAYS, BRIDGES AND FERRIES.

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**§ 33.1-12 amended. Commonwealth Transportation Board.** Clarifies the roles of the Commonwealth Transportation Board and local governing bodies when the latter administer VDOT-financed projects. The bill also corrects obsolete cross-references. HB 2084; CH. 919.

**§§ 33.1-12 and 33.1-320.2.** See § 1-200; HB 2640.

**§ 33.1-19.1 added. Environmental permits for highway projects; timely review.** Provides that any state agency, board, or commission that issues a permit required for a highway construction project pursuant to Title 10.1, 28.2, 29.1, or 62.1 of the Code of Virginia must, within 15 days of receipt of an individual or general permit application, review the application for completeness and either accept the application or request additional specific information from the Department of Transportation. The bill further provides that, unless a shorter period is provided for by law, regulation, or agreement, the state agency, board, or commission must, within 120 days of receipt of a complete application, issue the permit, issue the permit with conditions, deny the permit, or decide whether a public meeting or hearing is required by law. If a public meeting or hearing is held, it must be held within 45 days of the decision to conduct such a proceeding, and a final decision as to the permit must be made within 90 days of completion of the public meeting or hearing. HB 1602; CH. 781.

**§§ 33.1-70.01, 33.1-75.1, 33.1-198, 46.2-1104, and 58.1-3713 amended. VDOT resident engineers.** Replaces references to VDOT "resident engineers" with "representatives of the Department" and similar terms. Other technical corrections are also made. HB 2578; CH. 645.

**§ 33.1-75.3 amended. Highway construction; advance of funds by counties.** Provides that if funding for the construction of a primary or interstate project is scheduled in the Commonwealth Transportation Board's Six-Year Improvement Program as defined in § 33.1-12, a locality may choose to advance funds to the project. The bill further provides that if such an advance is offered, the Board may consider such request and agree to such advancement and the subsequent reimbursement of the locality of the advance, in accordance with terms agreed upon by the Board and the locality. SB 985; CH. 342.

**§§ 33.1-221.1:1.1 and 58.1-2425 amended; § 33.1-391.3:1 added. Rail Enhancement Fund and Rail Advisory Board.** Establishes the Rail Advisory Board and changes the name of the Railway Preservation and Development Fund to the Rail Enhancement Fund, and dedicates to this Fund a portion of the tax on motor vehicle rentals. HB 2596; CH. 323.

**§§ 33.1-221.1:3 and 58.1-815.1 amended. Northern Virginia Transportation District Program.** Allocates funding to the Route 28/Sterling Boulevard interchange in Loudoun County. HB 1972; CH. 621.

**§ 33.1-221.1:8 added. Transportation Partnership Opportunity Fund.** Creates the Transportation Partnership Opportunity Fund (the Fund) to be used by the Governor to encourage the development of design-build transportation projects, projects under the Public-Private Transportation Act (§ 56-556 et seq.) and to provide funds to address the transportation aspects of economic development opportunities. Under the bill, the Commonwealth Transportation Board, in consultation with the Secretary of Transportation and the Secretary of Commerce and Trade, shall develop guidelines and criteria to be used in awarding grants or making loans from the Fund. HB 2793; CH. 847.

**§ 33.1-223 amended. Recreational access funding limits.** Clarifies limitations on expenditures for recreation access projects. HB 1931; CH. 453.

**§ 33.1-223.** See § 10.1-107; SB 842.

**§ 33.1-223.2:14 added. Use of steel plates in highway repairs.** Requires any person using steel plates in connection with highway repairs to follow VDOT standards as to warnings and markings. HB 2020; CH. 537.

**§ 33.1-223.2:14 added. Use of federal "transportation enhancement" grants by CTB.** Provides that the Commonwealth Transportation Board shall, in accordance with federal law and guidelines for projects qualifying as "transportation enhancements," take such measures as may appear necessary or convenient to consider projects that will (i) address improvements to highway rest areas and welcome centers and (ii) accommodate anticipated quadricentennial tourism in Virginia. HB 2605; CH. 559.

**§ 33.1-234.** See § 37.2-100; SB 1023.

**§ 33.1-252 amended. Free use of certain toll facilities.** Allows free use of toll facilities by law-enforcement officers of the Virginia Marine Resources Commission. This privilege

does not extend to the Chesapeake Bay Bridge-Tunnel or facilities controlled by the Richmond Metropolitan Authority. HB 2068; CH. 298.

**§ 33.1-348 amended. Junkyards.** Amends the definition of “automobile graveyard” to provide that a facility is an “automobile graveyard” even if the vehicles stored there are rearranged within the existing lot. HB 1891; CH. 291.

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### TITLE 33.1. MISCELLANEOUS - HIGHWAYS, BRIDGES AND FERRIES.

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**Blue Star Memorial Highway.** Designates the entire length of U.S. Route 1 in Fairfax County the “Blue Star Memorial Highway.” SB 929; CH. 254.

**Chesapeake Bay Bridge and Tunnel Commission.** Provides that a member performing “extraordinary duties” may receive compensation for those duties. This provision expires January 1, 2006, and contains an emergency clause. HB 2067; CH. 297 (effective 3/20/05)/SB 1261; CH. 270 (effective 3/20/05).

**The Crooked Road.** Extends “The Crooked Road” (designated in 2004) from Clintwood through Haysi to Breaks Interstate Park. HB 2400; CH. 634.

**Deputy Cliff Dicker Memorial Highway.** Designates Virginia Route 100 in Wythe County the “Deputy Cliff Dicker Memorial Highway.” HB 1893; CH. 615.

**G. A. Treacle Memorial Bridge and T. Ray Hassell, III Memorial Highway.** Designates the I-64 High Rise Bridge as the “G.A. Treacle Memorial Bridge” and the Route 168 Great Bridge Bypass as the “T. Ray Hassell, III Memorial Highway.” SB 919; CH. 253.

**H. Paul Buskell Memorial Bridge.** Designates the U.S. Route 460 Cedar Bluff bypass bridge over the Clinch River the “H. Paul Buskell Memorial Bridge.” HB 2576; CH. 832/SB 944; CH. 256.

**Integrated Directional Sign Program.** Requires the Commonwealth Transportation Board (CTB) to establish reasonable fees to be collected from qualified entities for participating in the Integrated Directional Sign Program (IDSP). These fees are to be deposited into a special fund used solely to defray the actual costs of supervising and administering the program. Included in these costs shall be a reasonable margin, not to exceed ten percent, in the nature of a reserve. The bill also requires the CTB to report no later than August 1, 2005, on the actions it has taken relative to adjusting fees as a result of the bill. The Department of Transportation is also directed to review (i) the feasibility and desirability of auctioning certain travel services (logo) signs for which there are more businesses interested in locating on the sign than there is space to accommodate and (ii) concerning Gas Category I, a change from 16 hours per day to 24 hours per day. The results of this review

are to be reported to the Senate and House Transportation Committees no later than August 1, 2005. SB 813; CH. 491.

**Interstate Route 81 Corridor Multistate Transportation Planning Initiative.** Provides for the establishment of the Interstate Route 81 Corridor Multistate Transportation Planning Initiative. SB 778; CH. 241.

**Interstate Route 81 Safety Taskforce.** Requires that the Commonwealth Transportation Commissioner establish an Interstate Route 81 Safety Advisory Committee within each highway construction district wherein any portion of Interstate Route 81 is located. HB 2554; CH. 319.

**Land exchange.** Authorizes the exchange of land in Roanoke County between the Commonwealth and the Mennel Milling Company, with the land to be acquired by the Commonwealth to be used as a VDOT maintenance facility. HB 2298; CH. 306 (effective 3/20/05)/SB 887; CH. 249 (effective 3/20/05).

**Joe D. Meade Bridge.** Designates the new pedestrian bridge over Virginia Route 71 at Nickelsville in Scott County, connecting the Nickelsville Elementary School and Keith Memorial Park, the “Joe D. Meade Bridge.” HB 1708; CH. 527.

**King Family Memorial Bridge.** Designates Bridge Number 264 on the Route 260 Connector as the “King Family Memorial Bridge.” SB 837; CH. 247.

**Manville Veterans Memorial Bridge.** Designates the Virginia Route 665 bridge over Copper Creek in Scott County the “Manville Veterans Memorial Bridge.” HB 1705; CH. 526.

**Michael Todd Blanton Memorial Bridge.** Designates the Gaskins Road bridge over Interstate Route 64 in Henrico County the “Michael Todd Blanton Memorial Bridge.” HB 2938; CH. 570.

**Ronald Wilson Reagan Memorial Highway.** Designates Virginia Route 234 in Prince William County between U.S. Route 1 and Interstate Route 66 the “Ronald Wilson Reagan Memorial Highway.” HB 1656; CH. 874.

**Transportation projects.** Authorizes the Commonwealth Transportation Board, by and with the consent of the Governor, to issue from time to time revenue obligations of the Commonwealth to be designated “Commonwealth of Virginia Federal Highway Reimbursement Anticipation Notes, Series .....,” provided that the aggregate principal amount outstanding at any time shall not exceed \$1.2 billion plus an amount for financing expenses. The net proceeds of the Notes shall be used exclusively for the purpose of providing funds, together with any other available funds, for paying the costs, incurred or to be incurred for construction or funding of projects listed in the Six-Year Improvement Program as may be adopted from time to time by the Commonwealth Transportation Board. HB 2763; CH. 655.

**Virginia Capital Trail.** Designates the bicycle and pedestrian transportation facilities within the Virginia Route 5 corridor

between the City of Richmond and Jamestown the “Virginia Capital Trail.” HB 2049; CH. 295/SB 1033; CH. 752.

**Virginia’s Heritage Music Trail: The Crooked Road.** Adds to “Virginia’s Heritage Music Trail: The Crooked Road,” designated in 2004. HB 2856; CH. 659.

**Virginia’s Heritage Music Trail: The Crooked Road.** Adds to “Virginia’s Heritage Music Trail: The Crooked Road,” designated in 2004, additional road mileage in Patrick County. HB 2013; CH. 623/SB 740; CH. 664.

**Willard Owens Memorial Highway.** Designates Virginia Route 609 in Buchanan County the “Willard Owens Memorial Highway.” HB 2905; CH. 660.

**William H. Hume and Jean Emmons McCarty Hume Memorial Bridge.** Designates the Virginia Route 688 bridge across Carter’s Run, South, near Hume the “William H. Hume and Jean Emmons McCarty Hume Memorial Bridge.” HB 2336; CH. 545.

**80th U.S. Army Reserve Division Highway.** Designates portions of several highways south of Richmond as the “80th U.S. Army Reserve Division Highway.” SB 1297; CH. 272.

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## TITLE 34. HOMESTEAD AND OTHER EXEMPTIONS.

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**§ 34-17 amended. Exemptions in bankruptcy; time limitations.** Changes the date for setting aside that real or personal property which is exempt from bankruptcy proceedings from on or before the fifth day of the date initially set for the meeting of creditors and equity security holders to on or before the fifth day of the date such meeting is held. HB 1559; CH. 367.

**§ 34-29 amended. Garnishment; increasing maximum portion of protected disposable earnings.** Increases the amount of a worker’s aggregate disposable earnings protected from garnishment. Currently, the amount subject to garnishment may not exceed the lesser of (i) 25 percent of the worker’s disposable weekly earnings or (ii) the amount by which his disposable earnings exceed 30 times the federal minimum hourly wage. This bill raises the federal minimum wage multiplier from 30 to 40. HB 1714; CH. 286.

**§ 34-32.** See § 1-200; HB 2640.

**§ 34-34 amended. Creditors; retirement benefits exempt.** Increases the amount of an individual retirement account that is exempt from the claims of an individual’s creditors from an amount sufficient to generate \$17,500 annually to an amount sufficient to generate \$25,000 annually. HB 1695; CH. 284.

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## TITLE 36. HOUSING.

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**§ 36-85.16 amended. New manufactured homes.** Makes several changes to the definition of “new manufactured home,” including provisions that allow a manufactured home to be considered new if it has been previously sold from the original dealer to another dealer and is then sold to a consumer within two years of the date of manufacture. HB 2720; CH. 430.

**§§ 36-97 and 36-98.1 amended. Uniform Statewide Building Code and State Fire Prevention Code; applicability to certain transportation assets owned by the Virginia Department of Transportation.** Provides that the Uniform Statewide Building Code and the State Fire Prevention Code do not apply to roadway tunnels and bridges owned by the Department of Transportation. Such structures are to be designed, constructed, and operated in compliance with fire safety standards that are based on nationally recognized model codes and standards. The standards will be developed by the Department in consultation with the State Fire Marshal and approved by the Commonwealth Transportation Board. Under the bill, the Department is required to report annually to the State Fire Marshall on the maintenance and operability of installed fire protection and detection systems in roadway tunnels and on bridges. SB 984; CH. 341.

**§ 36-98.1.** See § 23-9.6:1; HB 2866/SB 1327.

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## TITLE 36. MISCELLANEOUS - HOUSING.

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**Board of Housing and Community Development; regulations; use of natural cut Christmas trees in the common areas of places of worship and in apartment dwelling units that do not have automatic sprinkler systems.** Provides that emergency regulations adopted by the Board of Housing and Community Development in accordance with Chapter 138 of the Acts of Assembly of 2004 shall remain in full force and effect until a regulation to replace the emergency regulation is adopted in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) or July 2006, whichever occurs first. HB 2936; CH. 442.

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## TITLE 37.1. INSTITUTIONS FOR THE MENTALLY ILL; MENTAL HEALTH GENERALLY.

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**§ 32.1-73.7 amended; § 37.1-24.001 added. Suicide prevention; lead agency.** Provides that the Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS) will be the lead agency for suicide prevention



across the lifespan. DMHMRSAS will coordinate the activities of the agencies of the Commonwealth pertaining to suicide prevention in order to develop and carry out a comprehensive suicide prevention plan addressing public awareness, the promotion of health development, early identification, intervention and treatment, and support to survivors. The Department of Health will continue to be responsible for youth suicide prevention. HB 2796; CH. 434/SB 889; CH. 336.

**§ 37.1-67.3 amended. Involuntary commitment process for persons with mental illness; standard of proof.** Provides that the judge must apply the standard of “clear and convincing evidence” during an involuntary commitment hearing for persons with mental illness. Current law requires the judge to make specific findings before issuing an order for involuntary commitment, but does not set forth a standard of proof for the judge to apply when considering the evidence. HB 2110; CH. 458.

**§§ 16.1-345.1 and 37.1-67.7 added. Use of electronic communication for certain filings; parties and witnesses.** Provides that petitions and orders for emergency custody, temporary detention, and involuntary commitment of minors may be filed, issued, served, or executed by electronic means, with or without the use of two-way electronic video and audio communication. The bill also allows petitions and orders for emergency custody of adults, temporary detention of adults, emergency custody and temporary detention of adults in judicial authorization of treatment proceedings, and emergency custody of conditionally released persons to be filed, issued, served, or executed by electronic means, with or without the use of two-way electronic video and audio communication. The bill provides for party and witness testimony through two-way electronic video and audio communication in such proceedings. Finally, the bill allows a witness to testify using a telephonic communication system when his testimony would be helpful to the conduct of such proceedings and he is not able to be physically present. HB 578; CH. 51.

**§§ 9.1-101, 19.2-389, 19.2-389.1, 37.1-70.1, 37.1-70.2, 37.1-70.4 through 37.1-70.6, 37.1-70.9, 37.1-70.10, and 37.1-70.13 amended; § 37.1-70.20 added. Civil commitment of sexually violent predators.** Makes numerous changes authorizing the release of various types of information concerning the offender to the Attorney General, mental health examiners and the Department of Mental Health, Mental Retardation and Substance Abuse Services. The bill provides that the Office of the Attorney General is a criminal justice agency. The bill increases the number of prisoners eligible for commitment by providing that someone who is serving concurrent or consecutive time for a non-sexually violent offense in addition to his time for a sexually violent offense will be assessed for possible commitment. The bill redefines “sexually violent offense” to include the commission of aggravated sexual battery against a person younger than 13 and assures that a committed person who commits a jailable offense will be returned to the custody of the Department of Mental Health, Mental Retardation and Substance Abuse Services. HB 1997; CH. 914 (effective 4/6/05).

**§ 37.1-84.3 amended. State and local human rights committees.** Requires that at least one appointment to the state human rights committee and each local human rights committee must be a health care provider. These committees address alleged violations of human rights of consumers of public and private mental health, mental retardation and substance abuse services. HB 2870; CH. 201.

**§ 37.1-110.** See § 55-7; SB 891.

**§§ 2.2-711, 2.2-712, 37.1-134.14:1, and 37.1-134.19 amended. Public guardian and conservator program.** Provides that if a person is adjudicated incapacitated and in need of a guardian or conservator and the court has not identified any person to serve as guardian or conservator within one month from the adjudication, the court may appoint a local or regional program of the Virginia Public Guardian and Conservator Program authorized by the Department for the Aging. If there is no program within the court’s jurisdiction, the court may appoint a program within 60 miles of the residence of the incapacitated person. However, the court shall not appoint any program that has reached or exceeded its ideal ratio of clients to staff. SB 719; CH. 712.

**§ 37.1-134.21 amended. Judicial authorization of treatment and detention.** Clarifies the provisions relating to judicial authorization of treatment. The bill defines “treatment” to include “the provision, withholding, or withdrawal of a specific treatment or course of treatment” when certain conditions are satisfied, such as the unavailability of a legally authorized representative, the incapacity of the person who is the subject of the petition to make an informed decision and unlikely prospect of the person to become capable of making an informed decision. The proposed treatment must be in the best interest of the patient and “medically and ethically appropriate with respect to (i) the medical diagnosis and prognosis and (ii) any other information provided by the attending physician of the person for whom treatment is sought.” Further, the court’s authority to dispense with service of the petition and notice of the hearing to the next of kin for persons who are patients in hospitals or facilities of the Department of Mental Health, Mental Retardation and Substance Abuse Services is simplified by adding the condition that such patients have “no known guardian or legally authorized representative at the time” and authorizing dispensing of notice to the next of kin when “treatment is necessary to prevent imminent or irreversible harm.” Palliative care may also be ordered. Technical amendments are included. SB 1017; CH. 751.

**§§ 37.1-179 and 51.5-14.1 amended. Brain Injury Waiver; licensing authority.** Authorizes the Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS) to license providers of services under the Medicaid Brain Injury Waiver and providers of residential services for persons with brain injury. The bill defines “brain injury” for waiver purposes and requires the Department of Rehabilitative Services to collaborate with DMHMRSAS in activities related to the licensing of Brain Injury Waiver service providers. The bill requires the State Board of Mental Health,

Mental Retardation and Substance Abuse Services to promulgate necessary regulations within 280 days of enactment. HB 2826; CH. 725/SB 1237; CH. 718.

**§§ 37.1-185 and 37.1-189.1 amended. Summary suspension of licenses of certain children's group homes and residential facilities; penalty.** Authorizes the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services to issue an order of summary suspension of a license to operate a group home or residential facility for children, including homes or facilities licensed under core licensure regulations, in cases of immediate and substantial threat to the health, safety, and welfare of residents. The bill includes authority for emergency regulations. The Executive Secretary of the Supreme Court and the Department of Mental Health, Mental Retardation and Substance Abuse Services must establish a protocol for the expedited appointment of a hearing officer for the summary suspension of licenses in accordance with the provisions of this act. HB 2881; CH. 485/SB 1333; CH. 363.

**§ 37.1-189.1.** See § 63.2-1737; HB 2461/SB 1304.

**§§ 37.1-197, 37.1-198, and 37.1-248.1 amended. Community services boards and behavioral health authorities.** Authorizes the Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS) to transfer appropriated funds for mental health, mental retardation, and substance abuse services directly to operating community services boards and behavioral health authorities. Operating community services boards must be authorized by each local governing body that established it to receive funds directly from the DMHMRSAS. HB 1938; CH. 75.

**§ 37.1-207 amended. Substance Abuse Services Council; membership.** Adds six new members to the Substance Abuse Services Council, as follows: one member representing the Virginia Drug Courts Association, the Commissioner of the Department of Motor Vehicles, the Director of the Department of Medical Assistance Services, the chief Operating Officer of the Department of Alcoholic Beverage Control, the Executive Director of the Governor's Office for Substance Abuse Prevention or his designee, and the Executive Director of the Virginia Tobacco Settlement Foundation or his designee. SB 741; CH. 713.

**§§ 37.1-225 through 37.1-233 repealed. Disclosure of patient information by certain health care providers.** Repeals provisions governing disclosure of patient information to third party payors by mental health, mental retardation, and substance abuse professionals. This bill is a recommendation of the Joint Commission on Health Care. HB 2514; CH. 111/SB 1110; CH. 43.

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## TITLE 37.1. MISCELLANEOUS - INSTITUTIONS FOR THE MENTALLY ILL; MENTAL HEALTH GENERALLY.

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**Providers of treatment for persons with opiate addiction; standards required; moratorium.** Requires the State Mental Health, Mental Retardation and Substance Abuse Services Board to establish standards to evaluate the need and appropriateness for the issuance of new licenses to providers of treatment for persons with opiate addiction. The standards will include various criteria relating to the number of persons needing such treatment in the service area, the proposed site of the clinic, the existing access to such treatment, the geographic and demographic parameters of the service area, and the proposed clinic's security and accountability measures. A moratorium on the issuance of new licenses for providers of treatment for persons with opiate addiction is established from the enactment date of this act until the date on which the standards become effective. The Board is authorized to promulgate emergency regulations. HB 1778; CH. 64.

**Providers of treatment for persons with opiate addiction; standards required; moratorium.** Requires the State Mental Health, Mental Retardation and Substance Abuse Services Board to establish standards to evaluate the need and appropriateness for the issuance of new licenses to providers of treatment for persons with opiate addiction. The standards will include various criteria relating to the number of persons needing such treatment in the service area, the proposed site of the clinic, the existing access to such treatment, the geographic and demographic parameters of the service area, and the proposed clinic's security and accountability measures. A moratorium on the issuance of new licenses for providers of treatment for persons with opiate addiction is established from the enactment date of this act until the date on which the standards become effective. The Board is authorized to promulgate emergency regulations. This bill will also become effective upon enactment. SB 753; CH. 7 (effective 2/25/05).

