



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

In Due Course: 2014 Changes to Virginia’s Laws

In Due Course is a selection of legislation passed by the 2014 Session of the General Assembly that is likely to affect the daily lives of the citizens of Virginia. The following legislation has been signed by the Governor and for the most part will go into effect on July 1, 2014.

The summaries were prepared by the staff of the Division of Legislative Services. Complete information on actions of the 2014 Session is available on the Legislative Information System (<http://lis.virginia.gov>).

Topics

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Alcoholic Beverage Control

HB 270. Licensees to provide information to consumers. The law allows any winery, farm winery, wine importer, or wine wholesaler licensee to provide to adult customers of licensed retail establishments information about wine being consumed on the premises.

HB 283. Suspension of license for local tax delinquency. The law authorizes the ABC Board to suspend or revoke the license of a licensee who is delinquent for a period of 90 days or more in the payment of any taxes, or any related penalties or interest, lawfully imposed by the locality where the licensed business is located.

SB 430. Limited brewery license created. The law creates a new limited brewery license for breweries that manufacture no more than 15,000 barrels of beer per calendar year, are located on a farm in the Commonwealth, and use agricultural products that are grown on the farm in the manufacture of their beer. The law limits local regulation of certain activities of limited brewery licensees and specifically permits “usual and customary activities and events” at such licensed breweries unless there is a substantial impact on the health, safety, or welfare of the public.



Animal Care

SB 228. Pet dealers; diseased animals; veterinary certificate. The law requires a pet dealer to reimburse a buyer for certain veterinary fees when a veterinarian certifies a diseased dog or cat as being unfit for purchase, whether the buyer returns or keeps the animal. Current law requires the pet dealer to refund the purchase price or exchange the unfit pet for a pet of equal value. The law extends the return or reimbursement period from 10 to 14 days in the case of an animal infected with parvovirus and eliminates the condition that the animal be described as pedigreed.

Business and Employment

HB 69. Extended service contracts. The law expands the types of services that may be provided under an extended service contract to include repair or replacement of certain types of damage to a motor vehicle, the replacement of motor vehicle keys, and the installation or application of certain protective materials on a motor vehicle if the service contract includes an agreement that provides for payment to the purchaser of incidental costs if the material fails to prevent loss or damage.

HB 180. Invention development services; disclosure and civil penalty. The law requires each contract for invention development services to include on its cover sheet a disclosure that the contract is a fee-for-service contract with no guarantees as to success of the invention and information on how to file a consumer complaint with the Office of the Attorney General regarding invention development services.

HB 375/SB 150. Patent infringement; assertions made in bad faith. The law prohibits any person from making in bad faith an assertion of patent infringement.

HB 389. Unemployment compensation; voluntary separation presumed. The law establishes a presumption that an individual left work voluntarily if the individual was a graduate student whose employment began and ended between spring and fall semesters of his academic program and he returned to his academic program following his separation from employment.

HB 458. Workers' compensation; civil penalties; collection costs. The law increases the maximum civil penalty that may be assessed against an employer for failure to obtain workers' compensation insurance or provide evidence of compliance with the Virginia Workers' Compensation Act to \$50,000. Currently, noncompliant employers are subject to a civil penalty of not less than \$500 nor more than \$5,000. The law provides that, subject to the maximum, the penalty for each day of noncompliance will be no more than \$250.

HB 954/SB 118. Transitional mortgage loan originators; licensing. The law authorizes the State Corporation Commission to issue transitional mortgage loan originator licenses. Such a license allows an individual to engage in business as a mortgage loan originator for a period of no more than 120 days, during which time the individual may fulfill prelicensing education and written test requirements and apply for a mortgage loan originator license.

HB 1026. Check cashers; recordkeeping requirements. The law requires each registered check casher to make copies of, or maintain a record of information from, each item cashed and the customer's identification document before cashing the item. Records for each transaction are required to be retained for six months.

HB 1072/SB 40. Scanning information from driver's license. The law prohibits any merchant in the Commonwealth from scanning the machine-readable zone of an individual's Department of Motor Vehicles-issued identification card or driver's license, subject to certain exceptions.

