

In Due Course:

2013 Changes to Virginia's Laws

"All laws enacted at a regular session, . . . excluding a general appropriation law, shall take effect on the first day of July following the adjournment of the session of the General Assembly at which it has been enacted."
Constitution of Virginia, Article IV, Section 13



Virginia Division of Legislative Services



Agriculture

This publication provides a brief summary of legislation passed by the 2013 Regular Session of the General Assembly that is of interest to the citizens of Virginia and is likely to have an impact on their daily lives. The legislation has been signed by the Governor and most is due to go into effect on July 1, 2013.

HB 1695. Renewable energy; agricultural net metering. Requires the State Corporation Commission to establish a net energy metering program for eligible agricultural customers. Agricultural net metering will allow a customer that operates a solar, wind, or aerobic or anaerobic digester gas facility of up to 500 kilowatts as part of an agricultural business to be served by multiple meters that are located at separate but contiguous sites, provided the generating facility is located on land owned or controlled by the agricultural business and is used to provide energy to metered accounts of the agricultural business.

HB 1852. Inspection of food establishments and labeling of foods. Provides that private homes where the resident processes and prepares certain food products, including dried fruits, dry herbs, dry seasonings, nuts, vinegars, dried pasta, dry baking mixes, and cereals, do not

have to be inspected by the Virginia Department of Agriculture and Consumer Services (VDACS), so long as the resident processing and preparing the product puts a label on the product that states the name, address, and telephone number of the person preparing the food product and that the residence has not been inspected by VDACS.

Business and Employment

HB 1347/SB 896. Workers' compensation; injuries incurred by public safety officers. Allows a public safety officer, when weather is a particular risk of his employment, to be compensated for an injury received as a result of the weather while performing his public safety duties.

HB 1372. Unemployment compensation; disqualification from benefits due to loss of license or certification. Provides that an individual is ineligible for unemployment benefits if he was

discharged because he lost or failed to renew a license or certification that is required for his job.

HB 1481. Scrap metal purchasers. Provides that any person or business that purchases scrap metal worth more than \$20,000 during a 12-month period will be subject to requirements regarding the purchase of nonferrous scrap, metal articles, and proprietary articles. The law requires scrap metal purchasers to take and keep for 30 days an image of any proprietary articles purchased. The law also requires scrap metal purchasers to submit to the chief law-enforcement officer a report of all purchases of certain items, if requested by the law-enforcement officer, using a form prescribed by the Virginia State Police.

HB 1610. Financial institutions; joint accounts. Eliminates the requirement that financial institutions maintain or make available forms for the creation of both joint accounts with survivorship and joint accounts without survivorship. A financial institution may elect to make one or both forms available to persons opening joint accounts.

HB 1681. Child labor permits. Transfers the task of issuing child labor permits from public school superintendents to the Department of Labor and Industry.

HB 2061. Human trafficking notices. Provides that any employer who operates a truck stop must post a notice of the existence of a human trafficking hotline where other employee notices required by state or federal law are posted.

HB 2157/SB 1249. Financial institutions; checks. Repeals the requirement that checks and similar instruments of a financial institution located in the Commonwealth display the month and year in which the account was opened.

SB 775. Unemployment compensation. Provides that an employer will not be relieved from a claimant's benefit charges relating to an overpayment

of unemployment benefits when the employer has established a pattern of failing to respond timely or adequately to requests from the Commission for information relating to the claim. The law also provides that any person who is disqualified for unemployment benefits as a result of fraud will have to pay a penalty. The law allows benefit overpayments and penalties to be recovered and eliminates the provision that makes individuals who obtained benefits as a result of fraud ineligible for benefits until the benefits have been repaid.

SB 776. Virginia New Hire Reporting Center. Expands obligations of employers to report information about the hiring of employees to the Virginia New Hire Reporting Center. Employers are required to submit information about each newly hired employee to the Center within 20 days of the employment of a newly hired employee.

SB 779. Limited liability companies; assignment of interest. Amends the Virginia Limited Liability Company Act to provide that an assignment of an interest in a limited liability company does not entitle the assignee to participate in the management and affairs of the limited liability company or to become or to exercise any rights of a member, except as provided in subsection A of § 13.1-1040 of the Code of Virginia. The measure overturns the Virginia Supreme Court's finding in *Ott v. Monroe* that current law precludes such rights being transferred to an assignee.