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## TITLE 37.2. INSTITUTIONS FOR THE MENTALLY ILL; MENTAL HEALTH GENERALLY.

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**§§ 2.2-2905, 2.2-3705.5, 8.01-2, 16.1-241, 16.1-278.11, 16.1-339, 16.1-346.1, 16.1-348, 18.2-254, 18.2-255.2, 19.2-169.6, 19.2-177.1, 19.2-182.3, 19.2-182.9, 22.1-281, 33.1-234, 53.1-40.1, 53.1-40.2, 53.1-40.8, 53.1-40.9, 53.1-77, 54.1-2400.1, 54.1-2986, 58.1-3607, 63.2-1602, 63.2-1801, and 63.2-1805 amended; §§ 2.2-2690, 2.2-2691, 37.2-100, 37.2-200 through 37.2-204, 37.2-300 through 37.2-319, 37.2-400 through 37.2-440, 37.2-500 through 37.2-511, 37.2-600 through 37.2-614, 37.2-700 through 37.2-721,**

**37.2-800 through 37.2-847, 37.2-900 through 37.2-918, 37.2-1000 through 37.2-1029, 37.2-1100 through 37.2-1108 added; §§ 37.1-1 through 37.1-260 repealed. Recodification of Title 37.1; persons with mental illness, mental retardation, or substance abuse.** Recodifies Title 37.1 as Title 37.2. In accordance with § 30-152, the Virginia Code Commission, in 2003, undertook the recodification of Title 37.1. Title 37.1 is the legal authority for the Department of Mental Health, Mental Retardation and Substance Abuse Services under the Secretariat of Health and Human Resources, as well as the Office of the Inspector General for Mental Health, Mental Retardation and Substance Abuse Services. Title 37.1 is also the legal authority for community services boards and behavioral health authorities. The title was last revised in 1968. During the past 37 years, much has happened to affect laws governing mental health, mental retardation, and substance abuse services. The Virginia Code Commission has rewritten and combined sections or parts of sections to clarify provisions and to eliminate archaic, obsolete, or redundant language. Additionally, certain substantive changes are made, many of which reflect current practices, delete eliminated programs, or conform provisions to other statutes and regulations.

The Virginia Code Commission has divided Title 37.2 into four subtitles. Subtitle I contains general provisions applicable to the entire title. The title-wide definitions are included as general provisions. Subtitle II deals with mental health, mental retardation, and substance abuse services. A newly created chapter within Subtitle II consolidates sections related to state facilities that were previously scattered throughout Title 37.1. Subtitle III contains chapters related to admissions and dispositions. Subtitle IV contains guardianship, conservatorship, and judicial authorization of treatment provisions.

Current §§ 37.1-207 and 37.1-207.1, relating to the Substance Abuse Services Council are relocated to Title 2.2 (Administration of Government) as part of the title revision. This executive branch advisory council coordinates the Commonwealth's public and private efforts to control substance abuse and it is more appropriately placed in this general government title.

Two current chapters are not carried forward as part of Title 37.2 and will be repealed: Chapter 3 (Persons Not Confined to State Hospitals) and Chapter 7 (Extradition of Persons of Unsound Minds). Both chapters are obsolete. SB 1023; CH. 716 (effective 10/1/05).

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## TITLE 38.2. INSURANCE.

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**§§ 38.2-231 and 38.2-2200 amended. Miscellaneous casualty insurance; notices; policy provisions.** Requires insurers to deliver written notice of cancellation, renewal, reduction in coverage, or certain rate increases to the named insured under policies of miscellaneous casualty insurance issued to a business entity. Miscellaneous casualty policies insure against liability, and against loss, damage or expense arising out of in-

jury to the economic interests of any person. The measure also requires policies insuring against liability for injury to the economic interests of any person to include provisions regarding the insolvency or bankruptcy of the insurer and when an action may be maintained by the insured against the insurer. HB 1882; CH. 290.

**§ 38.2-231 amended. Medical malpractice insurance; notice of policy changes.** Requires insurers to provide no less than 90 days' notice of a cancellation or non-renewal of, or a premium increase of more than 25 percent for, a medical malpractice insurance policy. If cancellation or non-renewal of such a policy is for nonpayment of the premium, the cancellation or non-renewal will be effective not less than 15 days from the date of mailing or delivery of the notice. For all other liability insurance policies, 45 days' notice of a 25 percent increase in the premium, rather than in the filed rate, is required. HB 2410; CH. 635.

**§ 38.2-301 amended. Life insurance; insurable interests.** Eliminates a provision that currently allows a person to procure an insurance contract upon another individual when the benefits are payable to a beneficiary designated by the insured, if the beneficiary did not have an insurable interest in the insured when the contract was made. The measure provides that a lawful and substantial economic interest, which constitutes an insurable interest, is deemed to exist in parties to a contract for the purchase or sale of a business firm or in trustees of certain trusts. The measure does not apply to life insurance policies or contracts where, prior to December 31, 2004, a Virginia-headquartered charitable organization executed a nondisclosure and exclusivity agreement and was the holder of a charitable certificate issued prior to that date, if the policies or contracts are written on individuals who were donors to such a charitable organization or an organization under common control with the charitable organization. HB 2766; CH. 656/SB 1227; CH. 698.

**§ 38.2-324 added. Disclosure of insurance information; natural disaster damage assessments.** Permits the disclosure to state, federal, and local government officials of certain aggregated information involving property damage resulting from natural disasters. HB 2681; CH. 192.

**§§ 38.2-1000 and 38.2-1017.** See § 13.1-603; SB 1228.

**§ 38.2-1057 amended. Insurance collateral deposited with State Treasurer.** Authorizes the State Treasurer to assess a fee, to be determined annually based on estimated expenses, to cover the expenses associated with the safekeeping and handling of securities or surety bonds deposited with the State Treasurer by insurance companies. The fee shall not exceed one-fourth of one percent of the par or face value of the deposited securities or surety bonds. Currently, the State Treasurer may charge a fee of not more than one-tenth of one percent of the par or face value of the deposited securities or surety bonds. The assessments will be deposited in a special, nonreverting fund to be known as the Insurance Collateral Assessment Fund. SB 1059; CH. 38.

**§ 38.2-1903.1 amended. Insurance rates; large commercial risks.** Revises the criteria for qualification as a large commercial risk by reducing the eligibility threshold for net worth from \$10 million to \$2 million; for annual revenues from \$25 million to \$2 million; for full time employees from 80 to 10; for aggregate insurance payments from \$100,000 to \$25,000; and for annual budgeting expenditures for nonprofit organizations or public bodies from \$10 million to \$5 million. SB 913; CH. 251.

**§ 38.2-1906 amended. Insurance rates; policies acquired from other insurers.** Clarifies that an insurer may cap the renewal rates for policies that have been transferred from another insurer pursuant to a merger, acquisition, or sale, to the same extent that such rates may be capped for policyholders whose coverage is continued by that insurer. HB 2219; CH. 95.

**§ 38.2-2114 amended. Insurance; homeowners; cancellation or nonrenewal; claims inquiries.** Prohibits an insurer from canceling or refusing to renew homeowners insurance policies based solely on inquiries from insureds about insurance coverage or policy provisions. The measure does not apply to notifying the insurer of a loss, incident or accident, or providing information indicating an increase in the hazard insured against. Insurers are prohibited from reporting inquiries to any loss history database maintained by a consumer reporting agency or insurance support organization. HB 814; CH. 872.

**§ 38.2-2204 amended. Motor vehicle, aircraft, and watercraft liability insurance policies.** Authorizes a liability insurer to limit its liability, under an insurance policy covering bodily injury or property damage, for injury or damage resulting from any one accident or occurrence to the liability limits for such coverage set forth in the policy for any accident or occurrence or for any one person. The measure also provides that if an accident or occurrence involves more than one defendant who is covered by the policy, the plaintiff may recover the per person limit of the policy against each defendant, subject to the policy's per accident or occurrence limit. SB 1260; CH. 771.

**§ 38.2-2228.2.** See § 8.01-399; HB 2659/SB 1173.

**§ 38.2-3120.** See § 55-7; SB 891.

**§ 2.2-2818 amended; § 38.2-3407.13:2 added. Health insurance; claims paid to insureds for services rendered by non-participating providers.** Requires health insurers, health services plans and health maintenance organizations that send payment to the insured, subscriber or enrollee for services received from a non-participating physician or osteopath to notify the insured, subscriber or enrollee of the responsibility to apply the payment to the claim from the non-participating provider. The notice is required to include the last known address of the non-participating provider on the explanation of benefits statement. This notice provision is effective January 1, 2006, for health insurers, health services plans and health maintenance organizations with no more than 500,000 insureds, subscribers or enrollees. A similar requirement is

applicable to the state employees' health insurance plan. SB 904; CH. 739 (effective - see bill).

**§ 38.2-3407.14 amended. Notices of health insurance premium increase.** Requires a health insurer, issuer of subscription contracts, or health maintenance organization to provide the required notice of an increase in premium that exceeds 35 percent of the annual premium to the designated consultant or other agent of the group policyholder, contract holder, or subscriber, if requested in writing. Currently, the notice is required to be given at least 60 days prior to the proposed renewal of coverage to the policyholder, contract holder, or subscriber. HB 2143; CH. 399.

**§ 38.2-3407.15 amended. Health insurance carriers; ethics and fairness in business practices.** Requires health insurance carriers that bundle or downcode claims submitted by a provider to disclose that practice to the provider. Carriers are also required to disclose their bundling or downcoding policies. Other provisions require carriers to establish in writing their claims payment dispute mechanism and make the information available to providers. The measure also provides that an amendment to a contract shall not be effective unless the proposed amendment is delivered to the provider at least 60 days prior to its effective date and the provider has failed to notify the carrier within 30 days of receipt of the documentation that the provider intends to terminate the provider's contract. The measure applies to provider contracts entered into, amended, extended, or renewed on or after January 1, 2006. SB 1106; CH. 349.

**§ 38.2-3430.3 amended. Availability of individual health insurance coverage.** Prohibits health insurers from imposing affiliation periods on eligible individuals in the individual accident and sickness insurance market. Such insurance is currently guaranteed to be available to eligible individuals with prior coverage. The measure is required to conform Virginia law with federal regulations issued under the Health Insurance Portability and Accountability Act. SB 864; CH. 335.

**§ 38.2-3525 amended. Group accident and sickness insurance coverage.** Allows coverage under a group accident and sickness insurance policy to be extended to insure any class of persons as may mutually be agreed upon by the insurer and the group policyholder. SB 1338; CH. 871.

**§ 38.2-4608 amended. Title insurance risk rates.** Authorizes title insurance companies to charge risk rates that it negotiates with a potential insured. Such rates shall be presumed not to be unfairly discriminatory if they are sufficient to furnish a reasonable margin for profit after provision for probable losses, exposure to loss under policies, allocations to reserves, costs of participating insurance, operating costs and other items of expense fairly attributable to the operation of the business, and are not unfairly discriminatory between risks involving essentially the same hazards and expense elements. HB 2821; CH. 848.

**§§ 38.2-5004 and 38.2-5006 amended. Birth-Related Neurological Injury Compensation Program.** Establishes that

the Birth-Related Neurological Injury Compensation Program's response to a claimant's petition is not due until 10 days after the three-physician panel's report is filed with the Workers' Compensation Commission. Upon the filing of the Program's response, the Commission shall set the hearing date, which shall be no sooner than 15 and no later than 90 days after the filing of the Program's response. HB 1505; CH. 52/SB 1323; CH. 50.

**§§ 2.2-2818, 6.1-2.9:8, 38.2-5601, and 38.2-5602 amended; § 38.2-5602.1 added; §§ 38.2-5600 and 38.2-5603 repealed.**

**Health savings accounts.** Requires the Department of Taxation and the State Corporation Commission to amend the Virginia Medical Savings Account Plan to address the provisions of federal law that permit eligible individuals to establish health savings accounts. The revised plan, to be called the Virginia Health Savings Account Plan, is required to identify measures that will increase the utilization and efficacy of health savings accounts. Existing medical savings accounts may be converted to health savings accounts. Health carriers are expressly authorized to offer high deductible health plans that qualify for and may be offered in conjunction with health savings accounts. No later than July 1, 2006, the health insurance plan for state employees is required to include, as one of the health coverage options offered in each planning district, a high deductible health plan that would qualify for a health savings account. The 2003 federal Medicare legislation authorizes eligible individuals who purchase a high deductible health plan to make tax-deductible contributions into a health savings account, generally up to the amount of the health plan's deductible, and to make tax-free withdrawals from the health savings account to pay for qualified medical expenses. The measure also repeals provisions relating to the establishment of the Virginia Medical Savings Account Plan and to the role of the Joint Commission on Health Care in monitoring the Plan. HB 1492; CH. 572/SB 1097; CH. 503.

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## TITLE 40.1. LABOR AND EMPLOYMENT.

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**§§ 40.1-28.1 through 40.1-28.4:1 repealed. Employee's day of rest.** Repeals the statutory provisions governing the employee day of rest requirements. HB 2393; CH. 823.

**§ 40.1-29 amended. Failure or refusal to pay wages; penalty.** Provides that an employer who fraudulently fails or refuses to pay wages is guilty of a Class 6 felony if the amount of wages is \$10,000 or more or if it is a second or subsequent conviction. Under current law the refusal to pay wages is a Class 1 misdemeanor regardless of the amount. The bill also provides that the determination as to the "value of the wages earned" shall be made by combining all wages the employer failed or refused to pay. HB 2638; CH. 595.

**§ 40.1-29 amended. Payment of wages or salaries.** Authorizes employers to pay wages by credit to a prepaid debit card or card account without the employee's consent if the em-

ployee has failed to designate a financial institution where payment may be deposited by automated fund transfer and if the employee is employed at a facility where amusement devices are operated. HB 2842; CH. 851.

**§ 40.1-49.4.** See § 8.01-2; SB 1118.

**§ 40.1-51.2:2 amended. Labor violations; time for reporting complaint.** Prohibits an employee from seeking relief via the administrative process through the Commissioner of Labor and Industry for discharge or discrimination as a result of reporting health or safety violations if the employee does not file his complaint within 60 days after the discharge or discrimination occurred. HB 1834; CH. 789/SB 971; CH. 743.

**§ 40.1-51.10 amended. Boiler and pressure vessel inspections; expiration of certificate; inspection by Commonwealth.** Authorizes the Commissioner to assign an agent or special inspector to inspect any boiler or pressure vessel 91 days after certificate expiration and assess an inspection fee against the owner or operator of the boiler or pressure vessel. HB 1955; CH. 387.

**§§ 40.1-79.1 and 40.1-100 amended. Volunteer firefighters; minors; emergency.** Provides that ordinances of counties, cities, and towns authorizing participation by minors aged 16 years or older in volunteer fire companies apply to minors resident anywhere in the Commonwealth. The measure also provides that localities by ordinance may authorize such minors to seek firefighter certification. Such minors who are members of a volunteer fire company are exempted from child labor provisions while participating in all activities of a volunteer fire company, but shall not enter a burning structure prior to obtaining firefighter certification except where such entry is necessary to obtain the firefighter certification. The bill will take effect upon passage. HB 1703; CH. 151 (effective 3/20/05).

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## TITLE 42.1. LIBRARIES.

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**§§ 42.1-77, 42.1-79, 42.1-82, 42.1-83, 42.1-86, 42.1-86.1, and 42.1-87 amended; §§ 42.1-79.1 and 42.1-84 repealed. Virginia Public Records Act.** Makes several clarifying and technical changes to the Virginia Public Records Act. The bill removes obsolete definitions, clarifies existing definitions of "archival records" and "public records," and creates a definition for "private record," a term that is used in the Act but not currently defined. The bill removes references to the preservation of medical records, an area of law that has been superseded by other state and federal medical records laws, and programs for microfilming records by The Library of Virginia, a service not provided by The Library of Virginia. The bill also clarifies that a public record may not be destroyed or discarded unless certain requirements are met. This change codifies current practice. This bill is a recommendation of the HJR 6 study (2004). HB 1791; CH. 787.

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## TITLE 43. MECHANICS' AND CERTAIN OTHER LIENS.

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**§ 43-32 amended. Lien of keeper of livery stable, garage, marina, etc.** Increases the lien limits for storage from \$300 to \$500, and requires that the person asserting the lien make a reasonable attempt to notify any secured party of record at the Department of Motor Vehicles or the Department of Game and Inland Fisheries not just in writing but also by telephone, with both forms of notice required within three business days of the person's taking possession of the boat, aircraft or vehicle. An item of personal property left with the stored property must be returned only if the owner claims the item before auction. HB 2310; CH. 98.

**§ 43-33 amended. Mechanics' lien; repairs to personal property.** Increases from \$625 to \$800 the maximum lien a mechanic can assert for repairs to personal property. The maximum lien that garage, marina, livery and hangar operators can assert was increased to \$800 in the 2004 General Assembly session. HB 1599; CH. 280.

**§§ 43-35 and 43-36.** See § 1-200; HB 2640.

**§ 43-62.** See § 8.01-2; SB 1118.

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## TITLE 44. MILITARY AND EMERGENCY LAWS.

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**§ 44-93.1.** See § 9.1-400; HB 1738/HB 1793.

**§§ 2.2-3705.7 and 44-146.18 amended. Powers and duties of Department of Emergency Management; coordination of emergency services intelligence and response; Freedom of Information Act.** Provides that the Department of Emergency Management shall be responsible for the coordination, receipt, evaluation, and dissemination of emergency services intelligence and shall coordinate intelligence activities with the Department of State Police. The bill also creates a records exemption under the Virginia Freedom of Information Act for contact information, computer information, and operating schedule information submitted by an individual or agency for participation in the Statewide Alert Network where the release of such information would compromise the security of the Statewide Alert Network or individuals participating in the Statewide Alert Network. HB 2032; CH. 165.

**§ 44-146.18 amended. Disaster preparedness programs; continuity of operations.** Requires that the State Department of Emergency Management provide guidance and assistance to state agencies and localities in developing and maintaining continuity of operations (COOP) programs. SB 800; CH. 490.

**§ 44-146.19 amended. Mutual aid arrangements.** Allows a local director of emergency management to enter into mutual

aid arrangements with other states or localities within other states for reciprocal assistance in case of disaster. Currently, directors are limited to making these arrangements with other public or private agencies within the Commonwealth or with states adjacent to the Commonwealth. HB 2379; CH. 6/SB 766; CH. 205.

**§ 44-146.23.** See § 2.2-3601; HB 2520.

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## TITLE 45.1. MINES AND MINING.

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**§§ 45.1-161.8, 45.1-161.12, 45.1-161.14, 45.1-161.20, 45.1-161.21, 45.1-161.33, 45.1-161.37, 45.1-161.63, 45.1-161.64, 45.1-161.80, 45.1-161.83, 45.1-161.97, 45.1-161.109, 45.1-161.115 through 45.1-161.118, 45.1-161.122, 45.1-161.124, 45.1-161.126, 45.1-161.135, 45.1-161.147, 45.1-161.154, 45.1-161.156, 45.1-161.163, 45.1-161.165, 45.1-161.172, 45.1-161.175, 45.1-161.176, 45.1-161.186, 45.1-161.194, 45.1-161.195, 45.1-161.198, 45.1-161.200, 45.1-161.207 through 45.1-161.210, 45.1-161.212, 45.1-161.216, 45.1-161.218, 45.1-161.219, 45.1-161.225, 45.1-161.228, 45.1-161.229, 45.1-161.236, 45.1-161.256, 45.1-161.257, 45.1-161.260, 45.1-161.264, 45.1-161.265, 45.1-161.270, 45.1-161.273, 45.1-161.276, 45.1-161.277, 45.1-161.278, 45.1-161.280, 45.1-161.282, 45.1-161.287, 45.1-161.288, 45.1-222, 45.1-224, and 45.1-246 amended; §§ 45.1-161.233:1, 45.1-221.1, and 45.1-224.1 added; §§ 45.1-161.120, 45.1-161.213, 45.1-221, 45.1-223, and 45.1-225 repealed. Coal mining safety; civil penalty.** Amends the Virginia Coal Mine Safety Act and the Virginia Coal Surface Mining Control and Reclamation Act to increase mine safety and address safety concerns, including notification of violations, qualifications of inspectors, new map designations, roof control plans, requirements for storage of explosives, clearance on haulage roads, operation of equipment, slope and shaft conditions, requirements for protective clothing, location of fire-fighting equipment, and increased safety examinations. The bill consolidates reporting requirements for impoundments or dams and requires that emergency evacuation plans be kept up to date. This bill also (i) requires ground control plans to ensure the safety of persons in any area that may be affected by blasting or falling, sliding, or other uncontrolled movement of material and (ii) increases the maximum civil penalty from \$5,000 to \$70,000 for violations that result in an injury or fatality to any person. This bill contains an emergency clause. HB 2573; CH. 3 (effective 2/10/05).

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## TITLE 46.2. MOTOR VEHICLES.

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**§§ 46.2-100 and 46.2-874 amended. Definition of "residence district"; speed limits.** Includes residential subdivisions and

territory zoned residential in the definition of residence district for purposes of Title 46.2 (Motor Vehicles). The bill also excludes nonlimited access highways with four or more lanes and primary highways located in residence districts from having 25 miles per hour speed limits. HB 2418; CH. 310.

**§§ 46.2-100, 46.2-694, 46.2-917, and 46.2-918.**

See § 57-16.1; HB 2697.

**§ 46.2-208 amended. Access to records of the Department of Motor Vehicles (DMV).** Requires the DMV Commissioner, on the written request of any person who has applied to be a volunteer vehicle operator with a Virginia chapter of the American Red Cross, to (i) compare personal information supplied by a Virginia chapter of the American Red Cross with that contained in the Department's records and, when the information supplied by a Virginia chapter of the American Red Cross is different from that contained in the Department's records, provide the Virginia chapter of the American Red Cross with correct information as contained in the Department's records and (ii) provide driver information in the form of an abstract of the applicant's record showing all convictions, accidents, license suspensions or revocations, and any type of driver's license that the individual currently possesses. The abstract is to be provided free of charge if the request is accompanied by appropriate written evidence that the person has applied to be a volunteer vehicle operator with a Virginia chapter of the American Red Cross. HB 1494; CH. 443.