SB 18. Unemployment compensation; quit to follow military spouse. The law provides that good cause for leaving employment exists if an employee voluntarily leaves a job to accompany the employee's spouse, who is on active duty in the military or naval services of the United States, to a new military-related assignment, following a permanent change of duty order, from which the employee's place of employment is not reasonably accessible. The law applies only if the state to which the spouse is transferred has a similar provision, unless the transfer involves members of the Virginia National Guard relocated within the Commonwealth.

SB 74. Real estate loans; flood insurance. The law prohibits a lender from requiring a borrower to provide flood insurance coverage against risks to improvements on real property securing its loan in an amount that exceeds the replacement value of the improvements.

SB 335. Money order sellers and money transmitters. The law requires criminal background checks on members, senior officers, directors, and principals of applicants for licensure as a money order seller or money transmitter.

SB 516. Employment preference for veterans and spouses of certain veterans. The law allows private employers to grant preference in hiring and promotion to an honorably discharged veteran or the spouse of an honorably discharged veteran with a service-connected permanent and total disability.

Constitutional Amendment

HJ 8/HB 46. Constitutional amendment and voter referendum; real property tax exemption for spouses of soldiers killed in action. The law provides that if the constitutional amendment is approved by voter referendum at the November 4, 2014, general election the General Assembly may provide a real property tax exemption for the primary residence of surviving spouses of members of the military who are killed in action. The tax exemption may not be claimed by a surviving spouse who has remarried.

Criminal Offenses

HB 218/SB 96. Purchase, etc., of tobacco products (e-cigarettes) by minors. The law adds nicotine vapor products and alternative nicotine products to the list of tobacco products that cannot be sold to or purchased or possessed by a minor.

HB 326. Unlawful dissemination or sale of images of another; penalty. The law provides that a person is guilty of a Class 1 misdemeanor if he, with the intent to coerce, harass, or intimidate the depicted person, maliciously disseminates or sells any videographic or still image created by any means whatsoever that depicts another person who is totally nude or in a state of undress so as to expose the genitals, pubic area, buttocks, or female breasts, where such person knows or has reason to know that he is not licensed or authorized to do so.

HB 810/SB 65. Reckless handling of firearms; penalty (Brendon's Law). The law provides that any person who recklessly handles a firearm and through such reckless handling causes the serious bodily injury of another person resulting in permanent and significant physical impairment is guilty of a Class 6 felony.

HB 1112/SB 594. Cannabimimetic agents; regulation by Board of Pharmacy; penalties. The law substitutes the term "cannabimimetic agents" for the term "synthetic cannabinoids" to describe certain chemical substances (often referred to as "synthetic marijuana" or "spice") that are unlawful to possess,



distribute, or manufacture and makes them Schedule I controlled substances. They will be subject to the same penalties as those for other Schedule I controlled substances with the exception of simple possession, which will be penalized as a Class 1 misdemeanor instead of as a Class 5 felony.

The law authorizes the Board of Pharmacy to place controlled substance analogs (a substance that has a chemical structure substantially similar to that of a controlled substance in Schedule I or II and that has or is intended to have the same or a greater stimulant, depressant, or hallucinogenic effect on the central nervous system) on the list of controlled substances found in Schedule I or II via an expedited regulatory process. A substance added via this process is removed from such list after 18 months unless a general law is enacted adding the substance to such list.

SB 14. Certain sex crimes. The law clarifies numerous sections of the Code of Virginia dealing with sex crimes by enumerating the specific acts (anal intercourse, cunnilingus, fellatio, and anilingus) that are prohibited. The law also provides that an adult who engages in such consensual acts with a minor who is 15 years of age or older is guilty of a Class 1 misdemeanor. The law increases from \$10 to \$15 the additional fee placed upon each felony or misdemeanor conviction assessed as court costs and deposited into the state treasury and credited to the Internet Crimes Against Children Fund. The law became effective April 23, 2014.

Education

HB 134/SB 532. Care of students who have been diagnosed with diabetes. The law requires local school boards to permit students who are diagnosed with diabetes to (i) carry with them and use supplies, including a reasonable and appropriate short-term supply of carbohydrates, an insulin pump, and equipment for immediate treatment of high and low blood glucose levels, and (ii) self-check their blood glucose levels on a school bus, on school property, and at a school-sponsored activity.