Energy

HB 2334/SB 1023. Renewable energy. Directs the State Corporation Commission (SCC) to conduct a pilot program in which a person that owns or operates a solar-powered or wind-powered electricity generation facility with a capacity between 50 kilowatts and one megawatt that is located on premises owned or leased by an eligible customer-

generator will be allowed to sell the electricity generated from the facility exclusively to the eligible customer-generator under a power purchase agreement. The power purchase agreement will provide for third-party financing of the costs of the renewable generation facility. The minimum size requirement does not apply to certain nonprofit entities. The SCC will establish guidelines concerning aspects of the pilot program by December 1, 2013.

Environment and Natural Resources

HB 1629. Eel pots. Authorizes the Board of Game and Inland Fisheries (Board) to issue an annual permit to use eel pots in the waters of Back Bay and the North Landing River and their tributaries. The annual permit fee to catch eels for commercial purposes is \$50 and the annual permit fee to take eels for personal use is \$17.50. The law requires a nonresident to purchase a harvester's license for each boat used in taking eels at a cost of \$350 per boat, unless he already holds a nonharvester's license to take other types of finfish in inland waters. This fee is in addition to the permit fee for eel pots.

HB 1805/SB 1213. Lifetime saltwater recreational fishing license. Allows Virginia residents 65 years of age and older to purchase a lifetime saltwater recreational fishing license for \$5.

HB 1825. Riparian stationary blinds. Establishes time periods for a person to obtain a stationary blind license.

A riparian landowner or his lessee or permittee seeking to license a riparian stationary blind that was not licensed by him the previous year may obtain a license beginning February 1 through June 15. The license would require the licensee to erect a stake or blind, to which the seasonal license plate is affixed, at the blind site by June 30 and replace the stake with a blind by November 1.

A riparian landowner or his lessee or permittee who licensed a riparian stationary blind the previous year may obtain a license for the blind beginning February 1 through August 15. The license would require the licensee to affix the seasonal license plate to a stake or blind at the blind site by August 31 and replace the stake with a blind by November 1.

A person seeking a nonriparian license for a stationary blind that he licensed the previous year as a nonriparian stationary blind may purchase a license beginning July 1 through August 15. The license would require the licensee to erect a stake or blind, to which the seasonal license plate is affixed, at the blind site by August 31 and replace the stake with a blind by November 1. A stationary blind or a site not licensed and posted by August 31 can be licensed as a nonriparian stationary blind by another person from September 1 through October 15, with erection of the blind required by November 1.

The law becomes effective January 1, 2014.

HB 1859. Rabies clinics. Requires local governing bodies to ensure that rabies clinics are held at least once every two years.

HB 2069. Sale of seedlings. Authorizes the State Forester to sell seedlings to private individuals. The terms and conditions of the sale and the price of the seedlings will be set by the State Forester.

HB 2099. Shooting of muskrats and raccoons. Allows a landowner to trap or shoot fur-bearing animals, including muskrats and raccoons, upon his own land during the closed season when the animals are causing damage to his crops or property, are posing a threat to human health or safety, or are causing a nuisance.

HB 2184. Trip hunting and fishing licenses. Authorizes the Board to issue trip hunting licenses to nonresidents and trip fishing licenses to residents and nonresidents for time periods and at costs deter-

mined by the Board. Current law allows nonresidents to purchase a three-day trip hunting license at a cost of \$40 and a five-day trip fishing license at a cost of \$10 and allows residents to purchase a five-day trip fishing license at a cost of \$5.

SB 1106. Revocation of fishing licenses. Authorizes the Virginia Marine Resources Commission (Commission) to revoke a person's fishing privileges within the tidal waters if he violates any tidal fishing law and to withdraw all privileges to fish in tidal waters during the period in which any Commission-issued license has been revoked. The revocation can be for a period of up to two years.

SB 1117. Watercraft titling certificates. Requires the owner of every watercraft of a particular size and type to apply for and obtain a certificate of title, lowering the minimum boat length for which a title is required from 18 feet to 16 feet for boats owned or purchased after July 1, 2014. The law makes other changes affecting watercraft and becomes effective July 1, 2014.