**§§ 46.2-208 and 46.2-382.** See § 18.2-36.2; HB 1756.

**§§ 46.2-300 and 46.2-324.1 amended; § 46.2-309 repealed.**

**Acceptability of foreign driver's license as the equivalent to a learner's permit.** Allows any person at least 19 years old to have the learner's permit or driver education requirement waived if that person possesses a foreign driver's license. SB 821; CH. 245.

**§ 46.2-301.1 amended. Notice of impoundment.** Removes the requirement that the officer who impounds a car shall serve notice of the impoundment to the Commissioner of DMV. HB 2435; CH. 312.

**§§ 46.2-323, 46.2-342, and 46.2-345 amended. Driver's licenses and special identification cards.** Requires that driver's license applications include the applicant or licensee's full legal name. HB 2509; CH. 828/SB 965; CH. 259.

**§§ 46.2-324.1, 46.2-341.4, 46.2-341.12, 46.2-341.18, 46.2-341.18:1, 46.2-341.20, 46.2-341.20:2, 46.2-341.21, and 46.2-433 amended; § 46.2-341.20:3 added. Commercial vehicle driver's licenses.** Amends various Virginia Code sections in order to comply with the final rule promulgated by the Federal Motor Carrier Safety Administration to implement the commercial driver licensing requirements of Section 201(b) of the Motor Carrier Safety Improvement Act of 1999. This act requires stricter licensing and record-keeping procedures and imposes increased sanctions against commercial driver's license holders who operate commercial and noncommercial vehicles in an unsafe manner. SB 1198; CH. 513.

**§§ 46.2-328.1 and 46.2-345 amended. Special identification cards.** Allows licensed drivers to exchange their driver's licenses for special identification cards without incurring an additional fee. The bill also brings the fees charged for issuance of special identification cards more into line with those charged for driver's licenses. SB 972; CH. 260.

**§ 46.2-330 amended. Renewal of driver's licenses.** Reduces the number of applicants for driver's license renewal that have to retake the rules-of-the-road written test. HB 2193; CH. 302.

**§§ 46.2-341.24, 46.2-341.26:2, 46.2-341.26:10, and 46.2-341.27.** See § 18.2-266; HB 1896.

**§§ 46.2-341.25, 46.2-341.26:1, 46.2-341.26:6, 46.2-341.26:7, and 46.2-341.26:9.** See § 9.1-102; HB 2216/SB 1153.

**§ 46.2-345 amended. Special identification cards; fees.** Allows persons who are 70 years old or older to exchange their valid driver's license for free. HB 1611; CH. 281.

**§ 46.2-345 amended. Special identification cards.** Provides that special identification cards issued by DMV for persons less than 15 years old will expire on the person's 16th birthday. SB 789; CH. 665.

**§ 46.2-388 amended. Electronic summons may be used for reportable motor vehicle law violations; citations.** Provides that an electronic summons may be used in lieu of a paper summons for reportable motor vehicle violations. HB 2508; CH. 589.

**§§ 46.2-391.2 and 46.2-391.4.** See § 18.2-267; HB 2655/SB 1093.

**§ 46.2-393 amended. Reckless driving; restricted license.** Allows a judge to issue a restricted license when he has suspended the license of someone convicted of certain reckless driving offenses. Under current law there is no provision for the issuance of a restricted license for the following reckless driving offenses: faulty brakes; passing on a crest, grade or curve; obstructed view; impaired control; passing two vehicles abreast; driving two abreast in a single lane; passing at a railroad crossing; passing a stopped school bus; failing to give a signal; driving too fast for conditions; exceeding the speed limit; failing to yield right-of-way; and reckless driving on parking lots. Although discretionary with the judge, the period of suspension for these offenses is not less than 60 days nor more than six months. Another statute (§ 46.2-392) provides for a period of suspension of not less than 10 days nor more than six months for reckless driving and allows restricted licenses. This bill is a recommendation of the Committee on District Courts. HB 1722; CH. 152.

**§§ 18.2-268.4 and 46.2-398 amended. Surrendered driver's licenses.** Clarifies when a driver's license is retained by the court, returned to the defendant, or submitted to DMV when a defendant is convicted of an offense that requires or permits the revocation or suspension of the license. SB 1205; CH. 943.

**§ 46.2-411 amended. Driver's license reinstatement fees.** Imposes an additional \$40 fee for reinstatement of suspended

or revoked driver's licenses. Proceeds of this additional fee are to be paid into the Trauma Center Fund for the purpose of defraying the costs of providing emergency medical care to victims of automobile accidents attributable to alcohol or drug use. HB 2664; CH. 886.

**§ 46.2-414 amended. Commencement of periods for suspension or revocation of driver's licenses, registration cards, or license plates.** Provides that periods of suspension begin on the date the conviction becomes final or after the order of the DMV Commissioner becomes final (rather than 180 days after such dates). HB 2772; CH. 565.

**§§ 46.2-603 and 46.2-623 amended. Vehicle titles.** Authorizes creation of electronic certificates of title. HB 2293; CH. 305.

**§ 46.2-621.1 added. Vehicle titles.** Provides a mechanism for correcting errors made in the title process. HB 1672; CH. 283.

**§ 46.2-633 amended. Transfer of vehicle title by operation of law; emergency.** Provides that DMV will issue a new title upon presentation of a title from another state and a form prescribed by the Commissioner attesting to the lawful repossession of the vehicle and the intent to offer the vehicle for sale in the Commonwealth. DMV will then request the other state to cancel its title. HB 2822; CH. 849 (effective 3/26/05)/SB 1234; CH. 766 (effective 3/26/05).

**§ 46.2-684.1 added. Insurance for unregistered motor vehicles.** Authorizes insurance on any motor vehicle, trailer or semi-trailer that is exempt from motor vehicle registration requirements to be written under a policy other than a motor vehicle insurance policy. Such registration-exempt vehicles remain exempt from the liability insurance requirements that apply to registered motor vehicles. Currently, an owner who elects to insure a registration-exempt vehicle that is designed for use on public roads must, with some exceptions, insure it under a motor vehicle insurance policy. This measure, by providing that policies covering such vehicles are exempt from the requirements applicable to motor vehicle insurance generally, allows such vehicles to be insured under a general liability policy or farm policy. HB 1663; CH. 445.

**§§ 46.2-711 and 46.2-892 amended. U.S. mail vehicles.** Provides for optional use of rear-mounted "U.S. MAIL" signs on vehicles used to collect and deliver the mail. HB 1601; CH. 140.

**§ 46.2-712 amended. Motor vehicle registration.** Authorizes permanent registration for buses. HB 2189; CH. 301.

**§ 46.2-725 amended; § 46.2-749.4:4 added. Special license plates.** Provides that no special license plates are to be considered for authorization by the General Assembly unless and until the individual, group, organization, or other entity seeking the authorization of such special license plates has demonstrated to the satisfaction of the General Assembly that they meet specified issuance requirements. The bill also provides a mechanism whereby commemorative license plates for local government anniversaries can be issued without specific Gen-

eral Assembly authorization for each separate series of plates. HB 2019; CH. 294.

**§ 46.2-728.3.** See § 1-200; HB 2640.

**§§ 46.2-731, 46.2-1240, and 46.2-1241 amended. Disabled parking license plates and placards.** Provides that "physicians' certificates," required as a precondition for issuance of temporary disabled parking and placards, may in certain instances be issued by podiatrists and chiropractors. HB 1539; CH. 276.

**§§ 46.2-736.1 and 46.2-737 amended. Special license plates; certain officials and constitutional officers; fees.** Increases the fee for issuance of special license plates to the Speaker of the House of Delegates, members of the House of Delegates, members of the Virginia Senate, the Clerk of the House of Delegates, the Clerk of the Virginia Senate, the Governor of Virginia, the Lieutenant Governor of Virginia, the Attorney General of Virginia, United States Congressmen, United States Senators, sheriffs, county and city treasurers and commissioners of the revenue, attorneys for the Commonwealth, circuit court clerks, and general registrars to \$25 plus the vehicle registration fee and the reserved numbers or letters fee. HB 2187; CH. 300.

**§§ 46.2-743, 46.2-749.2:10, and 46.2-749.4 amended; §§ 46.2-742.5, 46.2-742.6, 46.2-746.2:3.1, 46.2-746.2:6, 46.2-746.23, 46.2-749.49:1, 46.2-749.56:1, and 46.2-749.118 through 46.2-749.129 added; §§ 46.2-749.49 and 46.2-749.56 repealed. Special license plates; House "Omnibus."** Authorizes the issuance of special license plates for recipients of the National Defense Service Medal; recipients of the Global War on Terrorism Service Medal; unremarried surviving spouses of United States Marine Corps veterans; members and former members of the U.S. Naval Construction Force; members of the Veterans of Foreign Wars of the United States organization; members of the Virginia Division of the United Daughters of the Confederacy; supporters of community traffic safety programs in the Commonwealth; special license plates bearing the seal, symbol, emblem, or logotype of counties, cities, and towns; supporters of the Shenandoah National Park Association; supporters of the Rocky Mountain Elk Foundation; supporters of the Surfrider Foundation; Virginia quilters; Master Gardeners; members of the Northern Virginia Swim League; Virginia scuba divers; lung cancer research, awareness, and prevention; Virginia Wines; supporters of the Robert Russa Moton Museum; supporters of the Salem Avalanche baseball team; members and supporters of the Mustang Club of America; the 100th anniversary of the City of Galax; persons who desire to contribute to the Virginia Housing Partnership Revolving Fund; fees. HB 1501; CH. 273.

**§ 46.2-743 amended. Special license plates; U.S. Army.** Authorizes the issuance of special license plates for persons who either (i) have served in the U.S. Army, (ii) have been honorably discharged from the U. S. Army after at least six months of active duty service, or (iii) are retired from the U. S. Army. HB 2776; CH. 929.



**§ 46.2-743 amended. Military veteran license plates; fees.** Provides the World War II veteran and Asiatic-Pacific veteran special license plates will be subject to a one-time \$10 surcharge instead of an annual surcharge. SB 1058; CH. 264.

**§ 2.2-2666.1 amended; §§ 46.2-744.1, 46.2-749.109:1, 46.2-749.118 through 46.2-749.122 added; § 46.2-749.109 repealed. Special license plates; Senate “Omnibus.”** Authorizes the issuance of special license plates for members of the Virginia State Defense Force; supporters of children with special needs, education and the public schools of Virginia, and the Salem Avalanche; members and supporters of the Junior League, the Virginia Association for Community Conflict Resolution, and the Mustang Club of America. SB 884; CH. 248.

**§§ 46.2-746.7 and 46.2-746.9 amended; §§ 46.2-746.2:2.2, 46.2-746.2:5, 46.2-746.4:01, 46.2-746.8:2, 46.2-749.28:2, 46.2-749.30:1, 46.2-749.30:2, 46.2-749.36:1, 46.2-749.43:1, 46.2-749.44, 46.2-749.49, 46.2-749.50 through 46.2-749.53, 46.2-749.55, 46.2-749.56, 46.2-749.57, 46.2-749.59, 46.2-749.63, 46.2-749.64, 46.2-749.65, 46.2-749.67, 46.2-749.70 through 46.2-749.72, 46.2-749.74 through 46.2-749.77, 46.2-749.79, 46.2-749.82, 46.2-749.83, 46.2-749.98:1, 46.2-749.101, 46.2-749.104, 46.2-749.106, 46.2-749.107, 46.2-749.109, 46.2-749.113, 46.2-749.114, 46.2-749.116, and 46.2-749.117 repealed. Special license plates; expired authorizations.** Repeals authorization for issuance of special license plates that have failed to meet the deadline for receipt of the minimum number of prepaid applications. The affected plates are those for: 1600 Communications Association, Mothers Against Drunk Driving, Blue Knights, Blue Ridge Parkway Foundation, Optimist International, Big Brothers and Sisters of America, Boy Scouts, Girl Scouts, U.S. Pony Clubs, Mariner’s Museum, Shenandoah National Park Association, Rocky Mountain Elk Foundation, Town of Occoquan, County of New Kent, Burke’s Station, Town of Smithfield, City of Salem, City of Portsmouth, values of diversity, Virginia Indian tribes, proud to be an American, Virginia zoos, crime prevention, first Africans in Virginia, Relay for Life, “God Bless America,” Project Lifesaver, Interdenominational Children’s Foundation, court-appointed special advocates, American Legion, U.S. Navy chief petty officers, Langley Air Force Base, paratroopers, Washington, D.C. United soccer, youth soccer, POW/MIA logo, children with special needs, childhood cancer awareness, American Cancer Society, retired law-enforcement officers, printers, beekeepers, motorcycle rider safety training program, barbershop quartet singing enthusiasts, motor vehicle hobbyists, and Holstein dairy cow. HB 1749; CH. 908.

**§ 46.2-749.2:10 amended. Special license plates; DRIVE SMART.** Credits revenue-sharing revenues generated by the DRIVE SMART special license plates to Drive Smart Virginia instead of the Department of Motor Vehicles. SB 820; CH. 244.

**§ 46.2-749.69:1 amended. Special license plates bearing the names, numbers, and color schemes used by professional stock car drivers; fees.** Allows DMV to issue stock car driver

special license plates by entering into agreements to purchase such license plates from a supplier. HB 2572; CH. 554.

**§§ 46.2-749.118, 46.2-749.119, and 46.2-749.120 added. Special license plates; law-enforcement chaplains; U.S. Merchant Marine Academy; On the Rebound Bulldog Rescue Foundation.** Authorizes the issuance of special license plates to current and former law-enforcement chaplains, graduates and supporters of the U.S. Merchant Marine Academy, and supporters of the On the Rebound Bulldog Rescue Foundation. HB 2342; CH. 546.

**§ 46.2-752 amended. Local vehicle license fees.** Provides that a town cannot charge a license fee to any new resident of the town, previously a resident of a county within which all or part of the town is situated, who previously paid a license fee for the same tax year to such county. HB 2502; CH. 317.

**§ 46.2-819.1 amended. “Photo-toll” toll collection programs.** Authorizes “photo toll” facilities to record images of all vehicles whose operators choose to use the facilities and bill the registered owners of vehicles as to which no toll is paid, prior to pursuing other remedies. This bill also allows operators to charge an administrative fee of up to \$25 when collecting unpaid tolls. SB 815; CH. 862.

**§ 46.2-819.2 amended. Motor fuel drive-off; penalty.** Raises the civil penalty from \$100 to \$250 for driving off without paying for motor fuel. SB 819; CH. 208.

**§ 46.2-870 amended. Speed limits.** Sets the speed limit on U.S. Route 17 between Port Royal and Saluda at 60 miles per hour. SB 1210; CH. 266.

**§ 46.2-870 amended. Speed limit on U.S. Routes 29 and 460.** Provides that the maximum speed limit will be 60 miles per hour where indicated by lawfully placed signs, erected subsequent to a traffic engineering study, on U.S. Routes 29 and 460 where they are nonlimited access, multilane, divided highways. SB 1223; CH. 267.

**§ 46.2-870 amended. Speed limit on U.S. Route 58.** Provides that the maximum speed limit will be 60 miles per hour where indicated by lawfully placed signs, erected subsequent to a traffic engineering study, on U.S. Route 58 where it is a non-limited access, multilane, divided highway. SB 1229; CH. 268.

**§ 46.2-873.1 amended. Speed limits.** Adds Montgomery County to the list of counties within which the maximum speed limit on nonsurfaced treated roads is 35 miles per hour, unless increased or decreased by the Commonwealth Transportation Commissioner. HB 2156; CH. 804/SB 774; CH. 239.

**§ 46.2-894 amended. Leaving scene of accident.** Rewords the penalty portion of the law on leaving the scene of an accident to clarify that, in cases where property is damaged in an accident, the severity of the penalty depends on the amount of the damage caused, not the value of the property that was damaged. HB 1519; CH. 131.

**§ 46.2-896 amended. Duties of driver in event of accident involving damage only to unattended property.** Provides

that when a driver has an accident with an unattended vehicle, he may leave identifying and descriptive information at the scene other than a note, which is now required. The bill also provides that the written report of the accident shall contain a description of the property damage by the driver rather than his estimate of the damage. HB 1587; CH. 137.

**§§ 46.2-920 and 46.2-1023 amended. DEQ vehicles; operating in emergencies.** Allows vehicles of the Department of Environmental Quality (DEQ) to be equipped with red or red and white warning lights and to pass slowed or stopped vehicles off the roadway on the way to an emergency when displaying these warning lights. HB 2275; CH. 583.

**§ 46.2-931 amended. Distribution of handbills, etc., on certain highways.** Allows the Town of Vienna by ordinance to prohibit or regulate (i) the distribution of handbills, leaflets, bulletins, literature, advertisements, or similar material to, (ii) the solicitation of contributions from, and (iii) the sale of merchandise to the occupants of motor vehicles on highways. The bill also allows Albemarle and Greene Counties by ordinance to prohibit or regulate (i) the distribution of handbills, leaflets, bulletins, literature, advertisements, or similar material to, (ii) the solicitation of contributions from, and (iii) the sale of merchandise to the occupants of motor vehicles on public roadways and medians. HB 2249; CH. 541.

**§ 46.2-931 amended. Distributing materials, soliciting funds on highways.** Grants the Town of Vienna the same powers presently enjoyed by Arlington and Henrico Counties to ban distribution of materials to and soliciting contributions from motorists on highways. SB 710; CH. 488.

**§ 46.2-1015 amended. Lights on bicycles.** Requires a taillight that emits a red light visible from a distance of at least 500 feet between sunset and sunrise on highways with speed limits of 35 mph or greater. HB 1883; CH. 381.

**§ 46.2-1025 amended. Amber warning lights.** Allows use of amber warning lights by neighborhood watch patrol vehicles. HB 1605; CH. 574.

**§ 46.2-1029.1 amended. Flashing vehicle headlights.** Makes permanent the temporary authorization for emergency vehicles in the City of Chesapeake, the City of Portsmouth, the City of Poquoson, and the County of York to flash their headlights after dark. SB 822; CH. 209.

**§ 46.2-1077 amended. Video displays in motor vehicles.** Prohibits drivers of motor vehicles from viewing any motion picture or video display while driving. HB 1983; CH. 913.

**§ 46.2-1077 amended. Motor vehicle rear-view camera systems.** Allows use of closed circuit video monitors in vehicles other than trucks and motor homes. SB 823; CH. 210.

**§ 46.2-1077.01 added. Obscene videos in motor vehicles; penalty.** Makes it unlawful (Class 4 misdemeanor, fine up to \$250) for the operator of any motor vehicle on a public highway to display or permit the display within the vehicle of any motion picture or video display that is obscene if such motion

picture or video display can be seen by persons outside the vehicle. SB 925; CH. 669.

**§ 46.2-1088.5 amended. Utility trailers.** Limits present requirements for reflectors or reflectorized materials on the rear of trailers with unloaded weights of 3,000 pounds or less to utility trailers that do not require state safety inspection and whose body and tailgate consist largely or exclusively of a metal mesh. HB 2690; CH. 563.

**§ 46.2-1104.** See § 33.1-70.01; HB 2578.

**§ 46.2-1110 amended. Oversize vehicles; use of optical detection systems in identification.** Authorizes the Virginia Department of Transportation to use optical detection systems to identify vehicles that exceed the overhead clearance of the westbound lane of the Hampton Roads Bridge Tunnel. HB 2277; CH. 542.

**§ 46.2-1110 amended. Tunnels; oversize vehicles.** Provides that any person who drives or attempts to drive any vehicle into or through any tunnel when the height of such vehicle exceeds that permitted for such tunnel is guilty of a Class 3 misdemeanor (fine up to \$500) and will be assessed three driver demerit points. HB 2278; CH. 543.

**§ 46.2-1112 amended. Overlength trucks on certain highways; penalty.** Provides that any person operating an overlength vehicle on a two-lane highway where passing is permitted is guilty of a traffic infraction and fined \$250. SB 1016; CH. 262.

**§ 46.2-1143 amended. Overweight permits for trucks hauling coal, gravel, sand, crushed stone, or liquids produced from gas or oil wells.** Allows coal-hauling vehicles with six axles to have a maximum gross weight, when loaded, of no more than 110,000 pounds; a single axle weight of no more than 24,000 pounds; a tandem axle weight of no more than 44,000 pounds; and a tri-axle weight of no more than 54,500 pounds. The bill also prohibits five-axle and six-axle vehicles from carrying loads in excess of the maximum bed size for such vehicle, and provides a formula for calculating "maximum bed size."

Finally, in counties that impose a severance tax on coal and gases, the bill applies certain coal truck weight limits to motor vehicles hauling liquids produced from a gas or oil well and water used for drilling and completion of a gas or oil well no more than 50 miles from origin to destination. Nothing contained in this bill authorizes any extension of weight limits provided in § 46.2-1127 for operation on interstate highways. Any weight violations involving these vehicles are to be subject to the penalties authorized by § 46.2-1135 (liquidated damages for weight limit violations). HB 2575; CH. 556.

**§ 46.2-1158.1 added. Vehicle safety inspection approval stickers.** Provides that any vehicle safety inspection approval sticker issued for any vehicle whose registered owner is a person in the armed services of the United States will not be held to have expired during the period of the owner's official absence from the Commonwealth in the armed services of the

United States and for 24 hours following the return of the service person's vehicle, for any reason, to the Commonwealth. The bill also allows the owner to travel to an inspection station without penalty upon his return. HB 2186; CH. 582.

**§ 46.2-1166 amended. Vehicle safety inspection stations.** Exempts "private" inspection stations that inspect only company-owned or leased or government-owned or leased vehicles from the requirement that inspection stations carry at least \$500,000 garage liability insurance coverage. HB 2434; CH. 179.

**§ 46.2-1167 amended. Safety inspection; fees.** Increases motorcycle fee from \$5 to \$12, with \$10 going to inspection stations, \$1.50 going into the Motorcycle Rider Safety Training Fund, and \$0.50 going to the State Police to administer the safety inspection program. This bill becomes effective January 1, 2006. HB 2199; CH. 628 (effective 1/1/06).

**§ 46.2-1224 amended. Parking.** Grants counties with populations of more than 500,000 and the towns within those counties expanded powers to regulate parking of large, heavy vehicles within their boundaries. HB 1968; CH. 293.