HB 198/HB 752 and SB 441. Elementary and secondary school students; expulsion. The law clarifies that students who have committed certain weapons or drugs offenses are not required to be expelled regardless of the facts of the particular situation.

HB 410/SB 172. Student-athletes; concussion policies. The law requires each non-interscholastic youth sports program utilizing public school property to (i) establish policies and procedures regarding the identification and handling of suspected concussions in student-athletes, consistent with either the local school division's policies and procedures or the Board of Education's Guidelines for Policies on Concussions in Student-Athletes, or (ii) follow the local school division's policies and procedures regarding the identification and handling of suspected concussions in student-athletes.

HB 930/SB 306. Standards of Learning assessments; reform. The law sets the maximum number and type of Standards of Learning assessments at 17 specified assessments in grades three through eight and requires the Secretary of Education to establish the Standards of Learning Innovation Committee to periodically review the Standards of Learning and assessments.

HB 1229/SB 324. Public schools; individual school performance grading system; delay. The law delays the implementation of the A-to-F school performance grading system by two years, to October 1, 2016. The law also requires the Board of Education to develop a preliminary plan for the school performance grading system and provide public notice and solicit public comment on the system.

Elections

HB 451. Elected and certain appointed officers; removal from office. The law adds sexual battery, attempted sexual battery, consensual intercourse with a child 15 years of age or older, indecent exposure, and peeping to the list of offenses for which a circuit court, upon petition, may remove from office an elected officer or officer appointed to fill an elective office.

HB 1197. Absentee voting; return of unused and defaced absentee ballots. The law provides that a voter who returns his unused or defaced absentee ballot before the day of the election will be entitled to vote a regular ballot on election day if the electoral board, the general registrar, or an officer of election is able to confirm the prior return of the ballot. If the ballot's return cannot be confirmed on election day, the voter will be permitted to cast a provisional ballot. Additionally, a voter may return his unused or defaced absentee ballot on the day of the election and be entitled to vote a regular ballot.

General Laws

HB 439. Fraud and Abuse Whistle Blower Protection Act; applicability to Virginia citizens. The law expands the protections of the Fraud and Abuse Whistle Blower Protection Act that currently apply to state government employees to all Virginia citizens and makes Virginia citizens eligible for an award from the Fraud and Abuse Whistle Blower Reward Fund.

HB 730/SB 381. Secretary of Public Safety; Secretary of Veterans Affairs and Homeland Security; transfer of certain powers and duties. The law renames the Secretary of Public Safety as the Secretary of Public Safety and Homeland Security and reassigns duties currently assigned to the Secretary of Veterans Affairs and Homeland Security relating to homeland security. The law renames the Secretary of Veterans Affairs and Homeland Security as the Secretary of Veterans and Defense Affairs. This law became effective on March 3, 2014.

Health and Health Professions

HB 387/SB 183. Critical congenital heart defect screening test of newborns. The law requires every hospital in the Commonwealth with a newborn nursery to perform a critical congenital heart defect screening test on every newborn in its care when the child is at least 24 hours old but no more than 48 hours old or, in cases in which the infant is discharged prior to reaching 24 hours of age, prior to discharging the infant. An infant whose parent or guardian objects to the test on the grounds that the test conflicts with his religious practices is not required to receive the test.

HB 612/SB 300. Genetic counseling; licensure. The law establishes requirements and a process for licensure as a genetic counselor, sets forth exemptions from the requirements for a license, and establishes the Advisory Board on Genetic Counseling.

Housing

HB 331. First-time home buyer savings accounts. The law establishes first-time home buyer savings accounts to be used solely for the down payment and closing costs incurred for the purchase of a home by a first-time home buyer. Any income earned on a first-time home buyer savings account may be deducted for Virginia income tax purposes. No more than \$50,000 in principal may be contributed to a first-time home buyer savings account, and the maximum balance that may be retained in an account is \$150,000.



HB 791. Condominium and Property Owners' Association Acts; rule enforcement. The law provides that associations may file or defend a legal action in general district or circuit court to seek an order to require that any violation of the condominium instruments or duly adopted rules be corrected. The law provides that before any action is taken to enforce rules violations, the owner shall be given a reasonable opportunity to correct the alleged violation. The law provides that in the event of a legal action involving rule enforcement, the prevailing party is entitled to recover court costs and reasonable attorney fees. Currently, only the association is entitled to recover such costs and fees.