Housing

HB 2305. Solar panels in community associations. Clarifies that a community association may establish reasonable restrictions concerning the size, place, and manner of placement of solar energy collection devices on property designated and intended for individual ownership and use. The law also requires the resale certificate required under the Virginia Condominium Act and the disclosure packet under the Virginia Property Owners' Association Act to contain a statement setting forth any restriction, limitation, or prohibition on the right of an owner to install or use solar energy collection devices on his property. In addition, the law adds to the seller's representation to a prospective purchaser of residential property under the Virginia Residential Property Disclosure Act that the seller makes no

representations with respect to the right to install or use solar energy collection devices on the property.

Insurance

HB 1607. Property and casualty insurance policies; electronic notices. Allows property and casualty insurers to deliver electronic notices of cancellation of certain policies.

HB 1731. Self-storage unit insurance. Establishes a procedure for those who rent self-storage units (lessor) to sell insurance that provides coverage against loss of or damage to items of personal property stored in a self-storage unit in accordance with the terms of the storage unit rental agreement. The lessor will be required to hold a limited lines property and casualty insurance agent license to sell or offer coverage under the policies. The lessor's employees and authorized representatives are not subject to licensure as producers if, among other requirements, the lessor is licensed, maintains a training program, and does not compensate its employees or authorized representatives based primarily on the number of customers purchasing coverage. The measure provides for the issuance of a license to an applicant whose home state does not issue a producer license with a similar line of authority, provided that the license will terminate if his home state does not have a similar line of insurance by July 1, 2017, or a later date determined by the State Corporation Commission (SCC). The SCC is authorized to promulgate rules and regulations.

SB 984. Notification of settlement payment. Requires an insurer that has made a payment of at least \$5,000 in a single check to an attorney or other representative of a claimant or judgment creditor, in settlement or satisfaction by an insured or a third party of any claim arising out of an insurance policy issued or delivered in the Commonwealth, to notify

the claimant or judgment creditor of the payment within five days after making payment.

SB 1243. Coverage for newborns; health maintenance organizations. Requires health care plans provided by a health maintenance organization to provide coverage for newborn children. The law does not apply to Medicaid managed care and FAMIS plans.

Motor Vehicles

HB 1387/SB 837. Special license plates. Authorizes the issuance of special license plates for supporters of the Washington Nationals baseball team to support the Washington Nationals Dream Foundation.

HB 1485. DMV fees. Allows the Department of Motor Vehicles (DMV) Commissioner to postpone the expiration of vehicle registration if the DMV is unable to operate for reasons beyond its control and the postponement is authorized by the Governor.

HB 2042. DMV customer service. Modifies requirements for (i) release by the DMV of vehicle title information, (ii) automated electronic payments to the DMV, (iii) temporary motorcycle operator licenses, and (iv) deactivation, extension, and reactivation of vehicle registration. Provisions relating to the deactivation and reactivation of vehicle registration become effective January 1, 2014. This law also allows the DMV to issue veteran ID cards.

SB 887. Farm use vehicles. Increases the distance that farm use vehicles used for agricultural and horticultural purposes and the seasonal transportation of produce and livestock may travel on the highways from 30 to 50 miles.

SB 892. Vehicles used by commercial fishermen. Provides that a commercial fisherman may transport boats or other equipment or harvested seafood up to 50 miles without having the vehicle registered.

SB 1038. Non-conventional vehicles. Provides for the titling and registration of mopeds and distinctive license plates for low-speed vehicles. The law also requires a moped operator to carry government-issued photo identification and wear a face shield, safety glasses, or goggles if the moped is not equipped with safety glass or a windshield. The law also makes all-terrain vehicles, off-road motorcycles, and mopeds subject to the motor vehicle sales and use tax, if the owner does not show that he already paid the retail sales and use tax. The law further classifies mopeds for valuation purposes in personal property taxation and allows localities to exempt mopeds from personal property taxation.

SB 1102. Emissions inspection exemption. Decreases the minimum miles per gallon rating required to be exempt from emissions inspection testing from 50 to 48 miles per gallon for 2008 and 2009 hybrid vehicles.

SB 1298. Special license plates. Authorizes the issuance of special license plates for active duty members, retirees, or honorably discharged veterans with six months of service in the U.S. Navy or U.S. Air Force.

SB 1368. Special license plates. Authorizes the issuance of special license plates bearing the legend PEACE BEGINS AT HOME to support the programs of the Virginia Sexual and Domestic Violence Action Alliance for the prevention of sexual and domestic violence in Virginia.