**§§ 46.2-1500 and 46.2-1572 amended. Motor vehicle dealers; sale and distribution of funeral vehicles; emergency.** Restores an exemption from full licensure as motor vehicle dealers for persons dealing solely in the sale and distribution of funeral vehicles. This exemption was repealed by the 2004 Session. The bill further provides that any manufacturer of fire-fighting equipment who, on or before December 31, 2004, had requested a hearing before the Department or the Commissioner in accordance with subdivision 4 of § 46.2-1572 for licensure as a dealer in fire-fighting equipment and/or ambulances may be licensed as a dealer in fire-fighting equipment and/or ambulances. HB 2022; CH. 456 (effective 3/21/05).

**§ 46.2-1511 amended. Motor vehicle dealers.** Requires an applicant for original licensure as an independent motor vehicle dealer to satisfactorily complete courses of study prescribed by the Board. HB 2581; CH. 321 (effective 1/1/06).

**§ 46.2-1561 amended. Temporary license plates.** Allows dealers to transfer customers' metal license plates to purchased vehicles. HB 2580; CH. 558.

**§ 46.2-1568 amended. Coercion of motor vehicle dealers.** Prohibits motor vehicle manufacturers and distributors from requiring retail dealers to offer to sell or sell any extended service contract or extended maintenance plan offered, sold, backed by, or sponsored by the manufacturer or distributor. The bill also eliminates the Class 1 misdemeanor penalty for violation and provides for holding hearings at the request of aggrieved parties instead. HB 1736; CH. 906.

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## TITLE 47.1. NOTARIES AND OUT-OF-STATE COMMISSIONERS.

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**§ 47.1-19 amended. Notary fees.** Increases from \$3 to \$5 the fee that a notary may charge for taking and certifying the acknowledgment of any writing, administering and certifying an oath, certifying affidavits and depositions of witnesses, or certifying that a copy of a document is a true copy. SB 760; CH. 18.

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## TITLE 48. NUISANCES.

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**§§ 48-7, 48-8, and 48-9.** See § 18.2-46.1; HB 2217/SB 1217.

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## TITLE 50. PARTNERSHIPS.

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**§ 50-73.2.** See § 13.1-630; HB 1829.

**§§ 50-73.48:1 and 50-73.128.** See § 13.1-603; SB 1228.

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## TITLE 51.1. PENSIONS, BENEFITS, AND RETIREMENT.

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**§§ 51.1-124.3 and 51.1-505.** See § 23-9.6:1; HB 2866/SB 1327.

**§ 51.1-124.30 amended. Virginia Retirement System; liability of Board of Trustees.** Provides that, in the case of an automatic rollover of a mandatory cash-out pursuant to § 401 of the Internal Revenue Code, the Board of Trustees shall not be liable for any loss resulting from the Board's selection of an individual retirement plan provider and investment product where the selection is made in accordance with guidelines to be adopted by the Board that are similar to the safe harbor guidelines adopted by the United States Department of Labor for such purpose. SB 786; CH. 729.

**§§ 51.1-126 and 51.1-155 amended. Virginia Retirement System; suspension of retirement payments when in covered position.** Clarifies that retirement payments are suspended whenever the member is employed in a position covered by any of the retirement plans administered by the Virginia Retirement System. HB 1927; CH. 793.

**§§ 51.1-130 and 51.1-700 through 51.1-705 amended; § 51.1-707 added. Federal social security.** Requires that a local governing body's resolution requesting that its eligible employees become members of the Virginia Retirement System

shall not be approved by the Board of Trustees of the Virginia Retirement System unless the locality has first entered into a plan of agreement to extend benefits under the Social Security Act to its employees. The bill also names the director of the Virginia Retirement System as the state social security administrator, and allows him, rather than the Board, to adopt rules and policies necessary for the administration of the Social Security Act. The state social security administrator may, with the approval of the Board, submit and agree to modifications to the agreement with the federal government concerning coverage, benefits, and administration of the Social Security Act. The state social security administrator will be tasked with carrying out all functions required of him by the Social Security Act, including but not limited to negotiating the inclusion of additional coverage groups, resolving coverage and taxation issues, and negotiating with the federal government to resolve social security contribution payment and reporting questions for wages paid before 1987. The bill also contains several definitional and technical changes. HB 1929; CH. 902.

**§ 51.1-142.2 amended. Purchase of prior service for retirement.** Provides that in a case where an employee is purchasing prior service credit at a cost of 5 percent of current compensation or average final compensation, whichever is greater, if the employee uses pre-tax or post-tax deductions to purchase the service, then the cost of the service shall be 5 percent of current compensation even if this is less than 5 percent of average final compensation.

The bill provides that certain creditable service for which employee and employer contributions have not been made to the Virginia Retirement System because of payroll error shall be purchased by the employer at an actuarial equivalent cost.

The bill clarifies that active duty military service that can be purchased for retirement credit is full-time service of at least 180 consecutive days. HB 1920; CH. 292.

**§ 51.1-145 amended. Virginia Retirement System; administrative costs of defined contribution plans.** Permits the Virginia Retirement System (VRS) to include its administrative costs in setting the employer contribution rates for any defined contribution plan administered by VRS. HB 1928; CH. 161.

**§§ 51.1-165, 51.1-205, and 51.1-206 amended. Law Enforcement Officers' Retirement System and State Police Officers' Retirement System; retirement options.** Eliminates the retirement option of 50 years of age with 10 years of service. The bill also makes technical changes. HB 1652; CH. 146.

**§ 51.1-165 amended. Retirement benefits.** Provides for a potentially greater retirement benefit when a member dies while in service and has named his spouse, minor child, or parent as a contingent annuitant under a joint and last-survivor optional retirement benefit. HB 1930; CH. 162.

**§ 51.1-168 amended. Virginia Retirement System; default payment option for retirement allowances.** Provides that the retirement allowance shall be paid as a single life annuity in

cases where the member, following reasonable notification, has not selected a payment option for his retirement allowance by the mandatory beginning date for payment of the allowance. A spousal acknowledgement of the payment option and the basic benefit shall not be required in these situations. SB 785; CH. 728.

**§ 51.1-305 amended. Mandatory retirement for judges.** Provides that any judge of the State Corporation Commission who is (i) 70 years old and to be retired before the end of his elected term under otherwise mandatory retirement laws and (ii) to be retired during a session of the General Assembly in which the General Assembly is required to elect another judge or judges of the State Corporation Commission shall be retired upon the first to occur of (a) the expiration of the term to which he was elected or (b) 20 days after commencement of the regular session of the General Assembly that immediately follows the date the judge turns 72 years old. Under current law, all judges who turn 70 shall be retired 20 days after the convening of the next regular session of the General Assembly. HB 1831; CH. 288.

**§ 51.1-505 amended. Virginia Retirement System; life insurance.** Clarifies that an employee with 20 years creditable service with a retirement plan administered by the VRS or any other public plan participating in the group life insurance program will have life insurance based on two times his highest annual salary earned during such employment. HB 1653; CH. 147.

**§ 51.1-512 amended. Optional life, accidental death, and dismemberment insurance.** Increases from \$500,000 to \$600,000 the amount of optional life, accidental death, and dismemberment insurance that employees may purchase. The bill also eliminates the requirement for a review of such maximum amount once every two years and provides for a review period of at least once every five calendar years. HB 1651; CH. 57.

**§ 51.1-803 amended. Retirement.** Provides that a local government that establishes a retirement system shall not be liable for any loss resulting from the governing body's selection of an individual retirement plan provider, or investment product in the case of an automatic rollover of a mandatory cash-out, when the selection of the provider or product is made in accordance with safe harbor guidelines adopted by the United States Department of Labor. HB 2746; CH. 196.

**§§ 51.1-1112, 51.1-1113, 51.1-1123, and 51.1-1124 amended. Long-term disability benefit.** Clarifies that the waiting period for a long-term disability benefit and supplemental long-term disability benefit is 125 work days. HB 2536; CH. 419.

**§ 51.1-1135.1 amended. Virginia Sickness and Disability Program; appeal of disability benefit determinations.** Clarifies the authority of the Board of Trustees of the Virginia Retirement System to develop an appeals process as an alternative to the process set forth in the Administrative Process Act (APA), provided that the process: (i) provides for adequate notice in writing to any participant whose claim for benefits has been denied setting forth the specific reasons for such denial

and (ii) affords a reasonable opportunity to any participant whose claim for benefits has been denied for a review of the decision denying the claim. The bill includes technical amendments. HB 2489; CH. 473.

**§ 51.1-1400 amended. Employee benefits; long-term disability.** Clarifies that state employees participating in defined contribution plans and receiving long-term disability shall receive the maximum health insurance credit. Currently, the maximum monthly credit provided to state employees is \$120. HB 1926; CH. 535.

**§ 51.1-1403 amended. Health insurance credit; persons with creditable service as constitutional officers or employees of local social services boards.** Provides that a person with 15 or more years of total creditable service as a constitutional officer or an employee of a local social services board who becomes employed by a local government that does not elect to provide the health insurance credit, shall be eligible for the health insurance credit made available to persons retiring as local constitutional officers or employees of local social services boards. HB 1925; CH. 382.

**§ 51.1-1403 amended. Health insurance credits; general registrars.** Adds retired general registrars and their retired employees who rendered at least 15 years of creditable service to the list of those who will receive a health insurance credit to their monthly retirement allowance under the Virginia Retirement System. HB 2765; CH. 432.

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## TITLE 51.1. MISCELLANEOUS - PENSIONS, BENEFITS, AND RETIREMENT.

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**Teacher's retirement allowance.** Extends from July 1, 2005, to July 1, 2007, the sunset date for provisions allowing retirees to be hired as teachers or administrative personnel without interruption of their retirement benefits. Requires the Virginia Retirement System to determine the actuarial cost of the allowance and report its findings prior to the 2007 Session of the General Assembly. HB 1787; CH. 605/SB 817; CH. 606.

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## TITLE 51.5. PERSONS WITH DISABILITIES.

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**§ 51.5-14.1.** See § 37.1-179; HB 2826/SB 1237.

**§ 51.5-46.** See § 8.01-2; SB 1118.

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## TITLE 52. POLICE (STATE).

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**§ 52-8.6.** See § 16.1-269.2; HB 2734.

**§ 52-10.** See § 1-200; HB 2640.

**§ 52-47 added. Department of State Police; terrorism intelligence center.** Requires the Governor to establish a multi-agency fusion intelligence center to receive and coordinate terrorist-related intelligence. The center shall be operated by the Department of State Police in cooperation with the Department of Emergency Management. HB 1966; CH. 164.

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## TITLE 52. MISCELLANEOUS - POLICE (STATE).

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**Award of service pistol and shotgun.** Allows Anthony A. Lippa, Junior, a former First Sergeant of the Virginia Department of State Police, to purchase his service pistol and shotgun. HB 1897; CH. 159.

**Department of State Police; conveyance of easement to Earl J. Nipper.** Authorizes the Virginia Department of State Police to grant an easement to Earl J. Nipper sufficient to provide access to his property situated behind the Virginia State Police Headquarters building on State Route 19 in Tazewell County, Virginia. SB 943; CH. 220.

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## TITLE 53.1. PRISONS AND OTHER METHODS OF CORRECTION.

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**§ 53.1-1.1 added. Telephone systems within correctional facilities.** Requires the Department of Corrections to offer prepaid or debit telephone systems, in addition to existing collect calling systems. Such telephone systems may be established with the lowest available rates. The bill has a delayed effective date of January 1, 2006. HB 1765; CH. 612 (effective 1/1/06).

**§§ 53.1-40.1, 53.1-40.2, 53.1-40.8, 53.1-40.9, and 53.1-77.** See § 37.2-100; SB 1023.

**§ 53.1-40.7 amended. Continued hospitalization of involuntarily admitted prisoners.** Provides that when there is no further need for involuntary hospitalization, a prisoner may be retained in the hospital if the prisoner is capable of and consents to voluntary admission, and is determined to be in need of continued hospitalization by a licensed physician, psychiatrist, or clinical psychologist. HB 2436; CH. 639.

**§ 53.1-70.** See § 8.01-2; SB 1118.

**§ 53.1-129 amended. Court orders permitting prisoners to work on certain property.** Removes the requirement that court orders allowing prisoners to work on state, county, city, town, and certain private property or nonprofit organization property be written specifically for individual prisoners. HB 2369; CH. 409.

**§ 53.1-136 amended. Board of Parole; power and duties; parole.** Requires that the Board's rules for parole and eligibility be published and posted for public review and that the monthly statement published by the Board regarding action taken by the Board on the parole of prisoners shall include the basis for denial of parole. HB 2823; CH. 657.

**§ 53.1-176.3.** See § 30-73.2; SB 1115.

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## TITLE 53.1. MISCELLANEOUS - PRISONS AND OTHER METHODS OF CORRECTION.

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**Board of Corrections; real property conveyed to Town of Marion.** Authorizes the Board of Corrections to convey without consideration certain property in its custody to the Town of Marion. HB 2891; CH. 202.

**Property conveyance; former Staunton Correctional Center.** Authorizes the Governor to convey the former Staunton Correctional Center to the Staunton Industrial Authority without consideration. HB 1943; CH. 794/SB 1015; CH. 750.

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## TITLE 54.1. PROFESSIONS AND OCCUPATIONS.

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**§ 54.1-111 amended. Department of Professional and Occupational Regulation; unlicensed activity.** Provides that any person convicted of a violation of certain enumerated acts may also be ordered by the court to pay restitution. HB 2123; CH. 398.

**§ 54.1-111.** See § 32.1-127.1:03; HB 2515/SB 1203.

**§§ 54.1-201, 54.1-202, 54.1-306, and 54.1-307.1 amended. Department of Professional and Occupational Regulation; powers and duties of regulatory boards.** Authorizes regulatory boards assigned to the Department of Professional and Occupational Regulation (DPOR) to place regulants on probation for statutory or regulatory violations. Conditions of probation may include, but not be limited to, the successful completion of remedial education or examination or the payment of restitution. The bill also authorizes the regulatory boards to delegate authority to (i) the Director of DPOR to enter into consent agreements with regulants to resolve regulatory violations and (ii) sworn investigators appointed by the Director to conduct inspections. HB 1932; CH. 383.

**§§ 54.1-402, 54.1-404, and 54.1-406 amended. Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects; land surveying.** Provides an exemption from licensure as a land surveyor for persons utilizing photogrammetric methods or similar remote sensing technology to determine topography, contours, or depiction of physical improvements provided such

determination shall not be used for the design, modification, or construction of improvements to real property, or for flood plain determination. The bill authorizes the Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects to adopt regulations establishing different licensure requirements for a limited area of the practice of land surveying for persons who determine topography, contours or depiction of physical improvements utilizing photogrammetric methods or similar remote sensing technology and who are not otherwise exempt. Any such requirements shall include reasonable provisions for licensure without examination of persons deemed by the Board to be qualified to provide photogrammetric and remote sensing surveying services. HB 2863; CH. 440/SB 1306; CH. 359.

**§§ 54.1-700 through 54.1-703 and 54.1-704.1 through 54.1-706 amended; § 54.1-703.3 added. Department of Professional and Occupational Regulation; Board for Barbers and Cosmetology; regulation of estheticians.** Provides for the licensure of estheticians. The bill defines estheticians and requires the Board for Barbers and Cosmetology to adopt regulations governing the practice of esthetics and schools of esthetics and instructors thereof by July 1, 2007. The bill defines "master esthetician" as a licensed esthetician who, in addition to the practice of esthetics, offers to the public for compensation lymphatic drainage, chemical exfoliation, and microdermabrasion and who has met such additional requirements as determined by the Board to practice lymphatic drainage and chemical exfoliation with products other than schedules II through VI controlled substances and microdermabrasion. The bill also increases from eight to 10 the membership of the Board by adding two members who are licensed as estheticians, at least one of whom is an esthetics salon owner and one of whom may be an owner, operator, or designated representative of a licensed esthetics school. Finally, the bill contains provisions for waiver from licensure examinations for those meeting certain requirements. The bill has a delayed enactment (July 1, 2007), except the provisions relating to Board membership. HB 2510; CH. 829 (effective - see bill).

**§ 54.1-828 amended. Department of Professional and Occupational Regulation; regulation of martial arts competitions.** Includes martial arts competitions under the existing regulation of boxing and wrestling competitions. The bill defines martial arts as any of several Asian arts of combat or self-defense, including but not limited to aikido, karate, judo, or tae kwon do, usually practiced as sport and which may involve the use of striking weapons. HB 1732; CH. 287.

**§§ 54.1-1100, 54.1-1101, 54.1-1103, 54.1-1106, and 54.1-1108.1 amended. Department of Professional and Occupational Regulation; Board for Contractors; Class B contractor license.** Raises the limit for Class B licensed contractors for a single contract from \$70,000 to \$120,000 and for total contracts within a 12-month period from \$500,000 to \$750,000. The threshold requirements for Class A licensed contractors are also made to account for the increased Class B thresholds. The bill also specifies that the designated employee

of the contractor may be a member of the contractor's responsible management personnel. The bill also provides an exemption from licensure as a contractor under certain circumstances for an owner-developer, defined in the bill as any person who, for a third party purchaser, orders or supervises the construction, removal, repair, or improvement of any building or structure permanently annexed to real property owned, controlled, or leased by the owner-developer, or any other improvement to such property and who contracts with a person licensed for the work undertaken. SB 1090; CH. 348.

**§ 54.1-1123 amended. Department of Professional and Occupational Regulation; Board for Contractors; Contractor Transaction Recovery Fund.** Increases the maximum amount of a single claim against the Contractor Transaction Recovery Fund from \$10,000 to \$20,000. SB 916; CH. 252.

**§§ 54.1-1128, 54.1-1129, and 54.1-1130 amended; § 54.1-1129.1 added. Board for Contractors; water well systems provider licensure and certification.** Requires the State Board for Contractors to establish a water well systems provider certification program beginning July 1, 2007. Regulations shall establish three levels of certification: trainee, journeyman, and master driller. From July 1, 2007, until June 30, 2012, no person shall engage in the construction of a water well unless a certified water well contractor (of any level of certification) is onsite at all times during the construction. The onsite certified water well contractor must be a master driller. The bill exempts certain individuals from any examination requirements of the program if they provide satisfactory proof of continuous experience in water well construction. HB 1921; CH. 792.

**§§ 54.1-1500 and 54.1-1504 amended. Practice of fitting or dealing in hearing aids.** Amends current definition of the practice of fitting and dealing in hearing aids to be the practice of fitting "or" dealing in hearing aids. The bill makes similar changes to the relevant licensing provisions. HB 2711; CH. 599.

**§ 54.1-2105.2 added. Real Estate Board; powers; cease and desist orders; civil penalty.** Authorizes the Real Estate Board to issue cease and desist orders for unlicensed activity. The bill provides for a right of appeal of the Real Estate Board's issuance of such an order and specifies the civil penalty. HB 2843; CH. 437.

**§ 54.1-2342 amended. Cemetery operators, perpetual care trust funds and preneed burial contracts; penalties.** Revises the penalty provisions to provide that a violation of the regulatory statutes must have been willful and intentional to constitute a misdemeanor. In order to constitute a felony the action must have been done with the intent to defraud. SB 1166; CH. 691.

**§§ 54.1-2400.1 and 54.1-2986.** See § 37.2-100; SB 1023.

**§ 54.1-2400.8 amended. Civil immunity; persons making voluntary reports regarding health care practitioners.** Immunizes from civil liability any person who makes a voluntary report to the appropriate regulatory board or

to the Department of Health Professions regarding the unprofessional conduct or competency of any practitioner licensed, certified, or registered by that health regulatory board, unless he acts maliciously or in bad faith. Current law immunizes those persons making reports required by law or pursuant to an investigation or testimony in a judicial or administrative proceeding. HB 2804; CH. 932.

**§§ 54.1-2411 and 54.1-2413 amended. Practitioner Self-Referral Act; exemption.** Exempts from prohibited practitioner self-referrals law (i) the health services to be received by a patient referred by a practitioner to that practitioner's immediate family member's office or group practice when the referral is within the scope of practice and the treating practitioner to whom the patient is referred is duly qualified and licensed to provide the health services to be received and (ii) the primary purpose of the referral is to obtain the appropriate professional health services for the patient being referred and the primary purpose of the referral is not for the provision of certain designated health services. HB 2237; CH. 402.

**§§ 54.1-2503, 54.1-3005, 54.1-3007, 54.1-3041, 54.1-3042, 54.1-3043, 54.1-3100, 54.1-3101, 54.1-3102, 54.1-3103, 54.1-3103.1, and 54.1-3408.** See § 63.2-1702; HB 2512/SB 1183.

**§ 54.1-2506.1 amended. Contact information during a health emergency.** Requires the Department of Health Professions, as the licensing authority, to provide to the State Veterinarian the e-mail addresses, telephone numbers and facsimile numbers of licensed veterinarians in the event of an animal health emergency. The Department and the State Veterinarian are prohibited from publishing, releasing, or making available the contact information for any other purpose. HB 1607; CH. 55.

**§§ 54.1-2519, 54.1-2520, 54.1-2523, and 54.1-3434 amended; § 54.1-2523.1 added.** Prescription Monitoring Program. Expands the Prescription Monitoring Program to include reporting by out-of-state dispensers (nonresident pharmacies) and to cover the entire Commonwealth. To assist in verifying the validity of a prescription, the bill extends the authority to query the system to prescribers licensed in other states and to pharmacists. The fourth and fifth enactment clauses of Chapter 481 of the 2002 Acts of Assembly are repealed to remove the funding contingencies and the restriction on the application of the program to a pilot project covering the southwestern region of Virginia. The program requires the reporting of "covered substances," that, pursuant to this bill, will include all controlled substances in Schedules II, III, and IV of the Drug Control Act (§ 54.1-3400 et seq.). Emergency regulations must be promulgated by the Director. Although the bill will be effective in due course, i.e., July 1, 2005, its provisions will not be implemented or enforced until the date on which the emergency regulations become effective. The Director is required to notify all out-of-state and Virginia dispensers who will be newly subject to the reporting requirements of the Prescription Monitoring Program prior to the date on which the provisions

of this act will be implemented and enforced. HB 2429; CH. 637/SB 1098; CH. 678.