SB 222. Solar panels in community associations. The law clarifies a community association's authority to prohibit or restrict the installation of solar power devices. The law bars a community association from prohibiting a property owner from installing a solar energy collection device on the owner's property unless the community association's recorded declaration establishes such a prohibition.

SB 490. Carbon monoxide alarms; required installation in rental dwelling units. The law requires a landlord to install carbon monoxide alarms upon the written request of a tenant and allows the landlord to charge a reasonable fee for the installation of the alarms.

Human Trafficking

HB 235/SB 454. Sex Offender and Crimes Against Minors Registry Act; solicitation of prostitution; pandering; minors. The law adds solicitation of prostitution from a minor and pandering involving a minor to the list of crimes requiring the offender to register on the Sex Offender and Crimes Against Minors Registry. The law also provides that a person who engages in pandering involving a minor is guilty of a Class 4 felony.

HB 660. Seizure and forfeiture of property used in connection with the commission of certain crimes. The law provides that property used in connection with certain crimes associated with human trafficking is subject to forfeiture to the Commonwealth. The law requires a conviction before property can be forfeited and the release of any seized property if there is no conviction.

Hunting

HB 127. Use of muzzleloading pistols. The law allows persons to hunt big game with muzzleloading pistols of a caliber of .45 or greater where and in those seasons when the use of muzzleloading rifles is permitted. The law authorizes the Board of Game and Inland Fisheries to specify the types of muzzleloading pistols and projectiles and propellants that may be used.

HB 857. Hunting with a muzzleloading rifle; blaze orange clothing. The law requires muzzleloader deer hunters during the special season for hunting deer with a muzzleloading rifle, in those counties and cities designated by the Department of Game and Inland Fisheries, to wear blaze orange until they arrive at a stationary location.

HB 1146. Apprentice hunters. The law allows persons holding an apprentice hunting license to hunt unsupervised if they have successfully completed a hunter education course.

HB 1237/SB 154. Hunting on Sundays. The law allows hunting on Sundays under certain circumstances. A person may hunt waterfowl, subject to restrictions imposed by the Director of the Department of Game and Inland Fisheries, and a landowner and his immediate family or a person with written permission from the landowner may hunt or kill any wild bird or wild animal, including nuisance

species, on the landowner's property. However, the law prohibits such hunting activities within 200 yards of a house of worship. The law also prohibits the hunting of deer or bear with a gun, firearm, or other weapon with the aid or assistance of dogs on Sundays.

SB 42. Penning of fox or coyote; penalty. The law makes it a Class 1 misdemeanor for any person to erect or maintain an enclosure for the purpose of pursuing, hunting, or killing a fox or coyote with dogs. Until July 1, 2054, the law exempts from the ban any foxhound training preserve that was operating under a permit issued by the Department of Game and Inland Fisheries as of January 1, 2014.

Insurance

HB 308/SB 201. Health insurance; prescription drugs; formularies. The law requires any health insurer, corporate provider of individual or group accident and sickness subscription contracts, or health maintenance organization that bases prescription drug benefits on a formulary to give each affected policyholder or contract holder at least 30 days' prior written notice of a change to a formulary that results in the movement of a prescription drug to a tier with higher cost-sharing requirements.

HB 634/SB 86. Annuity contracts; interest on proceeds. The law clarifies that an insurance company is required to pay interest on a death benefit claim under a variable annuity contract from the date of the insurer's receipt of a completed claim form.

HB 1043/SB 542. Health benefit exchanges; regulation of navigators. The law requires navigators, on and after September 1, 2014, to be registered with the State Corporation Commission, in addition to being certified by the federal Department of Health and Human Services.

HB 1176. Health insurance; notice of increase in premium or deductible. The law requires health insurers to provide written notice of intent to increase the annual premium or deductible in conjunction with the proposed renewal of coverage under any individual health insurance policy, contract, or plan. Such notices are required to be given at least 75 days prior to the proposed renewal of coverage. The requirement begins with policy, contract, or plan year renewals beginning on or after January 1, 2015.

Local Government

HB 177. Cutting of grass; statewide application. The law makes current grass-cutting provisions applicable statewide for all localities.