Transportation

HB 2313. Transportation revenues. Eliminates the \$0.175 per gallon tax on motor fuels and replaces it with a percentage-based tax of 3.5 percent for gasoline and six percent for diesel fuel. The law provides for a refund of an amount equal to a 2.5 percent tax paid on diesel fuel for passenger cars,

pickup or panel trucks, and trucks having a gross vehicle weight rating of 10,000 pounds or less.

The law imposes a \$64 annual registration fee on hybrid electric motor vehicles, alternative fuel vehicles, and electric motor vehicles.

The law raises the state sales and use tax across the Commonwealth from four percent to 4.3 percent and designates the increased revenues for the Highway Maintenance and Operating Fund, the Intercity Passenger Rail Operating and Capital Fund, and the Commonwealth Mass Transit Fund. The law establishes procedures for the collection of the state sales and use tax from retail dealers located outside Virginia for sales made into the Commonwealth, contingent upon the federal government's passing legislation authorizing the collection. In the event that the revenues are collected:

- A portion of the revenues will be allocated to localities for education.
- A portion will be allocated to localities with a stipulation that some of the funds be used by the locality for transportation needs.
- A portion of the revenues will be deposited in the Transportation Trust Fund.
- A portion will also be used to reimburse localities that currently impose a retail sales tax on the sale of certain fuels used for domestic consumption, as the law also repeals the authority to impose such tax.

If the federal government does not pass legislation authorizing the Commonwealth and other states to collect sales taxes from retail dealers located outside the respective state by January 1, 2015, then the motor fuels tax imposed on gasoline will be raised from 3.5 percent to 5.1 percent (the motor fuels tax on diesel fuel will remain at six percent, but the diesel fuel refund for passenger cars, pickup or panel trucks, and trucks weighing 10,000 pounds or less will be in an amount equal to a 0.9 percent tax paid). If the federal government passes the legislation after January 1,

2015, the rate of tax on gasoline will revert to 3.5 percent.

The law amends the tax on the sale of motor vehicles (the "titling tax"). Currently, the titling tax is three percent. A new rate of 4.15 percent will be phased in over four years.

The law increases the share of existing general sales and use tax revenues used for transportation from a 0.50 percent sales and use tax to a 0.675 percent sales and use tax, phased in over four years. The additional allocation will be deposited into the Highway Maintenance and Operating Fund. The law also allocates the revenues from an existing 0.125 percent sales and use tax to public education.

The law imposes additional state taxes and a fee in Planning Districts meeting certain population, motor vehicle registration, and transit ridership criteria. The additional taxes and fee are:

- A retail sales tax of 0.70 percent.
- A 2.1 percent tax on wholesale distributors of motor fuels.
- A two percent transient occupancy tax.
- A fee on grantors of real property equal to \$0.15 per \$100 of the value of the real property sold by such persons.

The transient occupancy tax and grantor's fee currently would apply only in the Northern Virginia Planning District, and the tax on wholesale distributors of motor fuels currently would apply only in the Hampton Roads Planning District (under current law, the same tax on wholesale distributors is imposed in the Northern Virginia Planning District). The retail sales tax currently would apply in both the Northern Virginia and Hampton Roads Planning Districts. The additional revenues generated in the Northern Virginia Planning District are deposited into a Northern Virginia Transportation Authority Fund, with 30 percent of the funds being distributed

to the member localities for use on transportation projects, and the remainder to be used for regional transportation projects. The additional revenues generated in the Hampton Roads Planning District are deposited into a Hampton Roads Construction Fund to be used solely for new construction projects on new or existing roads, bridges, and tunnels, as approved by the Hampton Roads Transportation Planning Organization.

The 0.70 percent state sales and use taxes in Planning Districts are in addition to the 0.3 percent state sales and use tax increase that applies throughout the Commonwealth.

Of the increased revenues in the Highway Maintenance and Operating Fund, \$100 million in fiscal years 2014, 2015, and 2016 will be dedicated to Phase II of the Dulles Metrorail Extension Project, subject to certain conditions. Beginning in fiscal year 2020, \$20 million dollars from the Highway Maintenance and Operating Fund will be deposited into the Route 58 Corridor Development Fund.

The law prohibits tolling on Interstate 95 south of Fredericksburg without prior approval of the General Assembly.

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