**§§ 54.1-2703, 54.1-2704, 54.1-2706, 54.1-2709, 54.1-2712, 54.1-2712.1, 54.1-2713, 54.1-2715, 54.1-2718, 54.1-2720, 54.1-2722, 54.1-2726, 54.1-2726.1, 54.1-2728, and 54.1-2729 amended; §§ 54.1-2710 and 54.1-2723 repealed. Health; licensure of dentists by credentials and volunteer licenses for retired dentists and dental hygienists.** Clarifies or revises various requirements for licensure to practice dentistry and dental hygiene, including the Board's inspection authority, nominations to the Governor for Board appointments, conditions for inactive licenses, permissible practices of dental assistants, authority to practice under a firm or trade name, and causes for suspension, revocation or other sanctions. The bill authorizes the Board of Dentistry to grant, without an additional examination, a license to practice dentistry or dental hygiene in Virginia to persons holding current, unrestricted licenses to practice in another state who satisfy certain credentialing requirements. For example, out-of-state dentists will be required to have passed Part I and Part II of the examination given by the Joint Commission on National Dental Examinations, be of good moral character, be graduates of accredited dental schools, have not failed a clinical examination in the past five years, and have been in continuous clinical practice for five of the six preceding years. The bill further clarifies the Board's authority and requirements for issuance of volunteer licenses to retired dentists or dental hygienists, licenses to teach dentistry, and temporary permits for clinicians. The Board must promulgate emergency regulations. HB 2368; CH. 587/SB 1127; CH. 505.

**§§ 32.1-288 and 54.1-2807 amended. Civil immunity; disposal of a dead body.** Immunizes any funeral service establishment, funeral service licensee, or registered crematory from civil liability for disposing of a dead body unless it acted in bad faith or with malicious intent. The bill also states exceptions to when a funeral service establishment can accept a body without inquiring about the desires of the next of kin. The Board must promulgate emergency regulations. HB 1683; CH. 905 (effective 4/6/05).

**§§ 54.1-2813, 54.1-2816, and 54.1-2817 amended. Department of Health Professions; Board of Funeral Directors and Embalmers; licensing of funeral service providers and approval of resident trainees.** Removes the restriction on licensure of convicted felons. The bill also reduces the time in which a resident trainee may apply and take the examination for licensure and clarifies the time period in which a resident trainee may practice. The Board of Funeral Directors and Embalmers is authorized to deny subsequent traineeships if the first traineeship is not completed within a certain time. The bill prohibits the approval of any person as a resident trainee who has been convicted of embezzlement or of defiling a dead human body. In addition, the Board must provide renewal notices by mail to licensees, upon request. The bill contains technical amendments. HB 2598; CH. 477.

**§§ 54.1-2901 and 54.1-3408 amended. Health professions; athletic trainers.** Allows out-of-state practitioners of one of the professions regulated by the Board of Medicine to travel with a team or athlete and practice in Virginia for the duration of the event. The bill allows licensed athletic trainers to possess and administer certain Schedule VI topical drugs routinely used in their practice and to possess and administer epinephrine for anaphylactic shock. The bill also contains a technical amendment. HB 2526; CH. 113.

**§§ 54.1-2901 and 54.1-2957.01.** See § 32.1-11.5; HB 2656.

**§ 54.1-2910.01 added. Health professions; certain practitioner information provided to patients.** Requires, upon request by a patient, doctors of medicine, osteopathy, and podiatry to inform patients (i) about procedures to access information on the doctor compiled by the Board of Medicine and (ii) that, if the patient is not covered by a health insurance plan that the doctor accepts or a managed care health insurance plan in which the doctor participates, the patient may be subject to the doctor's full charge which may be greater than the health plan's allowable charge. HB 2431; CH. 468.

**§§ 54.1-2912, 54.1-2914, 54.1-2915, and 54.1-2951.3 amended; § 54.1-2916 repealed. Health professions; unprofessional conduct.** Consolidates and updates various provisions relating to the Board of Medicine's licensure and disciplinary authority and the appointments to the Board. The bill removes the Virginia Academy of Clinical Psychologists from the nomination process for the appointment of members to the Board of Medicine because the clinical psychologist position on the Board was abolished several years ago when the licensure of clinical psychologists was placed solely with the Board of Psychology. The bill amends the Board's provisions on unprofessional conduct to consolidate all elements of unprofessional conduct into one section and now clearly provides that the provisions apply to applicants for licensure, as well as licensees of the Board. Finally, the bill clarifies the actions constituting unprofessional conduct by consolidating the enumerated behavior into one statute. Thus, the Board's authority is clear in regard to denial of a license or certificate or refusal to admit a candidate to an examination or other disciplinary actions for all professions regulated by the Board. HB 1939; CH. 163.

**§ 54.1-2912.3.** See § 8.01-399; HB 2659/SB 1173.

**§ 54.1-2952 amended. Physician assistants practicing in hospital emergency departments.** Authorizes physician assistants who are not employed to practice in emergency departments of hospitals to so practice, within the scope of their practice, while under continuous physician supervision, regardless of whether the supervising physician is physically present in the facility. The supervising physician must retain exclusive supervisory control of and responsibility for the assistant and be available at all times for consultation with both the assistant and the emergency department physician. The assistant must communicate the proposed disposition plan prior to the patient's discharge to both his supervising physician and the emergency department physician. SB 716; CH. 662.



**§§ 54.1-2957.7 through 54.1-2957.13 added. Health professions; practice of midwifery.** Provides for the licensing by the Board of Medicine of those persons who have obtained the Certified Professional Midwife credential to practice midwifery pursuant to regulations adopted by the Board of Medicine. The Board of Medicine shall adopt regulations, with advice from the Advisory Board on Midwifery established in this bill. The regulations shall (i) address the requirements for licensure to practice midwifery, (ii) be consistent with the current job analysis for the profession except that prescriptive authority and the possession and administration of controlled substances shall be prohibited, (iii) ensure independent practice, (iv) provide for an appropriate license fee, and (v) include requirements for licensure renewal and continuing education. The regulations shall not (a) require any agreement, written or otherwise, with another health care professional or (b) require the assessment of a woman who is seeking midwifery services by another health care professional. Licensed midwives must disclose to clients certain background information, including their training and experience, written protocol for medical emergencies, malpractice or liability insurance coverage, and procedures to file complaints with the Board of Medicine. The bill provides immunity to physicians, nurses, prehospital emergency personnel or health care institutions for acts resulting from the administration of services by any licensed midwife. HB 2038; CH. 917/SB 1259; CH. 719.

**§§ 2.2-3705.5, 16.1-338, 20-124.6, and 54.1-2969 amended. Health records privacy; minors' records.** Revises certain provisions relating to minors' health records to provide a measure of consistency with the federal regulations that were promulgated by the federal Secretary of Health and Human Services pursuant to the Health Insurance Portability and Accountability Act concerning access to and authority to disclose protected health information. HB 2516; CH. 181/SB 1109; CH. 227.

**§§ 54.1-2982 and 54.1-2984 amended. Persons who may witness an advance directive.** Authorizes any person over the age of 18, including a spouse or blood relative of the declarant, to serve as a witness for the advance directive. Current law prohibits a spouse or blood relative from serving as a witness. HB 2584; CH. 186.

**§ 54.1-3005 amended. Expedited licensure or certification of certain nurses.** Authorizes the Board of Nursing to expedite application processing, to the extent possible, for an applicant for licensure or certification, upon submission of evidence that the applicant, who is licensed or certified in another state, is relocating to the Commonwealth pursuant to a spouse's official military orders. HB 1606; CH. 54.

**§ 54.1-3205 amended. Practice of optometry in commercial or mercantile establishments.** Provides that an optometrist shall be deemed to be practicing in a commercial or mercantile establishment if he practices in any location that provides direct access to or from such an establishment. The bill defines "direct access," and stipulates that certain optometric and ophthalmologic practices are not commercial or mercantile

establishments. It remains unlawful under this bill for optometrists to practice in commercial and mercantile establishments. The bill contains a delayed effective date clause (December 31, 2005). HB 160; CH. 720 (effective 12/31/05)/ SB 272; CH. 711 (effective 12/31/05).

**§ 54.1-3305 amended. Health professions; executive director of the Board of Pharmacy.** Requires the executive director of the Board of Pharmacy to be a pharmacist. The present and past executive directors of the Board of Pharmacy have been pharmacists; however, the law has not previously mandated this qualification. HB 1865; CH. 70.

**§ 54.1-3307 amended. Health; wholesale drug distributors; pedigree system.** Directs the Board of Pharmacy to promulgate regulations establishing and implementing a pedigree system to record each distribution of a controlled substance from sale by a pharmaceutical manufacturer through acquisition and sale by any wholesale distributor, until final sale to a pharmacy or other person dispensing or administering the controlled substance. The Board must structure the implementation of the pedigree with limited application to certain schedules or certain drugs upon finding that such drugs are more subject to counterfeiting. The bill also includes a definition of "pedigree." SB 1326; CH. 777.

**§ 54.1-3320 amended. Pharmacy interns.** Permits pharmacy interns to provide medication counseling and perform all other acts a pharmacist may perform under the Drug Control Act, including immunizations, if the supervising pharmacist is directly monitoring these activities. HB 2242; CH. 403.

**§ 54.1-3401 amended. Drug Control Act; compounding.** Excludes from the definition of "compounding" the mixing, diluting, or reconstituting of a manufacturer's product for the purpose of administration to a patient when performed by a practitioner of medicine or osteopathy licensed under Chapter 29 of Title 54.1 or a person supervised by such a practitioner. The bill further excludes from the definition of "dispense" the transportation of drugs mixed, diluted, or reconstituted in accordance with Chapter 34 of Title 54.1 to other sites operated by such practitioner or practitioner's medical practice for the purpose of administration of such drugs to patients of the practitioner or that practitioner's medical practice at such other sites. For practitioners of medicine or osteopathy, "dispense" only includes the provision of drugs by a practitioner to patients to take with them away from the practitioner's place of practice. Emergency regulations are required. HB 2524; CH. 475.

**§ 54.1-3401.** See § 1-200; HB 2640.

**§§ 54.1-3404 and 54.1-3431.** See § 9.1-102; HB 2216/SB 1153.

**§ 54.1-3410.2 amended. Drug Control Act; compounding.** Conforms the compounding provisions in the Drug Control Act to the United States Pharmacopeia-National Formulary standards for pharmacy compounding. HB 2857; CH. 200.

**§ 54.1-3411.1 amended. Returns, exchanges, or re-dispensing of drugs; exceptions.** Authorizes hospitals to enter into voluntary agreements with pharmacies to transfer drugs, upon compliance with various conditions, that have been originally dispensed to hospital patients, but have been returned, and that the drugs may be re-dispensed by the pharmacy to patients of clinics organized in whole or in part for the delivery of health care services without charge or to indigent patients, free of charge. HB 1854; CH. 68.

**§ 54.1-3433 amended. Health Professions; unlawful advertising signage; exemption.** Creates an exemption for certain historic buildings not currently operated as pharmacies, allowing such buildings to post signage indicating the operation of a pharmacy or drugstore provided that the signage relates to the historic character of the building. Currently, such signage is prohibited on any building that does not operate as a pharmacy. HB 2260; CH. 97.

**§§ 54.1-3434.1 through 54.1-3434.4 amended. Health; registration of nonresident pharmacies; summary proceedings.** Provides that the Board of Pharmacy will only register nonresident pharmacies that maintain a current unrestricted registration or license as a pharmacy in a jurisdiction that may lawfully deliver prescription drugs directly or indirectly to consumers within the United States. Such registration of nonresident pharmacies shall be immediately suspended, without a hearing, upon receipt of documentation by the licensing agency in the jurisdiction where a nonresident pharmacy registered with the Board is located that it has had its license or registration as a pharmacy revoked or suspended by that agency or that the nonresident pharmacy no longer holds a valid unexpired license or registration as a pharmacy. Further, the Board may summarily suspend the registration of any nonresident pharmacy without a hearing, simultaneously with the institution of proceedings for a hearing, if it finds that there is a substantial danger to the public health or safety that warrants such action. A nonresident pharmacy with a suspended registration shall not ship, mail, or deliver any Schedule II through VI drugs into the Commonwealth unless reinstated by the Board. HB 2538; CH. 115.

**§§ 54.1-3446, 54.1-3448, and 54.1-3450 amended. Health professions; pharmacy and the schedule of drugs.** Adds to and deletes certain drugs from Schedule I and adds Dihydroetorphine, Carfentanil, and Sufentanil to Schedule II to conform to recent changes in federal drug schedules. The bill corrects errors in spelling, nomenclature, and formatting and adds other names for chemical entities already listed. HB 2716; CH. 119.

**§ 54.1-3482.** See § 57-16.1; HB 2697.

**§§ 2.2-1839, 54.1-3900.01, and 54.1-3936 amended. Receivers for attorneys.** Clarifies and makes more specific provisions regarding receiverships for attorneys who become disabled, impaired, absent, deceased, suspended, or disbarred. The bill also provides that receivers of attorneys' practices will be covered under the State's risk management plan when acting in an authorized governmental or proprietary capacity and

in the course and scope of employment or authorization. HB 2549; CH. 184/SB 831; CH. 212.

**§ 54.1-4201.** See § 18.2-308.2:2; HB 2931.

**§ 54.1-4201.1 amended. Firearms shows; prior notice.** Eliminates the requirement that gun show promoters provide a list of vendors and exhibitors to the State Police and the sheriff or chief of police of the locality in which the show will be held 72 hours prior to a show. Gun show promoters will still be required to provide law enforcement with at least 30 days' notice of any show. The bill also changes from 72 hours to five days the time within which the promoter must send the vendor and exhibitor list after the show and would allow a promoter to send that list via e-mail. HB 2683; CH. 193.

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## TITLE 55. PROPERTY AND CONVEYANCES.

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**§§ 26-5.2, 26-30, 26-51, 26-66, 37.1-110, 55-7, 55-60, 55-277.4, 64.1-73 amended; §§ 55-541.01 through 55-551.06 added; §§ 26-5.1, 26-49, 26-53, 26-54, 26-55, 26-64, 26-65, 38.2-3120, 55-7.1, 55-7.2, 55-19, 55-19.3, 55-19.4, 55-27 through 55-34, and 64.1-67.2 repealed. Uniform Trust Code.** Sets out the Uniform Trust Code, which was finalized by the National Conference of Commissioners on Uniform State Laws in 2000 and is the first national codification of the law of trusts. Much of the Code is a codification of the common law of trusts and consists of default rules that govern where the trust instrument is silent. Special rules on revocable trusts and features encourage non-judicial resolution of administrative matters. Existing Virginia statutes are modified to accommodate the Trust Code, and some uniform provisions are modified to retain current Virginia statutory treatment. The bill is effective July 1, 2006. SB 891; CH. 935.

**§ 55-19 and 55-277.** See § 8.01-2; SB 1118.

**§§ 55-66.3 and 55-66.5 amended; §§ 55-66.8 through 55-66.15 added. Mortgage satisfaction.** Imports into the Virginia Code provisions of the Uniform Residential Mortgage Satisfaction Act relating to definitions, notifications, rescinding erroneously recorded certificates of satisfaction, requirements on secured creditors, and the form and effect of satisfaction. Current Code provisions relating to payoff statements, mortgage satisfaction via settlement agents and court proceedings, and penalties for errors or omissions in satisfaction procedures are retained. The bill will not become effective unless reenacted by the General Assembly, except for one section which is scheduled to be become effective July 1, 2005, which requires the Virginia Information Technology Agency to develop standards to implement electronic recording of real property documents. SB 1005; CH. 749 (effective - see bill).

**§§ 55-79.75 and 55-510.1 amended. Virginia Condominium Act and the Virginia Property Owners' Association Act; meetings.** Provides that notice of the time, date, and place shall be sent to any unit owner requesting notice (i) by

first-class mail or e-mail in the case of meetings of the executive organ or (ii) by e-mail in the case of meetings of any subcommittee or other committee of the executive organ, or of a subcommittee or other committee of the unit owners' association. The bill also authorizes an executive organ or board of directors to require notice to be provided when a meeting is being recorded. SB 1200; CH. 353.

**§§ 55-79.97 and 55-512 amended. Condominium and Property Owners' Association Acts; charges for disclosure packets.** Provides that no unit owners' association or property owners' association shall require reimbursement of any costs or charge any other fee in the preparation or issuance of disclosure packets or making such information available by electronic means except as expressly provided in law. The bill contains technical amendments. HB 2446; CH. 415.

**§ 55-108 amended; §§ 17.1-258.2 through 17.1-258.5 and 55-142.10 through 55-142.15 added. Real Property Electronic Recording Act.** Establishes the Real Property Recording Act, which authorizes circuit court clerks to accept and record land records electronically. All provisions associated with the Act must be reenacted by the General Assembly except for a requirement that the Virginia Information Technology Agency develop standards for electronic recording of land records. A new article in Title 17 restores authority, which had expired July 1, 2004, for court clerks to electronically file other court documents, including instruments and judgments. SB 992; CH. 744 (effective - see bill).

**§§ 55-161 and 55-531.** See § 1-200; HB 2640.

**§ 55-186.3 added. Unrecorded escheat grants; original lost or destroyed; certified copy of grant.** Requires the clerk to accept for recordation a copy of a grant from the Commonwealth that is certified as a true copy by the Librarian of Virginia. HB 2120; CH. 540.

**§ 55-210.21 amended. State Treasurer; unclaimed property; recovery of costs.** Authorizes the State Treasurer, when a payment for a claim for property held by the Treasurer is allowed, to deduct from that payment the costs for notices, sales, and other related incurred expenses. HB 2642; CH. 118.

**§ 55-210.38 added. Status of property loaned to or deposited with museum prior to July 1, 2002.** Provides that except as otherwise provided in a written agreement between a lender and a museum, property loaned to or deposited with a museum prior to July 1, 2002, may be discarded or transferred to another museum located in Virginia provided that (i) the notice provisions of §§ 55-210.35 and 55-210.36 have been complied with and (ii) such property is held by the museum receiving the transfer for at least three years before it sells or disposes of such property. HB 2803; CH. 480.

**§§ 55-225.5 and 55-248.18:1 added. Landlord and tenant law; access after entry of certain court orders.** Provides that a tenant who has obtained an order from a court of competent jurisdiction pursuant to § 16.1-279.1 or subsection B of § 20-103 granting such tenant possession of the premises to the exclusion of one or more co-tenants or authorized occupants

may provide the landlord with a copy of that court order and request that the landlord either (i) install a new lock or other security devices on the exterior doors of the dwelling unit at the landlord's actual cost or (ii) permit the tenant to do so, provided the installation of the new lock or security devices does no permanent damage to any part of the dwelling unit and a duplicate copy of all keys and instructions of how to operate all devices are given to the landlord. The bill further provides that upon termination of the tenancy, the tenant shall be responsible for payment to the landlord of the reasonable costs incurred for the removal of all such devices installed and repairs to all damaged areas. A landlord who has received a copy of a court order in accordance with subsection A is prohibited from providing copies of any keys to the dwelling unit to any person excluded from the premises by such order. The bill provides that it shall not apply when the court order excluding a person was issued ex parte. The bill amends the general law governing landlords and tenants as well as the Virginia Residential Landlord and Tenant Act. The goal of the bill is to protect victims of domestic abuse. HB 2448; CH. 825/SB 858; CH. 735.

**§ 55-226.2 amended. Submetering of water and sewer equipment in rented buildings.** Clarifies that submetering equipment for water and sewer service may be used in commercial and residential buildings if clearly stated in the rental agreement or lease for the leased premises or dwelling unit. Water and sewer submetering equipment measures the actual water or sewer usage in a dwelling unit or nonresidential unit when the equipment is not owned by the utility that provides service to the building. With respect to water and sewer usage, landlords are currently authorized to use ratio billing systems, which do not measure actual usage. Water and sewer submetering equipment will not be subject to regulation by the State Corporation Commission. HB 1590; CH. 278.

**§ 55-248.7:2 amended. Virginia Residential Landlord and Tenant Act; insurance.** Clarifies that where a landlord obtains for a tenant either damage insurance or renter's insurance, the landlord shall name the tenant as a "co-insured," so that the tenant will have privity of contract with the insurance company. Currently, the landlord's authority to obtain such insurance is limited to the purchase of a rider on the landlord's property and casualty insurance contract. HB 1711; CH. 285.

**§ 55-248.12:1 added. Virginia Residential Landlord and Tenant Act; required disclosures for properties located adjacent to a military air station.** Requires the landlord of property in a locality in which a military air station is located to provide prospective tenants with a written disclosure that the property is located in a noise zone or accident potential zone as designated by the locality's official zoning map. Under the bill, termination of the lease agreement is the exclusive remedy for the failure to comply with the disclosure provisions. SB 1162; CH. 511.

**§ 55-248.21:1 amended. Virginia Residential Landlord and Tenant Act; early termination of rental agreement by military personnel.** Prohibits a landlord from charging any liquidated damages for early termination of a rental agreement

if the tenant is a member of the armed forces of the United States or the National Guard. The bill has an emergency clause and makes other technical corrections. SB 968; CH. 742 (effective 3/26/05).

**§ 55-248.24 amended. Virginia Residential Landlord and Tenant Act; fire or casualty damage; termination of rental agreement.** Provides for the termination of the rental agreement by either the landlord or the tenant in cases where the dwelling unit is damaged by fire or casualty, or required repairs can only be accomplished if the tenant vacates the dwelling unit. The bill provides for required notice of an intent to terminate the rental agreement and specifies the date of termination. The bill also requires, upon termination, that the landlord return all security and prepaid rent, plus accrued interest, recoverable by law unless the landlord reasonably believes that the tenant, tenant's guests, or those occupying the dwelling unit with the tenant's permission were the cause of the damage or casualty, in which case the landlord must account to the tenant for the security and prepaid rent, plus accrued interest, based upon the damage or casualty. HB 2164; CH. 807.

**§ 55-248.31 amended. Virginia Residential Landlord and Tenant Act; noncompliance with rental agreement.** Provides that if the rental agreement requires for the payment of reasonable attorneys' fees in the event of a breach of the agreement or noncompliance by the tenant, the landlord shall be awarded reasonable attorneys' fees in any action based upon the tenancy in which the landlord prevails, including but not limited to actions for damages to the dwelling unit or premises, or additional rent, regardless of any previous action to obtain possession or rent unless the tenant proves by a preponderance of the evidence that his failure to pay rent or vacate was reasonable. Currently, where the rental agreement provides for the payment of attorneys' fees, they can be awarded to the landlord only where the tenant fails to prove by a preponderance of the evidence that the failure to pay rent or vacate the premises was due to (i) the breach of the lease by the landlord or (ii) unlawful actions on the part of the landlord. HB 2165; CH. 808.