HB 268/SB 51. Agricultural operations; local regulation of certain activities, On-Farm Activities Working Group. The law protects certain activities at agricultural operations from local regulation in the absence of substantial effects on the public welfare and requires localities to take certain factors into account when regulating any of several activities: the conduct of agritourism activities, the sale of agricultural or silvicultural products or related items, the preparation or sale of foods that otherwise comply with state law, and other customary activities.

HB 597. Richmond Metropolitan Authority; renamed, composition of Board of Directors. The law renames the Authority as the Richmond Metropolitan Transportation Authority and equalizes Board representation among the City of Richmond, Chesterfield County, and Henrico County.

HB 1011. Local mandates. The law extends from July 1, 2014, to July 1, 2018, the task force appointed by the Governor to review state mandates on localities.

HB 1089. Zoning; agricultural products. The law clarifies the definition of agricultural products for the purposes of local zoning ordinances. The law will become effective on January 1, 2015.



Mental Health Reform

HB 293/478/1172/1232 and SB 260.

Emergency custody orders; duration; notification. The law extends the time that a person may be held pursuant to an emergency custody order from four hours with a possible two-hour extension to eight hours. The law also provides that a representative of the law-enforcement agency that takes the person into emergency custody or executes an emergency custody order must notify the local community services board as soon as practicable after the person is taken into custody or the order is executed. The law also requires that a person who is the subject of an emergency custody order or temporary detention order be given a written summary of the procedures and statutory protections associated with such custody or detention.

Determining facility of temporary detention. The law provides that an individual for whom a temporary detention order is issued shall be detained in a state facility unless the state facility or an employee or designee of the community services board is able to identify an alternative facility that is able and willing to provide temporary detention. The law also establishes a procedure for transferring custody of a person who is the subject of a temporary detention order from one facility to another facility. Under no circumstances shall a state facility fail or refuse to admit an individual who meets the criteria for temporary detention unless an alternative facility has agreed to accept the individual. The state facility and the local community services board may continue to look for an alternative facility for an additional four hours. The provisions of this law allowing for this additional four-hour period expire on June 30, 2018.

Acute psychiatric bed registry. The law directs the Department of Behavioral Health and Developmental Services to establish an acute psychiatric bed registry that will provide real-time information on the availability of beds in public and private psychiatric facilities and residential crisis stabilization units for individuals who meet the criteria for temporary detention. This portion of changes to mental health law became effective April 7, 2014.

Motor Vehicles

HB 122/SB 383. New vehicle classification; autocycle. The law defines a new class of vehicle, known as an autocycle, and provides for examination of drivers, registration fees, safety, inspection, and other requirements pursuant to creating this new class of vehicle.

HB 263/SB 135. Special license plates. Disabled veterans who have been honorably discharged may receive special license plates that are already developed for certain branches of the United States armed forces.

In addition, new special license plates were approved for supporters of:

- The protection and enjoyment of oceans, waves, and beaches in Virginia through the Surfrider Foundation* (**HB 189**)
- Pollinator conservation (PROTECT POLLINATORS) (**SB 259**)
- Education, charity, and scientific study for Virginia's Eastern Shore business community* (**HB 840**)

*Denotes a revenue-sharing special license plate, which is subject to a \$25 annual surcharge. Once at least 1,000 sets of these plates are sold, \$15 of each \$25 annual surcharge goes to support a specified entity.

HB 608. Special license plates for amateur radio operators. The law eliminates the requirement that vehicles must have radio transmitting and receiving equipment permanently installed in order to be eligible for special license plates for amateur radio operators.

HB 771. Mature driver crash prevention. The law provides for a course in mature driver motor vehicle crash prevention and allows the court to order the course in adjudicating defendants. The law also lowers the age at which drivers are required to appear before the DMV for license renewal from 80 to 75 and requires that licenses issued to persons age 75 or older be valid for no more than five years.

HB 975/SB 127. Annual license tax on hybrid electric motor vehicles. The law repeals the \$64 annual license tax levied on hybrid electric motor vehicles. A person who prepaid the tax for a hybrid electric motor vehicle for any registration year beginning on or after July 1, 2014, may apply for a refund from the Department of Motor Vehicles for the amount of the tax paid.