**§§ 19.2-386.8 and 55-248.31 amended. Virginia Residential Landlord and Tenant Act; drug activities by tenants; forfeiture.** Clarifies that any illegal drug activity involving a controlled substance, as used or defined by the Drug Control Act (§ 54.1-3400 et seq.), by the tenant, his authorized occupants, guests or invitees, shall constitute an immediate irremediable violation for which the landlord may proceed to terminate the tenancy without the necessity of waiting for a conviction of any criminal offense that may arise out of the same actions. The bill provides that to obtain an order of possession from a court of competent jurisdiction terminating the tenancy for illegal drug activity or for any other action that involves or constitutes a criminal or willful act, the landlord shall prove any such violations by a preponderance of the evidence. The bill also provides that the landlord's property is not forfeited in cases where the conduct giving rise to forfeiture was committed by a tenant of a residential or commercial property owned by the landlord, and the landlord did not know or have reason to know of the tenant's conduct. However, where the il-

legal drug activity is engaged in by a tenant's authorized occupants, or guests or invitees, the tenant shall be presumed to have knowledge of such illegal drug activity unless the presumption is rebutted by a preponderance of the evidence. HB 2447; CH. 883.

**§ 55-248.37 amended. Virginia Residential Landlord and Tenant Act; holdover tenancies with landlord's consent.** Provides that in the event of termination of a rental agreement and the tenant remains in possession with the agreement of the landlord either as a hold-over tenant or a month-to-month tenant and no new rental agreement is entered into, the terms of the terminated agreement shall remain in effect and govern the hold-over or month-to-month tenancy, except that the amount of rent shall be either as provided in the rental agreement or as set by the landlord in a separate written notice to the tenant to take effect on the next rent due date coming 30 days after notice to the tenant. HB 2162; CH. 805.

**§ 55-248.46 amended. Termination of tenancy; manufactured home park.** Changes the required notice of termination of tenancy in a manufactured home park for certain rental agreements from 120 days to 180 days. HB 2449; CH. 416.

**§ 55-317 amended. Division fences; requirements for construction.** Modifies Virginia's fence laws governing the construction of division fences by permitting all adjoining landowners to choose to let their land lie open and thereby avoid having to contribute to the fence construction cost. Under current law, owners of subdivided, commercial, or industrial property do not have the option of choosing to let their land lie open. HB 1648; CH. 873.

**§ 55-418 amended. Virginia Self-Service Storage Act; liens.** Increases the lien that an owner of a storage facility has on property stored within each leased space for rent, labor, or other charges from \$250 to \$500 if the leased space is climate-controlled. HB 1522; CH. 275.

**§§ 55-426, 55-478, and 55-484 amended; § 55-471.1 added. Virginia Real Estate Cooperative Act; reserves for capital components.** Requires the board in a real estate cooperative to conduct a reserve study and make provision for a reserve account for capital components. The bill requires that disclosure of the reserve fund be made in the public offering and statement as well as the resale certificate. The bill defines capital components. Requirements for reserves are currently only found in the Condominium and Property Owners' Association Acts. The bill also contains technical amendments. HB 2820; CH. 436.

**§ 55-508 amended. Property Owners' Association Act; application to development established under the Subdivided Land Sales Act.** Clarifies that developments established prior to the enactment of the Subdivided Land Sales Act may specifically provide for the applicability of the provisions of the Property Owners' Association Act. SB 906; CH. 668.

**§§ 55-518 through 55-521 and 55-524 amended; § 55-519.1 added. Virginia Residential Property Disclosure Act; required disclosures for property adjacent to a military air**

**station.** Requires the owner of residential real property in a locality in which a military air station is located to disclose to a purchaser that the property is located in a noise zone or an accident potential zone, or both. Under the bill, the purchaser's remedies for nondisclosure or inaccurate disclosure include termination of the contract of sale or actual damages. SB 1161; CH. 510.

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## TITLE 56. PUBLIC SERVICE COMPANIES.

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§§ 56-123, 56-124, 56-265.10, and 56-435. See § 1-200; HB 2640.

§ 56-257.2 amended; §§ 56-5.1 and 56-257.3 repealed. **Gas pipeline safety.** Authorizes the State Corporation Commission to act for the U.S. Secretary of Transportation to conduct safety inspections pursuant to federal pipeline safety laws with respect to municipal gas systems. Such authority shall be exercised in a manner that is not inconsistent with federal law. An exit interview will be conducted after each inspection. The Commission is not authorized to impose civil penalties or fines on any locality, or to regulate the rates, charges, services, facilities, or service territory of any locality providing gas service, except as otherwise provided. As the Commission's pipeline safety program currently covers investor-owned and master-metered systems and intrastate hazardous liquid pipelines, this measure gives the Commission safety jurisdiction over all intrastate gas and hazardous liquid pipeline facilities. The measure also relocates provisions currently located in other Code sections, that address violations of pipeline safety codes and pipelines that transport landfill gas, into one Code section. SB 987; CH. 35.

§ 56-265.1 amended. **Public utilities; landfill gas.** Increases, from one to three, the number of commercial or industrial customers to which a company may sell or deliver landfill gas, or electricity generated from landfill gas, without being subject to regulation as a public utility. SB 798; CH. 22.

§§ 2.2-3705.6, 2.2-3711, 15.2-2160, and 56-265.4:4 amended; § 15.2-2108.18 added. **Telecommunication and cable television service by localities; release of information.** Exempts from the mandatory disclosure requirements of the Freedom of Information Act any public record of a local government that contains confidential proprietary information or trade secrets pertaining to its provision of telecommunication services and cable television service. Public bodies may discuss such records in closed meetings. SB 959; CH. 258.

§ 56-265.19 amended. **Underground utility damage prevention; abandoned lines.** Requires an operator to respond to the excavator-operator information exchange system when the operator has knowledge that its abandoned utility lines may be present within the area of a proposed excavation. Such information shall be for informational purposes only and shall not make the operator liable to any person, or subject to civil penalties, if the information is incorrect. HB 2053; CH. 395.

§§ 56-484.12, 56-484.14, 56-484.16, and 56-484.17 amended. **Wireless E-911 Services Board.** Clarifies that the Wireless E-911 Services Board's obligation to make payments to PSAP operators and CMRS providers is subject to the extent of appropriated funds. The bill also removes the exemptions to E-911 deployment, excludes governments from the surcharge collection, and establishes July 1 as the deadline for late funding requests. In addition, the bill clarifies the appeals process and expands the Board's responsibilities to include development of a single, statewide electronic addressing database. SB 1159; CH. 942.

§§ 56-521 and 56-522. See § 8.01-2; SB 1118.

§ 56-522. See § 8.01-607; HB 2583.

§§ 56-557 through 56-561, 56-563 through 56-572, and 56-573.1 amended; §§ 56-566.1, 56-566.2, and 56-567.1 added. **Public-Private Transportation Act.** Makes several revisions to the Public Private Transportation Act (PPTA). The bill authorizes the establishment of an interim agreement to provide for partial planning and development activities while other aspects of a qualifying transportation project are being negotiated and analyzed. The bill also (i) authorizes a private entity to request approval of multiple responsible public entities (RPEs) in proposed projects involving multimodal transportation facilities, (ii) authorizes RPEs to enter into comprehensive agreements with multiple private entities, (iii) requires the RPE to protect confidential information submitted by a private entity, and (iv) adds factors that an RPE may consider when selecting proposals. The bill requires the Secretary of Transportation to revise existing state guidelines pertaining to the PPTA by October 1, 2005, and includes a provision allowing application of the revisions made by the legislation to certain existing qualifying transportation facilities. HB 2666; CH. 562/SB 1108; CH. 504.

§ 56-575.1 amended. **Public-Private Education Facilities and Infrastructure Act of 2002; definition of qualifying project.** Expands the definition of "qualifying project" to include any improvements necessary or desirable to any unimproved state or locally owned real estate. HB 1945; CH. 618.

§§ 56-575.1 through 56-575.5, 56-575.7 through 56-575.13, and 56-575.16 amended; §§ 56-575.3:1 and 56-575.9:1 added. **Public-Private Education Facilities and Infrastructure Act of 2002.** Makes several revisions to the Public Private Education Facilities and Infrastructure Act of 2002 (PPEA). The bill authorizes the establishment of an interim agreement to provide for partial planning and development activities while other aspects of a qualifying project are being negotiated and analyzed. The bill also (i) requires the adoption of formal timelines for the review of proposals and outlining the process for review, (ii) provides for accelerated review for priority projects, and (iii) adds factors that a responsible public entity may consider when selecting proposals. In addition, the bill provides for the Chairs of the Senate and House General Laws Committees to convene a work group to revise the cur-

rent model guidelines by September 30, 2005. SB 1107; CH. 865.

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## TITLE 56. MISCELLANEOUS - PUBLIC SERVICE COMPANIES.

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**Electrical transmission lines; analysis of implications of condition requiring location underground.** Requires the State Corporation Commission to analyze the implications of a requirement that, when considering a request for approval of the construction of an electrical transmission line in a city or county with a population of over 225,000, the Commission consider imposing a condition that the line be located underground, if requested by the governing board of the locality. SB 783; CH. 332.

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## TITLE 57. RELIGIOUS AND CHARITABLE MATTERS; CEMETERIES.

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**§§ 57-7.1 through 57-11, 57-13, 57-14, 57-15, 57-16, 57-17, 57-21, and 57-32 amended; § 57-16.1 added. Provisions for incorporating churches.** Makes the necessary changes in the Code to provide for the incorporation of previously unincorporated churches. SB 1267; CH. 772.

**§§ 57-9 and 57-16.** See § 8.01-2; SB 1118.

**§§ 2.2-4343.1, 8.01-225.1, 9.1-914, 15.2-820, 15.2-4901, 15.2-4902, 15.2-5214, 15.2-5343, 16.1-319, 18.2-280, 18.2-282, 18.2-308.1, 19.2-389, 22.1-7, 22.1-180, 22.1-212.5, 22.1-212.8, 22.1-218, 22.1-271.1, 22.1-296.3, 23-50.16:12, 46.2-100, 46.2-694, 46.2-917, 46.2-918, 54.1-3482, 58.1-811, 58.1-2259, 58.1-3606, and 58.1-3617 amended; § 57-16.1 added. Church law substantive changes.** Recognizes the existence of incorporated churches and changes some nomenclature. HB 2697; CH. 928.

**§§ 57-48, 57-49, and 57-50 amended. Solicitation of contributions; filing online registrations.** Authorizes charitable organizations, professional fund-raising counsel and professional solicitors to file their registration statements online via a website approved by the Commissioner of the Department of Agriculture and Consumer Services. The bill also authorizes the Commissioner to enter into a memorandum of understanding or other similar agreement with the appropriate authority of any other state or federal agency for the purpose of providing charitable organizations, professional fund-raising counsel or professional solicitors with the option of filing their annual registration statements online via a website approved by all states that are parties to the memorandum of understanding. HB 2871; CH. 329.

**§ 57-60 amended. Solicitation of contributions; exemptions from registration.** Provides an exemption from registration with the Department of Agriculture and Consumer Services for nonprofit organizations that have been granted tax-exempt status under § 501 (c) (3) of the Internal Revenue Code and that solicit contributions only through (i) grant proposals submitted to for-profit corporations, (ii) grant proposals submitted to other nonprofit organizations that have been granted tax-exempt status under § 501 (c) (3) of the Internal Revenue Code, or (iii) grant proposals submitted to organizations determined to be private foundations under § 509 (a) of the Internal Revenue Code. HB 2491; CH. 316.

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## TITLE 58.1. TAXATION.

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**§§ 58.1-3, 58.1-439, 58.1-3245.6, 58.1-3245.8, and 58.1-3245.12.** See § 59.1-279; HB 2570/SB 983.

**§ 58.1-202 amended. Powers and duties of the Tax Commissioner; annual report on corporate tax relief.** Requires the Tax Commissioner to issue an annual report to the members of the House Appropriations Committee, the House Finance Committee, and the Senate Finance Committee providing a comprehensive view of corporate tax relief in the Commonwealth during the preceding tax year. A preliminary report shall be submitted by December 1 of each year and a final report submitted by April 15 of the following year. SB 867; CH. 216.

**§ 58.1-301 amended. Conformity of the Commonwealth's system of taxation with the Internal Revenue Code; emergency.** Provides that any reference to federal income tax laws in Chapter 3 (§ 58.1-300 et seq.) of Title 58.1 refers to the federal law as it exists on January 7, 2005. Current law specifies that such references refer to federal law as it existed on December 31, 2003. This bill contains an emergency clause. HB 2411; CH. 5 (effective 2/24/05)/SB 856; CH. 26 (effective 3/20/05).

**§ 58.1-302 amended; §§ 58.1-348.1 and 58.1-348.2 added. Income tax; preparers of fraudulent returns; penalty.** Makes it a Class 6 felony for income tax return preparers to willfully and knowingly participate in the preparation of a fraudulent tax return and authorizes the Tax Department to seek an injunction against a tax return preparer for various types of conduct. SB 1225; CH. 48.

**§ 58.1-322 amended. Income tax; effective date for personal exemption increase.** Changes the effective date from January 1, 2006, to January 1, 2005, for the increase in the personal exemption from \$800 to \$900. HB 1833; CH. 67.

**§ 58.1-322 amended. Individual income tax; salary subtraction for federal and state employees.** Amends the individual income tax subtraction allowed to federal and state employees by clarifying that it is available only to employees with a total annual salary from all employment of \$15,000 or less. SB 866; CH. 27 (effective - 7/1/05).

**§§ 58.1-334 and 58.1-432 amended. Income tax credit for purchase of conservation tillage equipment.** Increases the cap on the individual and corporate income tax credits for purchase of conservation tillage equipment from \$2,500 to \$4,000, and clarifies the definition of “conservation tillage equipment.” HB 1655; CH. 58 (effective - 7/1/05).

**§ 58.1-339.9 amended. Income tax; rent reductions tax credit.** Extends the sunset date from December 31, 2005, to December 31, 2010, and limits the credit between January 1, 2006, and January 1, 2011, to those individuals or corporations that reduced rents and validly claimed a credit for the dwelling unit for all or part of December, 1999, and the tenant occupied the dwelling unit on December 31, 2005. HB 2444; CH. 414.

**§§ 58.1-344, 58.1-393.1, and 58.1-453 amended. Tax administration; extension for filing tax returns.** Allows taxpayers to request an extension of six months after the original due date for filing income tax returns. The penalty for failing to pay at least 90 percent of the tax by the extension date would be increased from one-half percent to two percent. HB 2325; CH. 100 (effective - 1/1/05).

**§§ 2.2-2702, 29.1-101, 58.1-344.3, and 58.1-546 amended; §§ 30-19.1:10, 58.1-345, 58.1-345.1, 58.1-346, 58.1-346.1:1, 58.1-346.2:1, 58.1-346.3:1, and 58.1-346.4:1 through 58.1-346.24 repealed. Income tax; voluntary refund contributions entities process changes.** Explains the procedure for how voluntary refund contributions entities will be added to and removed from the income tax return beginning in 2005. Also adds Brown v. Board of Education Scholarship Program Fund, Dr. Martin Luther King, Jr. Commission Fund, and Virginia Caregivers Grant Fund to the list of entities entitled to voluntary contributions that appear on the individual income tax return form. HB 2303; CH. 860.

**§§ 2.2-2702, 29.1-101, 58.1-344.3, 58.1-546 amended; §§ 30-19.1:10, 58.1-345, 58.1-345.1, 58.1-346, 58.1-346.1:1, 58.1-346.2:1, 58.1-346.3:1, and 58.1-346.4:1 through 58.1-346.24 repealed. Income tax; voluntary refund contributions entities process changes.** Explains the procedure for how voluntary refund contributions entities will be added to and removed from the income tax return beginning in 2005. Also adds Brown v. Board of Education Scholarship Program Fund, Dr. Martin Luther King, Jr. Commission Fund, and Virginia Caregivers Grant Fund to the list of entities entitled to voluntary contributions that appear on the individual income tax return form. SB 803; CH. 889.

**§ 58.1-346.23 amended. Income tax; checkoff for Spay and Neuter Fund.** Creates a special fund in the state treasury known as the Spay and Neuter Fund into which designated income tax refund contributions shall be deposited. Such moneys are to be administered by the Virginia Federation of Humane Societies for spay and neuter surgeries throughout Virginia. This is not a new checkoff. HB 2003; CH. 816.

**§ 58.1-439.15:01.** See § 3.1-336.2:1; HB 2919.

**§ 58.1-439.15:01.** See § 3.1-336.2:1; SB 1332.

**§§ 58.1-511 and 58.1-512 amended. Land preservation tax credit.** Requires the fair market value of qualified donations under the Virginia Land Conservation Incentives Act of 1999 to be substantiated by a qualified appraisal, which must be signed by a qualified appraiser. A copy of the appraisal must be submitted to the Department of Taxation. A false or fraudulent appraisal may lead to revocation of the appraiser’s license or other disciplinary action, and the future appraisals by the same appraiser may be disallowed. SB 1139; CH. 940.

**§ 58.1-513.** See § 13.1-1002; SB 933.

**§ 58.1-602 amended. Sales and use tax; automobile refinishing.** Provides that paint and other refinish materials separately stated that are applied to or affixed to a motor vehicle during its repair shall be taxed to the person for whom the repair is made. HB 2762; CH. 121.

**§ 58.1-602 amended. Sales and use tax; manufactured signs.** Specifies that manufactured signs are tangible personal property for purposes of sales and use tax. HB 2774; CH. 122.

**§§ 58.1-602 and 58.1-621 amended; § 58.1-604.6 added. Retail sales and use taxes; sales to nonresidents and bad debts.** Provides that, for sales of tangible personal property to consumers making a gift to a person located in another state, a dealer registered to collect the tax in the recipient’s state may elect, with the approval of the tax commissioner, to collect the tax of the recipient’s state or that imposed by the Commonwealth. However, if the dealer is not registered to collect tax in the state in which the property is delivered, but is a registered dealer in the Commonwealth, the dealer shall collect the tax at the sales tax rate imposed by the Commonwealth. The bill also provides that an alternative means for determining the sales tax credit allowed for bad debts may be used by dealers meeting certain conditions. SB 1219; CH. 355.

**§ 58.1-609.1 amended. Sales and use tax exemption; public transportation.** Restores a sales and use tax exemption for tangible personal property sold or leased to Alexandria Transit Company, Greater Lynchburg Transit Company, GRTC Transit System, or Greater Roanoke Transit Company that is owned, operated, or controlled by any county, city, or town, or any combination thereof, that provides public transportation services. The bill declares that an emergency exists and is effective beginning September 1, 2004. HB 2599; CH. 116 (effective 9/1/04)/SB 1195; CH. 46 (effective 9/1/04).

**§ 58.1-609.11 amended. Sales and use tax exemption; non-profit entities.** Clarifies that nonprofit entities that were exempt from paying sales and use tax on the purchase of services as of June 30, 2003, shall continue to be exempt from such taxes if they comport with certain procedures and meet certain criteria. HB 2100; CH. 89.

**§ 58.1-609.11 amended. Sales and use tax exemption for certain nonprofit educational institutions; purchase of services.** Provides that any nonprofit educational institution doing business in the Commonwealth which provides a face-to-face educational experience in American government that was exempt from paying sales and use tax for the purchase of services

as of June 30, 2003, will continue to be exempt from that payment, so long as the entity follows specified procedures and meets certain criteria set forth in the section. SB 1105; CH. 42.

**§ 58.1-609.12 added. Sales and use tax exemptions reports.** Requires the Tax Commissioner to investigate and analyze the sales and use tax exemptions on a periodic basis and report his findings to the Chairmen of the House and Senate Finance Committees beginning in December 2006. HB 2852; CH. 853.

**§ 58.1-611.1 amended. Sales and use taxes, food purchased for human consumption.** Provides that the retail sales and use tax on food purchased for human consumption shall be imposed at a rate of 2.5 percent on and after July 1, 2005 (1.5 percent state and 1 percent local). Current law provides that the sales and use tax on food shall be imposed at a rate of 3.5 percent beginning July 1, 2005; 3 percent beginning July 1, 2006; and 2.5 percent beginning July 1, 2007. The bill accelerates the tax relief. HB 1638; CH. 521/SB 708; CH. 487.

**§ 58.1-811 amended. Recordation tax; exemption for limited liability companies.** Restricts the real estate recordation tax exemption for limited liability companies (LLCs) to those transfers to or from an LLC that is neither (i) a precursor to a transfer of control of the assets of the LLC to avoid recordation taxes, nor (ii) subsequent to a transfer of control of the assets of the company to avoid recordation taxes. HB 2177; CH. 93.

**§§ 58.1-811, 58.1-2259, 58.1-3606, and 58.1-3617.** See § 57-16.1; HB 2697.

**§ 58.1-815.1.** See § 33.1-221.1:3; HB 1972.

**§§ 58.1-1000 and 58.1-1012 amended. State cigarette tax; exclusive distributors.** Exempts exclusive distributors and manufacturers from affixing tax revenue stamps to cigarettes if they are being shipped, sold, or delivered to wholesale dealer stamping agents in the Commonwealth. HB 2899; CH. 856.

**§§ 58.1-1000, 58.1-1003, 58.1-1006, 58.1-1007, 58.1-1008, 58.1-1010, 58.1-1011, 58.1-1017, and 58.1-1021 amended. Cigarette tax enforcement; penalties.** Changes the cigarette tax laws to provide consistency with the non-participating manufacturer reporting requirements and to enhance compliance and administration. SB 876; CH. 28.

**§§ 58.1-1009 and 58.1-1021.03 amended. Cigarette and other tobacco products taxes; discount allowed.** Changes the discount allowed on the purchase of cigarette tax stamps from two and one-half cents per carton to two percent of the total charged by the Department of Taxation for the purchase of the tax stamps. The bill also provides a discount to dealers of other tobacco products equal to two percent of the total tax due from the dealer. HB 2625; CH. 925.

**§§ 58.1-1021.01 through 58.1-1021.04 amended; §§ 58.1-1021.04:1 through 58.1-1021.04:5 added. Tobacco products tax.** Makes several changes to the tobacco products tax including changing the basis upon which the tax is computed and requiring licensure of distributors who (i) sell tobacco products in Virginia; (ii) bring or cause to bring tobacco products into Virginia; (iii) manufacture or store tobacco

products in Virginia; or (iv) possess in Virginia for retail sale untaxed tobacco products. The changes are effective January 1, 2006. HB 1885; CH. 71 (effective 1/1/06).

**§ 58.1-1727.** See § 8.01-2; SB 1118.

**§ 58.1-2259 amended. Motor fuels tax; refund.** Provides a 55 percent refund of the motor fuels tax paid by any person purchasing fuel for consumption in a vehicle designed or permanently adapted solely and exclusively for bulk spreading or spraying of agricultural liming materials, chemicals, or fertilizer, where the vehicle's equipment is mechanically or hydraulically driven by an internal combustion engine that propels the vehicle. HB 1641; CH. 782.

**§ 58.1-2259 amended. Fuels taxes; refunds.** Provides a refund equal to 55 percent of the state fuels tax paid for vehicles designed or permanently adapted exclusively for bulk spreading or spraying of agricultural liming materials, chemicals, or fertilizer. The bill will be effective January 1, 2006. SB 794; CH. 243.

**§ 58.1-2402 amended. Motor vehicle daily rental fee.** Provides that the daily rental vehicle fee will be implemented, enforced, and collected like rental taxes. HB 1745; CH. 449.

**§ 58.1-2403 amended. Motor vehicle sales and use tax; exemption for limited liability companies.** Adds limited liability companies to the existing motor vehicle sales and use tax exemption for certain transfers from individuals or partnerships to corporations or from corporations to individuals or partnerships. Based on advice from the Attorney General's office, the DMV would not apply the exemption to limited liability companies without this change. HB 1508; CH. 274.

**§ 58.1-2403 amended. Motor vehicle sales and use taxes; exemptions.** Provides that a gift of a motor vehicle to a spouse, son, or daughter shall be exempt from motor vehicles sales and use taxes, unless the person, other than a spouse, receiving the motor vehicle assumes an unpaid obligation relating to the vehicle. SB 836; CH. 246.

**§ 58.1-2425.** See § 33.1-221.1:1.1; HB 2596.

**§ 58.1-2670 amended. Assessment of certain property by State Corporation Commission; statute of limitations.** Clarifies that any taxpayer, the Commonwealth, or any county, city or town may only apply to the SCC for a review and correction of an assessment of value or tax within three months after receiving a certified copy of such assessment or tax. SB 796; CH. 21.

**§ 58.1-3211 amended. Restrictions and exemptions on deferral of taxes for certain elderly and handicapped persons; disability benefits.** Allows a locality to exclude up to \$5,000 of permanent or temporary disability benefits of an owner when determining eligibility for its tax deferral programs. SB 844; CH. 214/SB 851; CH. 215.

**§ 58.1-3211 amended. Local real estate tax relief programs.** Changes authorized local real estate tax relief programs by (i) authorizing counties, cities, and towns to use the locality's me-



dian adjusted gross income of its married residents (as published by the Weldon Cooper Center for Public Service of the University of Virginia) as a total income limit for eligibility, and (ii) authorizing counties, cities, and towns to adjust the current net financial worth limit for inflation. SB 1051; CH. 224.

**§ 58.1-3219.1 amended. Deferred real estate tax; interest rate.** Allows a local governing body to establish the interest rate applicable to deferred real estate tax payments, not to exceed the rate established by the Internal Revenue Code. Currently, interest for the deferred payment is set as the rate established by the Internal Revenue Code. HB 2635; CH. 561/SB 1087; CH. 502.

**§ 58.1-3245.4:1 amended. City of Chesapeake; annual debt limitation.** Provides that any obligations issued by the City of Chesapeake under a local tax increment financing program shall not be included for purposes of any annual debt limitation set forth in the city's charter. The bill also makes a technical change by deleting a population bracket and replacing it with the City of Virginia Beach. SB 874; CH. 733.

**§ 58.1-3284.1 amended. Real property tax; common spaces.** Amends the definition of an "open or common space" to include common areas that are part of a planned residential development initially recorded before January 1, 1985, that did not include automatic membership in a membership corporation or association in its declaration.

This change will prohibit a locality from assessing real estate taxes against these membership corporations or associations for the common area. Instead, the value of the common area will be taxed through the increased value of the residential property that has an interest in the open or common area. This is the approach that currently applies to residential and commercial property with automatic membership in a membership corporation or association. Today, residential developments with common areas must include mandatory or automatic membership in the corporation or association charged with its upkeep; however, older developments did not necessarily have mandatory membership. SB 896; CH. 218.

**§ 58.1-3506 amended. Tangible personal property tax; separate classification for boats used in business.** Designates boats weighing less than five tons and used for business purposes as a separate class of tangible personal property for taxation purposes. HB 2686; CH. 325/SB 1273; CH. 271.

**§ 58.1-3506 amended; § 58.1-3508.2 added. Local taxation of certain machinery and tools.** Allows a locality to classify certain heavy machinery used by businesses not otherwise set out in Article 2 (§ 58.1-3507 et seq.) of Chapter 35 of Title 58.1, "Machinery and Tools Tax," as a separate classification of property. The tax rate may not exceed the rate imposed upon the general class of tangible personal property. SB 1279; CH. 357.

**§ 58.1-3507 amended. Personal property tax; notice for machinery and tools valuation change.** Requires that proposed changes in the valuation method used for machinery and

tools be published by a notice appearing in a newspaper of general circulation at least 30 days prior to such change and citizens be allowed to submit comments to the local commissioner of the revenue regarding the proposal during the 30 days. HB 2477; CH. 108.

**§ 58.1-3607.** See § 37.2-100; SB 1023.

**§ 58.1-3703 amended. Local business license tax; population basis and fee increase.** Provides that the population estimates of the Weldon Cooper Center for Public Service of the University of Virginia shall be used for determining population for purposes of imposing the business license fee in localities. HB 2372; CH. 103.

**§§ 58.1-3703.1 and 58.1-3983.1 amended. Local license and local business taxes; appeals.** Makes numerous changes to the appeals process regarding local license and local business taxes. HB 2679; CH. 927.

**§ 58.1-3713.** See § 33.1-70.01; HB 2578.

**§ 58.1-3732.4.** See § 1-200; HB 2640.

**§ 58.1-3812 amended. Local consumer utility tax; Town of Dumfries.** Allows the Town of Dumfries to impose by ordinance the local consumer utility tax on or after July 1, 2005. If the tax is imposed, Prince William County will no longer impose the tax in the town limits of Dumfries. SB 801; CH. 206.

**§§ 58.1-3818 and 58.1-3840.** See § 15.2-5800; HB 2455.

**§ 58.1-3819 amended. Transient occupancy tax; Craig County and Prince George County.** Adds Craig County and Prince George County to the list of counties that may levy the transient occupancy tax at a rate of five percent, with the revenues collected from that portion of the tax over two percent designated and spent solely for tourism, marketing of tourism or initiatives that, as determined in consultation with the local tourism industry organizations, attract travelers to the locality and generate tourism revenues in the locality. HB 1965; CH. 76.

**§§ 58.1-3819 and 58.1-3833 amended. Transient occupancy tax and food and beverage tax.** Adds Carroll County to the list of counties that may levy the transient occupancy tax at a rate of five percent. The Act also makes corrections to the technical changes made during the 2004 Session, which replaced population brackets with the names of the counties that may impose a five percent local transient occupancy tax and the food and beverage tax without referendum. Specifically, the bill adds the names of the counties that had grown into population brackets before the technical changes became effective. HB 2007; CH. 915.

**§ 58.1-3822 amended. Transient occupancy tax; Arlington County.** Extends the time during which Arlington County may collect an additional transient occupancy tax of one-fourth of one percent to January 1, 2009. Current law would end the collection of the additional tax on January 1, 2006. HB 1857; CH. 156.

**§ 58.1-3826 added. Transient occupancy tax; overnight accommodations.** Clarifies that the transient occupancy tax applies to charges for any room or space suitable or intended for dwelling, lodging, or sleeping purposes. SB 793; CH. 20.

**§ 58.1-3912 amended. Solid waste disposal fees; included on real estate tax bills.** Permits counties to include solid waste disposal fees on the corresponding real estate tax bills. HB 2408; CH. 922.

**§ 58.1-3916 amended. Delinquent payment of certain local excise taxes.** Allows the governing body of any county, city, or town to impose a penalty for the delinquent remittance of excise taxes on meals, lodging, or admissions collected from consumers, not to exceed 10 percent for the first month the taxes are past due and five percent for each month thereafter, not to exceed 25 percent of the amount of the taxes not remitted. Currently, the penalty for such delinquent remittance is limited to 10 percent. SB 1052; CH. 501.

**§§ 58.1-3941 and 58.1-3942 amended. Unpaid taxes, levies, or other charges; distraint for the same.** Makes a technical correction to clarify which highway vehicles in general may not be distrained for unpaid taxes, levies, or other charges. Sections 58.1-3941 and 58.1-3942 currently cross-reference a repealed section of the Code of Virginia that defined a "highway vehicle." Section 58.1-2101 defined a highway vehicle, but the section was repealed by the 2000 Session of the General Assembly, effective January 1, 2001. The bill corrects §§ 58.1-3941 and 58.1-3942 by including in these sections the definition of a highway vehicle as it appeared in repealed § 58.1-2101. HB 1667; CH. 59.

**§ 58.1-3969.** See § 8.01-607; HB 2583.

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## TITLE 58.1. MISCELLANEOUS - TAXATION.

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**Communications tax reform.** Directs the APA to review and collect information in 2005 regarding certain local communications taxes and report to the chairmen of the House and Senate Finance Committees and the Department of Taxation no later than December 1, 2005. HB 2880; CH. 126.

**Income taxes; charitable contributions for the relief of tsunami victims.** Provides that cash contributions for the relief of tsunami victims made in January 2005 may be allowed as a charitable deduction when computing Virginia income taxes for the taxable year 2004. SB 897; CH. 29 (effective 3/20/05).

**Land preservation tax credit.** Allows the Tax Commissioner to determine if a taxpayer may transfer certain unused credits if he acted in good faith based on erroneous information. HB 2788; CH. 846.

**Sales and use tax; truck trailers and cargo containers.** Prohibits the Department of Taxation from taking any action to collect any sales and use tax from the sale or use prior to February 1, 2005, of certain truck trailers, cargo containers that are

designed to be affixed to such truck trailers, and on-site storage containers that are similar to cargo containers but not necessarily designed to be affixed to truck trailers. HB 2827; CH. 328.

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## TITLE 59.1. TRADE AND COMMERCE.

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**§§ 59.1-21.10 and 59.1-443.1.** See § 1-200; HB 2640.

**§ 59.1-92.22.** See § 6.1-119.1; SB 776.

**§ 59.1-148.3 amended. Purchase of handguns by certain law-enforcement officers.** Allows certain law-enforcement agencies to sell service handguns to its current law-enforcement officers when the agency has purchased new service handguns and the handguns subject to sale are no longer used in the course of duty. HB 2130; CH. 168.

**§ 59.1-200 amended; §§ 59.1-530 through 59.1-532 added. Gift certificates; disclosures; penalty.** Requires a gift certificate issued by a merchant in Virginia to have permanently affixed to it either an expiration date for the certificate or electronic card or a telephone number or Internet address at which information about the certificate's expiration and any diminution in value over time may be obtained. A violation of the disclosure requirement is a prohibited practice under the Virginia Consumer Protection Act. HB 2218; CH. 303/SB 1241; CH. 269.

**§§ 2.2-2818, 59.1-200, and 59.1-444 amended; § 59.1-443.2 added. Personal Information Privacy Act; restricting the use of social security numbers.** Prohibits any person from (i) intentionally communicating an individual's social security number to the general public; (ii) printing an individual's social security number on any card required for the individual to access or receive products or services; (iii) requiring an individual to use his social security number to access an Internet website, unless an authentication device is also required; or (iv) mailing a package with the social security number visible from the outside. The bill exempts public bodies and public records. A violation is a prohibited practice under the Virginia Consumer Protection Act. The measure also requires the state employees' health insurance plan to use identification numbers that are not the employee's social security number. HB 2482; CH. 640.

**§ 59.1-200 amended; §§ 59.1-530 through 59.1-534 added. Influenza vaccine price gouging; penalties.** Prohibits any person from selling or administering influenza vaccine at unconscionable prices during periods when the Governor has declared that an influenza vaccine shortage exists. To determine whether the price of vaccine is unconscionable, the court must consider, among other factors, whether the price charged during the time of the declared shortage grossly exceeded the price at which the vaccine was readily obtainable during the 10 days prior to the declared shortage period. A violation constitutes a prohibited practice under the Virginia Consumer

Protection Act, though aggrieved persons will not be able to assert a private cause of action. SB 707; CH. 861.

**§ 59.1-204 amended. Virginia Consumer Protection Act; fees and costs upon settlement.** Provides that if the parties wish to settle a case brought under the Virginia Consumer Protection Act, the court may determine the amount of any award of attorneys' fees or court costs to the plaintiff. SB 912; CH. 250.

**§§ 58.1-3, 58.1-439, 58.1-3245.6, 58.1-3245.8, 58.1-3245.12, 59.1-279, 59.1-280, 59.1-280.1, 59.1-282.1, 59.1-282.2, 59.1-284.01, and 59.1-284.17 amended; §§ 59.1-530 through 59.1-541 added; §§ 59.1-272 through 59.1-278, 59.1-279.1, 59.1-280.2, 59.1-282, and 59.1-282.3 through 59.1-284 repealed. Enterprise zones.** Establishes new processes and procedures for providing grants relative to enterprise zones. The bill's effective date is July 1, 2005, while the current enterprise zone act expires July 1, 2005. HB 2570; CH. 884/SB 983; CH. 863.

**§ 2.2-2285 amended; §§ 59.1-284.1 through 59.1-284.6 repealed. Virginia Economic Development Revolving Fund; community development financial institution.** Eliminates the Virginia Economic Development Revolving Fund and provides for the transfer of the Fund's assets and associated records from the Small Business Financing Authority to an eligible qualifying community development financial institution, upon approval by the Secretary of Commerce and Trade. The bill requires the Secretary of Commerce and Trade to report to the General Assembly by December 1, 2005. HB 2061; CH. 624.

**§§ 59.1-284.14:1 and 59.1-284.15:1 amended. Semiconductor manufacturing performance grants.** Updates the Semiconductor Memory or Logic Wafer Manufacturing Performance Grant Program to make a qualified manufacturer eligible for total grant payments of up to \$27 million if certain investment and job creation criteria are met. The measure also updates the Semiconductor Memory or Logic Wafer Manufacturing Performance Grant Program II to make a qualified manufacturer eligible for grant payments of (i) \$15 million if \$1.1 billion of new capital investment is made by January 1, 2007, that results in the creation of a new manufacturing module in Henrico County; (ii) \$35 million if an additional 1,000 new full-time jobs are created by January 1, 2008; and (iii) \$5 million if 200 new full-time jobs are created by January 1, 2009. HB 2033; CH. 392.

**§§ 59.1-365, 59.1-369, 59.1-370, 59.1-387, and 59.1-390 amended. Virginia Racing Commission.** Clarifies the authority of stewards appointed by the Virginia Racing Commission to enforce and interpret the Commission's regulations. The bill also adds a definition of "participant" and provides that certain individuals associated with a horse that is entered to run in Virginia shall be considered as participants and come under the jurisdiction of the Commission. In addition, the bill (i) provides the authority of the Commission to take disciplinary actions through stewards or at a meeting at which a quorum is present, (ii) clarifies that such disciplinary actions must be de-

termined by a preponderance of the evidence, and (iii) requires the Commission's annual report to be filed on or before March 1. SB 1270; CH. 700.

**§ 59.1-369.** See § 2.2-720; HB 2321.

**§ 59.1-436 amended. Extended Service Contract Act.** Increases the fee for registering or renewing a registration under the Extended Service Contract Act from \$100 to \$300. The measure also imposes late fees of \$100 per 30-day period or portion thereof that an obligor is late in registering and \$50 per 30-day period or portion thereof that an obligor is late in renewing its registration. A registration or renewal is not to be considered filed until all required information and fees are submitted. Finally, the measure specifies that registrations be renewed annually on July 1. HB 2286; CH. 407.

**§ 59.1-480 amended. Uniform Electronic Transactions Act; local constitutional officers.** Includes locally elected constitutional officers in the definition of public body for purposes of the Uniform Electronic Transactions Act. HB 2470; CH. 417.

**§ 59.1-514 amended. Virginia Telephone Privacy Protection Act; telephone solicitation.** Provides that telephone solicitors using a version of the National Do Not Call Registry obtained from their administrator no more than 31 days prior to the date of a telephone solicitation call constitutes a reasonable practice and procedure to effectively prevent telephone solicitation calls that would violate the Virginia Telephone Privacy Protection Act. The establishment and implementation of reasonable practices and procedures to effectively prevent such telephone solicitation calls are affirmative defenses to an action claiming a violation of the Act. Currently, such defense is available to telephone solicitors that use a version of the National Do Not Call Registry obtained within three months preceding the date of the call. Reducing the period from three months to 31 days makes the Act consistent with federal regulations. HB 2055; CH. 296.

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## TITLE 60.2. UNEMPLOYMENT COMPENSATION.

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**§ 60.2-114.01 added. Disclosure of wage information to consumer reporting agencies.** Authorizes the Virginia Employment Commission to release individual wage information, provided in employers' quarterly wage reports, to consumer reporting agencies if the individual consents in writing. The released information is to be used only to verify the accuracy of wage or employment information provided by the individual in connection with a specific transaction. Fees received by the Commission from a credit reporting agency will be deposited in the Special Unemployment Compensation Administration Fund. SB 1276; CH. 944 (effective 1/1/07).

**§§ 60.2-119 and 60.2-528 amended. Unemployment compensation; obsolete references.** Replaces obsolete references to Operation Desert Shield and Operation Desert Storm with a

broad reference to “international conflict,” and removes a reference to a repealed Code section. HB 2416; CH. 105.

**§ 60.2-212 amended. Unemployment compensation; independent contractor.** Requires the Commission to use the 20-factor test set forth in an Internal Revenue Service Revenue Ruling in determining whether an individual is an employee for purposes of the Virginia Unemployment Compensation Act. SB 1047; CH. 892.

**§ 60.2-219.** See § 8.01-400.2; HB 2503.

**§§ 60.2-500 and 60.2-622 amended; §§ 18.2-204.3 and 60.2-536.1 through 60.2-536.5 added. Unemployment compensation; state unemployment tax dumping; penalties.** Establishes the civil and criminal penalties that shall be assessed against, and the unemployment compensation tax rates that shall apply to, persons who transfer any trade or business to another where at the time of transfer there is substantially common ownership, management, or control of the trade or business and the sole or primary purpose of the transfer is to obtain a lower unemployment tax rate. Provisions prohibiting such transfers of a trade or business and imposing penalties will become effective in the first rate year as set forth in federal law. HB 2137; CH. 91 (effective 3/20/05)/SB 1201; CH. 47 (effective 3/20/05).

**§ 60.2-528 amended. Unemployment compensation; benefits charging; disasters.** Strikes the requirement, for the purposes of assigning to the pool the charges associated with a claimant who qualifies for unemployment compensation due to a disaster-related business closure, that the claimant returned to his job once the business reopened. SB 1112; CH. 44.

**§ 60.2-602 amended. Unemployment compensation; minimum earnings; maximum weekly benefit.** Increases from \$2,500 to \$2,700 the wages an employee must have earned in the two highest earnings quarters of his base period (the first four of the five calendar quarters preceding application for benefits) in order to be eligible for unemployment compensation benefits, and increases the maximum weekly benefit from \$326 to \$330. HB 2050; CH. 918.

**§ 60.2-602 amended. Unemployment compensation; obsolete benefit tables.** Removes from the Code obsolete benefit tables. SB 799; CH. 23.

**§ 60.2-603 amended. Unemployment compensation; wage offsets.** Increases the cap on allowable weekly wages for eligible individuals prior to benefit offset from \$25 to \$50. HB 2840; CH. 125.

**§ 60.2-604 amended. Unemployment compensation; offset for retirement benefits.** Eliminates the offset for Social Security or Railroad Retirement Act benefits during periods when the unemployment trust fund has a solvency level of 50 percent or more. When the trust fund’s solvency level is below 50 percent, weekly unemployment benefits will continue to be reduced by 50 percent of the amount of such retirement benefits. SB 128; CH. 1.

**§ 60.2-618 amended. Unemployment compensation; misconduct; chronic absenteeism.** Provides that chronic absenteeism or tardiness in deliberate violation of a known policy of the employer, or unapproved absence following written reprimand or warning, is misconduct that may result in disqualification for unemployment compensation benefits. HB 2371; CH. 464.

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## TITLE 62.1. WATERS OF THE STATE, PORTS AND HARBORS.

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**§§ 62.1-44.14, 62.1-44.15, 62.1-44.32, and 62.1-44.34:20.** See § 10.1-1309; SB 1089.

**§ 62.1-44.15:01 amended. Mapping of wetlands.** Directs the State Water Control Board to (i) ensure that beginning on or after January 1, 2007, wetland inventory maps identifying the location of nontidal wetlands maintained by the board be made readily available to the public, (ii) notify the circuit court clerk’s office and other appropriate officials in each locality of the availability of the wetland inventory maps, and (iii) request that the locality provide information in the location where the land records of the locality are maintained on the availability of those maps. HB 2645; CH. 478.

**§ 62.1-44.15:5.01.** See § 28.2-1205.1; SB 1248.

**§ 62.1-44.17:1.1 amended. Phosphorous application rates for poultry waste.** Changes the standard for the amount of phosphorous from poultry waste that can be applied on farmland. Currently nutrient management plans for poultry waste are to include phosphorous application rates that are equal to the capacity of a crop to remove phosphorous from the soil. This bill requires that phosphorous application rates for nutrient management plans will have to conform to regulatory criteria and standards adopted by the Department of Conservation and Recreation (DCR). The application rates contemplated by DCR would take into account such factors as the soil’s phosphorous level, the slope of the land, farming practices, and the proximity of the land to streams. HB 1971; CH. 78.