Social Services

HB 405/SB 332. Suspected abuse or neglect of a child; reports to law enforcement. The law requires the local department of social services to notify the local attorney for the Commonwealth and the local law-enforcement agency of all complaints of suspected child abuse and neglect involving certain injuries or criminal acts immediately upon receipt of the complaint, but in no case more than two hours from receipt of the complaint.

HB 407. Adoption; disclosure of identifying information. The law provides that in cases in which an adult adopted person seeks disclosure of identifying information about his birth parents and consent of the birth parents is not obtainable due to the death or mental incapacity of the birth parents, the Commissioner of Social Services must release the identifying information requested upon a showing of good cause as to why the information should be made available.

HB 412/SB 639. Child welfare agencies; criminal history background checks. The law directs the Department of Social Services to convene a work group to review current state and federal laws and regulations governing criminal history background checks for child-care providers and to develop a plan for implementation of national fingerprint-based criminal history background checks for all child-care providers in the Commonwealth.

HB 450. Background checks; employment prior to receipt of results. The law prohibits employment of any person in a position that involves direct contact with a patient of, or person or child receiving services from, a nursing home, home health organization, hospice, assisted living facility, adult day care, child welfare agency, or family day home approved by a family day system until the results of a criminal history background check have been received, unless the person works under the direct supervision of a person for whom a background check has been performed.

HB 933. Update to child support guidelines. The law updates child support guidelines to specify obligors' monthly child support obligation on the basis of gross monthly income in increments up to \$35,000, with an additional amount calculated as a percentage of gross monthly income above \$35,000. The law allows the court to set a support obligation below the statutory minimum for obligors who earn up to 150 percent of the federal poverty level, provided that such lower amount does not seriously impair the custodial parent's ability to maintain minimal adequate housing and provide other basic necessities for the child.



Transportation

HB 2. Allocations within highway construction districts. The law provides for the development of a prioritization process for projects funded by the Commonwealth Transportation Board. Such prioritization shall weigh factors such as congestion mitigation, economic development, accessibility, safety, and environmental quality and be applied within each highway construction district.

HB 1253/SB 513. Hampton Roads Transportation Accountability Commission. The law creates the Hampton Roads Transportation Accountability Commission and moves the responsibility for approval of projects and the priority of such projects pursuant to the Hampton Roads Transportation Fund from the Hampton Roads Transportation Planning Organization (HRTPO) to the Hampton Roads Transportation Accountability Commission (HRTAC).

Utilities

HB 822/SB 498. Renewable energy portfolio standard program. The law limits the ability of an electric utility participating in the renewable energy portfolio standard (RPS) program to bank renewable energy sales or renewable energy certificates (RECs) that are in excess of the yearly sales requirement for that RPS Goal. The law provides that the utility may use such excess sales or RECs to achieve the RPS Goals only in the subsequent five calendar years after the renewable energy was generated or the certificates were created. An electric utility may continue to apply RECs that it acquired prior to January 1, 2014.

SB 459. Electric utility regulation; recovery of nuclear costs. The law limits the portion of all costs incurred by an electric utility between July 1, 2007, and December 31, 2013, in developing a nuclear power facility that are recoverable through a rate adjustment clause to 30 percent of such amount. The remaining 70 percent of all such costs related to such a facility shall be recovered ratably through existing base rates as determined by the State Corporation Commission in the test periods under review in the utility's next biennial review filed after July 1, 2014.

SB 585. Electric utility regulation; recovery of costs of new underground distribution facilities. The law authorizes investor-owned electric utilities to recover the costs of new underground distribution facilities through a rate adjustment clause. Eligible facilities will replace existing overhead distribution facilities of 69 kilovolts or less.

SB 643. Electric utilities; costs of offshore wind facilities. The law limits the portion of all costs incurred by an electric utility between July 1, 2007, and December 31, 2013, in developing an offshore wind facility that are recoverable through a rate adjustment clause to 30 percent of such amount. The remaining 70 percent of all such costs related to such a facility shall be recovered ratably through existing base rates as determined by the SCC in the test periods under review in the utility's next biennial review filed after July 1, 2014. The law also states that the planning and development activities for new generation facilities utilizing energy derived from offshore wind are in the public interest.