**§ 62.1-44.19:3.** See § 32.1-164.5; HB 2073.

**§ 62.1-44.19:3.** See § 32.1-164.5; HB 2197.

**§ 62.1-44.19:3.** See § 32.1-164.5; HB 2624.

**§ 62.1-44.19:3.** See § 32.1-164.5; HB 2805.

**§§ 62.1-44.19:12 through 62.1-44.19:19, added. Nutrient trading.** Establishes a nutrient exchange or trading program that would allow point source dischargers to achieve and maintain compliance with the waste load cap allocations for nitrogen and phosphorous delivered to the Chesapeake Bay and its tidal tributaries. The State Water Control Board would be required to issue a general permit under the Virginia Pollutant Discharge Elimination System to eligible point source dischargers of nitrogen and phosphorous. The facilities that ob-

tain such a permit, and which are interested in participating in the trading program, would be identified together with their individual load cap allocations and trading ratios. The trading association authorized by the bill would provide the mechanism by which those permittees under the general permit would be matched with nutrient trading partners. Within nine months of the issuance of the general permit, the permittees either individually or through the trading association would be required to submit compliance plans to DEQ. The compliance plans would have to include any capital projects and the implementation schedules needed to achieve the nitrogen and phosphorous reductions needed to comply with the waste load allocations for all the permittees in a particular tributary. HB 2862; CH. 710/SB 1275; CH. 708.

§ 62.1-44.114. See § 1-200; HB 2640.

§ 62.1-73 amended; § 62.1-77.1 repealed. **Membership of the Ohio River Valley Sanitation Commission.** Changes membership of the Ohio River Valley Sanitation Commission. Currently, all three Virginia members of the Commission are members of the State Water Control Board. Under the bill, two of the commissioners will be members of the State Water Control Board and the third will be the Director of the Department of Environmental Quality. The bill also specifies under what circumstances the commissioners can designate someone to represent them and cast a vote on their behalf at a meeting. SB 1233; CH. 517.

§ 62.1-145 amended. **Service charge payments to localities.** Provides that local service charge payments imposed on property of the Virginia Port Authority are to be paid by the Authority. HB 2145; CH. 581.

§§ 62.1-198 and 62.1-199 amended. **Virginia Resources Authority.** Expands projects that can be financed through the Authority to include the design and construction of roads, public parking garages and other public transportation facilities, and facilities for public transportation by commuter rail. SB 746; CH. 727.

§§ 62.1-198 and 62.1-199 amended. **Virginia Resources Authority.** Authorizes the Virginia Resources Authority to assist in making financing available at federal government facilities in order to support the location and retention of federal facilities in Virginia and the transition of former federal facilities from use by the federal government to other uses. SB 1256; CH. 769.

§ 62.1-222. See § 2.2-720; HB 2321.

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## TITLE 63.2. WELFARE (SOCIAL SERVICES).

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§ 63.2-219. See § 15.2-1507; SB 894.

§ 63.2-301 amended. **Local boards of social services; member terms of office.** Shortens the intervening period during which persons are not eligible to serve on local social services

boards from four years to two years after serving two consecutive terms. The bill does not affect any statutory appointment provisions that may exist for counties adopting special forms of government. SB 730; CH. 16.

§ 63.2-503.1. See § 32.1-325.03; HB 1798/SB 1143.

§ 63.2-505.1 added. **Food stamp benefits; drug-related felonies.** Provides that a person who is otherwise eligible to receive food stamp benefits shall not be denied such assistance because the person has been convicted of a felony offense of possession of a controlled substance in violation of § 18.2-250, provided such person is complying with, or has already complied with, all obligations imposed by the criminal court, is actively engaged in or has completed a substance abuse treatment program, participates in periodic drug screenings, and any other obligations as determined by the Department. While the Temporary Assistance for Needy Families federal legislation bars food stamps to such persons, the federal law does permit states to opt out of this provision. HB 1761; CH. 576.

§ 63.2-505.1 added. **Transitional food stamp benefits.** Requires the Department of Social Services, to the extent permitted by federal law, to provide transitional food stamp benefits for a period of not more than five months after the date on which Temporary Assistance for Needy Families (TANF) cash assistance is terminated. However, no household shall be eligible for transitional food stamp benefits if TANF cash assistance was terminated because all children in the assistance unit were removed from the home as a result of a child protective services investigation. HB 2268; CH. 463.

§ 63.2-608. See § 65.2-101; HB 2462.

§§ 63.2-900 and 63.2-906. See § 16.1-281; HB 2744.

§ 63.2-900. See § 22.1-289; SB 1006.

§§ 63.2-901.1 and 63.2-1721 amended. **Background checks for foster parents.** Authorizes a child-placing agency to approve as a foster parent an applicant with not more than one assault and battery conviction as set out in § 18.2-57 as long as the conviction did not involve abuse, neglect, moral turpitude, or a minor, and provided 10 years have elapsed since the conviction. A nearly identical provision is already in state law for adoptive parents. HB 2002; CH. 722.

§§ 16.1-241, 20-124.1, 63.2-903, 63.2-1202, 63.2-1222, and 63.2-1233 amended. **Adoption and custody.** Provides that a birth father's consent to adoption is not necessary if the birth father is convicted in another state, the United States, or any foreign jurisdiction of (i) rape, (ii) carnal knowledge of a child between 13 and 15 years of age, or (iii) adultery or fornication with his mother, daughter or granddaughter. Any person convicted of such crimes in another state, the United States, or any foreign jurisdiction also is excluded from the definition of persons having a legitimate interest in matters involving custody, support, control, visitation or disposition of a child conceived as a result of the violation. Current law addresses these issues only for convictions for offenses committed in Virginia. SB 854; CH. 890.

**§ 63.2-1511 amended. Child protective services; school employees.** Provides that if, after an investigation of a child protective services complaint, the local department of social services determines that the actions or omissions of a teacher, principal, or other person employed by a local school board or employed in a school operated by the Commonwealth were within such employee's scope of employment and were taken in good faith in the course of supervision, care, or discipline of students, then the standard in determining if a report of abuse or neglect is founded is whether such acts or omissions constituted gross negligence or willful misconduct. The bill contains technical amendments. HB 2163; CH. 806/SB 1243; CH. 767.

**§ 63.2-1514 amended. Child protective services; anonymous complaints.** Provides that, upon request, the local department of social services shall advise the person who was the subject of an unfounded child protective services investigation if the complaint or report was made anonymously. However, the identity of a complainant or reporter shall not be disclosed. HB 1969; CH. 77.

**§ 63.2-1529.** See § 2.2-720; HB 2321.

**§§ 63.2-1602, 63.2-1801, and 63.2-1805.** See § 37.2-100; SB 1023.

**§ 63.2-1612 amended. Domestic violence and prevention services.** Requires the Department of Social Services to (i) support, strengthen, evaluate, and monitor community-based domestic violence programs funded by the Department and act as the administrator for state grant funds and the disbursement of federal funds, (ii) collaborate with the Statewide Domestic Violence Coalition in developing and implementing community-based programs to respond to and prevent domestic violence, (iii) establish minimum standards of training and provide educational programs to train workers in the fields of child and adult protective services in local departments and community-based domestic violence programs funded by the Department to identify domestic violence and provide effective referrals for appropriate services, (iv) work with the Statewide Domestic Violence Coalition to implement methods to preserve the confidentiality of all domestic violence services records, (v) work collaboratively with the Statewide Domestic Violence Coalition to operate the Virginia Family Violence and Sexual Assault 24-hour toll-free hotline and the Statewide Domestic Violence Database (Vadata), and (vi) promote interagency collaboration and cooperation to facilitate the appropriate response to victims of domestic violence. HB 2433; CH. 638/SB 1144; CH. 685.

**§§ 2.2-703, 54.1-2503, 54.1-3005, 54.1-3007, 54.1-3100, 54.1-3101, 54.1-3102, 54.1-3103, 54.1-3408, 63.2-1702, 63.2-1707, 63.2-1709, 63.2-1721, 63.2-1732, 63.2-1803, and 63.2-1805 amended; §§ 54.1-3041, 54.1-3042, 54.1-3043, 54.1-3103.1, 63.2-1709.1, 63.2-1709.2, and 63.2-1803.1 added. Assisted living facilities; civil penalty.** Requires administrators of assisted living facilities, except for those providing residential living care only, to be licensed by the Board of Long-Term Care Administrators within the Department of Health Professions. The bill renames the Board of

Nursing Home Administrators as the Board of Long-Term Care Administrators. The Board of Long-Term Care Administrators shall adopt regulations on or before July 1, 2007, and the administrator licensing provisions shall not be implemented or enforced until 12 months after the regulations become effective. The bill permits the Commissioner of the Department of Social Services to issue an order of summary suspension of a license to operate an assisted living facility in cases of immediate and substantial threat to the health, safety, and welfare of residents and increases from \$500 to \$10,000 the maximum civil penalty for an assisted living facility out of compliance with licensure requirements. The bill requires medication aides in assisted living facilities to be registered by the Board of Nursing. The Board of Nursing shall adopt regulations on or before July 1, 2007, and the registration provisions shall not be implemented or enforced until 12 months after the regulations become effective. However, the Board of Nursing may accept and process applications for the registration of medication aides and charge an application fee on or after July 1, 2005. Regulations for a Medication Management Plan in assisted living facilities are to be developed by the State Board of Social Services, in consultation with the Board of Nursing and the Board of Pharmacy. The bill creates the Assisted Living Facility Education, Training, and Technical Assistance Fund. The bill requires applicants for licensure as an assisted living facility to undergo a background check. The bill also requires each assisted living facility to provide written disclosure documents to residents and their legal representatives, if any, upon admission. Finally, the bill requires the Department for the Aging's contract with the long-term care ombudsman program provide a minimum staffing ratio of one ombudsman to every 2,000 long-term care beds, subject to sufficient funding. Through enactment clauses, the Department of Social Services is charged with developing a training module for adult care licensing inspectors and integrating into the assisted living facility regulations standards that are consistent with recommendations of the Department of Mental Health, Mental Retardation and Substance Abuse Services to ensure appropriate care for residents with mental illness, mental retardation, substance abuse, and other behavioral disabilities. HB 2512; CH. 924/SB 1183; CH. 610.

**§ 63.2-1720 amended. Child day centers; criminal background checks.** Provides that a child day center may hire for compensated employment persons who have been convicted of not more than one misdemeanor offense under § 18.2-57 (assault and battery) if 10 years have elapsed following the conviction, unless the person committed the offense while employed in a child day center or the object of the offense was a minor. HB 2098; CH. 723.

**§§ 22.1-323.2, 37.1-189.1, 63.2-1737, and 66-24 amended; § 22.1-16.3 added. Core licensure of residential facilities for children.** Requires the Boards of Education; Mental Health, Mental Retardation and Substance Abuse Services; Social Services; and Juvenile Justice to promulgate regulations that address the services required to be provided in group homes and other residential facilities for children as they may deem

appropriate to ensure the education, health, welfare, and safety of the juveniles (as relevant to the Department). In addition, each board's regulations must include, but need not be limited to (i) specifications for the structure and accommodations of such facilities according to the needs of the juveniles to be placed in the home or facility; (ii) rules concerning allowable activities, local government- and group home- or residential care facility-imposed curfews, and study, recreational, and bedtime hours; and (iii) a requirement that each home or facility have a community liaison who shall be responsible for facilitating cooperative relationships with the neighbors, the school system, local law enforcement, local government officials, and the community at large. HB 2461; CH. 471/SB 1304; CH. 358.

**§ 63.2-1805 amended. Gastric tube care for residents of assisted living facilities.** Allows assisted living facility staff to provide gastric tube care to a resident at his request and when his independent physician determines that it is appropriate if the care is delivered in accordance with regulations of the Board of Nursing for delegation by a registered nurse. Currently, such care may be provided by a licensed physician, nurse, or home care organization. HB 2807; CH. 724.

**§ 63.2-1960.** See § 20-78.2; HB 1988.

**§ 63.2-2006 amended. Neighborhood Assistance Act; tax credits.** Increases the maximum tax credit that individuals may receive from \$750 to \$50,000. HB 2041; CH. 82.

**§ 63.2-2201 amended. Virginia Caregivers Grant Program.** Extends the period for which grants under the Virginia Caregivers Grant Program can be provided from December 31, 2005, to December 31, 2010. The Virginia Caregivers Grant Program provides a \$500 grant to individuals who provide care to a physically or mentally impaired relative who requires assistance with two or more activities of daily living during more than half the year. SB 935; CH. 31.

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## TITLE 63.2. MISCELLANEOUS - WELFARE (SOCIAL SERVICES).

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**Child Day-Care Council regulations; parental notification when a child is injured.** Requires the Board of Social Services and the Child Day-Care Council to review all regulations under their purview regarding child day programs to determine whether they adequately provide for the notification of parents, legal guardians, or other persons duly authorized to pick up a child, in the event a child sustains a significant physical injury while under the program's care. If the regulations are deemed inadequate, then the Board and Council shall adopt regulations that require each program to notify a child's parent, legal guardian, or other person duly authorized to pick up the child from the center whenever any owner, operator, manager, or employee thereof has actual knowledge of a significant physical injury sustained by the child while in attendance. The regulations shall establish notification procedures including the

time and manner in which notification shall be made, and the nature and scope of physical injuries that shall require notification. HB 1550; CH. 53.

**Department and Board of Social Services; current social benefits structure; incentives for the break-up of families.** Requires the Department and Board of Social Services to ensure, unless otherwise prohibited by federal law, that Virginia's current social benefits structure does not provide economic or other incentives for the break-up of families, and to eliminate such incentives to the extent possible. HB 1963; CH. 388.

**Long-term care services for older adults.** Provides generally that the Commonwealth shall seek to ensure coordinated, effective, and efficient long-term care services to older adults. The bill sets out the policy of the Commonwealth in providing such services. HB 2036; CH. 393.

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## TITLE 64.1. WILLS AND DECEDENTS' ESTATES.

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**§ 64.1-67.2.** See § 55-7; SB 891.

**§§ 64.1-106 and 64.1-179.** See § 8.01-2; SB 1118.

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## TITLE 65.2. WORKERS' COMPENSATION.

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**§ 65.2-101 amended. Workers' compensation; compensable employees.** Provides that those volunteer members of community emergency response teams and volunteer members of medical reserve corps who have been acknowledged as employees by the local governing body or state institution of higher education in which the principal office of their team or corps is located are employees of that local government or state institution for workers' compensation purposes. HB 1567; CH. 368.

**§ 65.2-101 amended. Workers' compensation; demonstrator cars; noncompensable injury, disease, or condition.** Provides that any injury, disease or condition resulting from the use by an employee of a dealer motor vehicle for commuting to or from work or any other non-work activity is not compensable under workers' compensation. HB 1728; CH. 374/SB 1215; CH. 354.

**§§ 63.2-608, 65.2-101, 65.2-500, 65.2-502, and 65.2-512 amended. Workers' compensation.** Provides that recipients of Temporary Assistance for Needy Families benefits who participate in the work experience component of the Virginia Initiative for Employment Not Welfare Program, and are not eligible for Medicaid, will be employees of the Commonwealth for purposes of the Workers' Compensation Act. Such recipients will not be eligible for wage replacement or death benefits. HB 2462; CH. 472.

**§ 65.2-103 added. Workers' compensation; coverage for first responders during state of emergency.** Provides that injuries to first responders incurred while traveling from home or another location outside a work location to that work location are deemed to be within the scope of employment for purposes of the Workers' Compensation Act, if a state of emergency is in effect. HB 2700; CH. 429.

**§ 65.2-103 added. Workers' compensation; extended coverage for members of the Virginia National Guard, Virginia State Defense Force, and naval militia.** Provides that a claim for workers' compensation shall be deemed to be in the course of employment with the Virginia National Guard, Virginia State Defense Force, or naval militia for any member thereof, who, in reacting to an order to report while he is outside an assigned shift or work location, undertakes in direct obedience to a lawful military order travel to his designated place of state active duty. SB 1035; CH. 223.

**§ 65.2-406 amended. Limitations on workers' compensation claims; September 11, 2001, rescue and relief workers.** Allows an employee suffering from a disease directly attributable to 9/11 rescue and relief efforts two years after the employee first learns of the disease diagnosis within which to file claim. HB 2775; CH. 433.

**§ 65.2-803.1 amended. Workers' compensation; failure to insure payment; penalty.** Provides for imposition of civil and criminal penalties on employers that fail to insure payment of workers' compensation to their employees, and for imposition of civil penalties on employers that fail to comply with requirements governing professional employer organizations. HB 1862; CH. 158.

**§§ 65.2-805 and 65.2-806 amended. Workers' compensation; failure to insure payment; penalty.** Provides for imposition of civil and criminal penalties on employers that fail to insure payment of workers' compensation to their employees, and for imposition of civil penalties on employers that fail to comply with requirements governing professional employer organizations. HB 1863; CH. 69.

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## TITLE 66. JUVENILE JUSTICE.

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**§ 66-24.** See § 63.2-1737; HB 2461/SB 1304.

**§§ 66-25.1:1 through 66-25.1:4 added. Department of Juvenile Justice; juvenile work release program established; penalties.** Authorizes the Director of the Department of Juvenile Justice to establish work release programs whereby (i) a juvenile who is proficient in any trade or occupation, and who meets the work release criteria established by the Director, may be approved for employment by private individuals, corporations, or state agencies at places of business; or (ii) a juvenile who the Director is satisfied meets the work release criteria and is capable of receiving substantial benefit from educational or other related community activity programs that are not avail-

able within a juvenile correctional center may attend such programs outside of the juvenile correctional facility. The bill requires the Department of Juvenile Justice to provide juveniles committed to the Department with opportunities to work and participate in career training or technical education programs as operated by the Department or by the Department of Correctional Education, and sets forth provisions relating to eligibility for work release, compensation, custody, and penalties for violating the terms of work release.

The bill provides that the Department shall promulgate emergency regulations, and provide the services set forth in the bill at one location on a pilot program basis beginning July 1, 2005, and ending July 1, 2006. The Department shall report to the General Assembly concerning the implementation of the pilot program. Aside from the pilot program, the bill has a delayed effective date of July 1, 2006. HB 2657; CH. 648 (effective - see bill).

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## APPROPRIATIONS AND BONDS.

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**Budget Bill.** Amends appropriations for the 2004-06 biennium. (The budget makes various changes to the Code; however, at the time of publication, these changes were not available.) HB 1500; CH. 951.

**Commonwealth of Virginia Higher Educational Institutions Bond Act of 2005.** Authorizes the Treasury Board to issue general obligation bonds of the Commonwealth, pursuant to Article X, Section 9 (c) of the Constitution of Virginia, in an aggregate principal amount not exceeding \$10,563,000, to fund specified capital projects at George Mason University, University of Virginia's College at Wise, and Virginia Military Institute. The bill states that an emergency exists and that the bill is in force from its passage. HB 2047; CH. 83 (effective 3/20/05)/ SB 939; CH. 32 (effective 3/20/05).

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## CLAIMS.

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**Arrington, H. Steven; Dixon, Carolyn; and Ware, E. Anthony.** Provides relief in the amount of \$1,500 for the relief of H. Steven Arrington; \$1,125 for the relief of Carolyn Dixon; and \$1,022 for the relief of E. Anthony Ware for attorneys' fees incurred in connection with a contested election for the District 5 representative for the Bedford County Board of Supervisors and School Board. The Bedford County registrar inadvertently placed in the district several registered voters who should have been placed in another district. A special three-judge panel ruled that the election was invalid and that the results were invalid. HB 2341; CH. 896.

**Davidson, Beulah K.** Provides relief for Beulah K. Davidson, consisting of a lump sum payment of \$1,050 to be paid by Au-



gust 1, 2005. Ms. Davidson's mother purchased property at an escheat sale to which the Commonwealth is unable to convey interest. Ms. Davidson's mother paid \$1,050 for the property. HB 2747; CH. 120.

**Lingebach, Walter S.** Provides relief to Walter S. Lingebach. In 1971 Mr. Lingebach purchased real property in Northumberland County pursuant to the treasurer's delinquent tax sale. Under law at the time, Mr. Lingebach would have been eligible after a number of years to make application to obtain clear title; however, a statute that would have permitted him to continue the process to completion was repealed in 1984 pursuant to the recodification of Title 58 of the Code of Virginia because it was deemed "obsolete." The bill would allow Mr. Lingebach to complete the process that he has already begun and has a July 1, 2007, sunset clause. This bill also contains an emergency clause. HB 2566; CH. 10 (effective 3/14/05).

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## CONSTITUTIONAL AMENDMENTS.

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**Constitutional amendment (first resolution); marriage.**

Provides that "only a union between one man and one woman may be a marriage valid in or recognized by this Commonwealth and its political subdivisions." The proposed amendment also prohibits the Commonwealth and its political subdivisions from creating or recognizing a legal status "for relationships of unmarried individuals that intends to approximate the design, qualities, significance, or effects of marriage." Further, the proposed amendment prohibits the Commonwealth or its political subdivisions from creating or recognizing "another union, partnership, or other legal status to which is assigned the rights, benefits, obligations, qualities, or effects of marriage." HJ 586; CH. 946/SJ 337; CH. 949.

**Constitutional amendment (first resolution); property exempt from taxation.**

Authorizes the General Assembly to enact legislation that will permit localities to provide a partial exemption from real property taxation for real estate and associated new structures and improvements in conservation, redevelopment, or rehabilitation areas. HJ 633; CH. 947/SJ 275; CH. 948.

**Constitutional amendment (first resolution); powers of the General Assembly; limitations on powers including incorporation of churches.**

Deletes language that prohibits the General Assembly from granting charters of incorporation to churches. This prohibition was held to be unconstitutional in 2002 by the United States District Court for the Western District of Virginia in *Falwell v. Miller* (203 F.Supp. 2d 624). The Court held that the prohibition against incorporation of churches violated the plaintiff church's First Amendment rights to the free exercise of religion. Since that case, the State Corporation Commission has granted charters to churches. This amendment deletes the now obsolete language and effects no change in current law on the powers of the General Assembly. SJ 339; CH. 950.



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