

*“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:

## 2002 Changes to Virginia's Laws



This publication provides a brief summary of legislation passed by the 2002 General Assembly that is of interest to the citizens of Virginia and is likely to have an impact on their daily lives. All of the legislation has been signed by the Governor and is due to go into effect on July 1, 2002. The summaries were prepared by the staff of the Division of Legislative Services.

### Taxes

On November 5, 2002, voters in Northern Virginia and Hampton Roads will decide whether to increase sales taxes in their localities to pay for transportation improvements.

In **Northern Virginia** (Arlington, Fairfax, Loudoun, and Prince William Counties and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park), **voters may choose to increase their sales tax rate from 4.5% to 5%**. If the sales tax increase is passed by the voters, the Northern Virginia Transportation Authority will be authorized to issue debt in a principal amount not exceeding \$2,800,000,000 for specified transportation projects and to pay the interest and principal of the debt with the additional sales tax revenues.

In **Hampton Roads** (Isle of Wight, James City, and York Counties and the Cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg), **voters may choose to increase their tax rate by one percent, from 4.5% to 5.5%**, to authorize the Hampton Roads Planning District Commission to issue debt in a principal amount not exceeding \$5,990,000,000 for specified transportation projects, and to pay the interest and principal of the debt with the additional sales tax revenues.

**State income tax refunds.** Taxpayers will earn interest on their state income tax refunds if the refund is delayed more than 30 days for returns filed electronically or 60 days for returns filed by other means. This change will be effective for taxable years beginning January 1, 2003.

# Terrorism

Virginia's capabilities to respond to terrorism will be broadened and strengthened. The new law defines "act of terrorism" and "weapon of terrorism" and punishes committing, aiding and abetting terrorism, manufacture and possession of terrorist and hoax devices, acts of bioterrorism against agricultural crops or animals, and making terrorist threats.

**Murder in the furtherance of terrorism** will be a capital crime, and the possession, with the intent to injure another, of an infectious biological substance or radiological agent capable of causing death or serious bodily injury will be a Class 5 felony. A person who manufactures, sells, gives, distributes or uses an infectious biological substance or radiological agent with the intent to injure another will be guilty of a Class 4 felony.

The enhanced penalties for **malicious bodily injury** to law-enforcement officers and firefighters will also apply to search and rescue and emergency medical services personnel. The Attorney General will be authorized to prosecute **money laundering** with the concurrence of the attorney for the Commonwealth of the locality.

**Wiretap capabilities** in response to terrorist activity will be expanded; **bail** for a person charged with a terroristic crime will be restricted; and **seizure and forfeiture law** will be expanded to include property associated with terrorism.

**Bioterrorism.** Physicians and laboratory directors must report diseases that may be caused by exposure to an agent or substance that has the **potential for use as a weapon** to the Board of Health, which will operate an emergency response system 24-hours a day. The Commissioner of the Board of Health must immediately report any outbreak or occurrence of a disease identified as being caused by exposure to an agent or substance that has the potential for use as a weapon to the Department of State Police for investigation. The Board of Health is also specifically

authorized to develop procedures to respond to any bioterrorism.

**Dangerous microbes and pathogens.** Laboratories in the Commonwealth will be required to report their inventories and changes of inventories of dangerous microbes and pathogens to the State Department of Health. The laboratories must also immediately report inventory that cannot be accounted for within 24 hours. The Board of Health is to determine the list of dangerous microbes and pathogens to be reported and the manner of such reporting.

# Criminal Justice

**Domestic violence.** A statewide facilitator for victims of domestic violence within the Office of the Attorney General will be created. The Department of Criminal Justice Services will establish training standards and publish a **model policy** for law-enforcement personnel in the handling of domestic violence cases. **Family abuse** is redefined to include reasonable apprehension of any bodily injury rather than serious bodily injury as under current law.

Law-enforcement agencies must enter information on **protective orders** into the Virginia Criminal Information Network (VCIN) immediately upon receipt, rather than as soon as practicable or on the date of receipt.

The current provision that **marital rape** cannot occur unless the spouses were living apart or there was bodily injury caused by force or violence is removed; the penalty for knowingly **obstructing justice** without just cause is increased from a Class 2 to a Class 1 misdemeanor; and the **unlawful use** of and injury to telephone and telegraph lines and copying or obstructing telephone messages goes from a Class 3 to a Class 2 misdemeanor.

The **witness protection program**, currently authorized to be established by the Department of State Police, is amended to include persons who may be in danger because of their

cooperation with the investigation and prosecution of the following crimes: assault and battery against a family or household member, a third misdemeanor conviction of certain sexual offenses, felony sexual assault and violent felony sexual assault.

**Cross-burning.** Virginia's current cross-burning law was found unconstitutional by the Virginia Supreme Court. In response, the General Assembly passed a new law that makes no reference to a cross, but provides that any person, with the intent of intimidating another, who burns an object on the private property of another or on a highway or other public place in a manner having a direct tendency to place another in reasonable fear or apprehension of death or bodily injury is guilty of a Class 6 felony.

## Motor Vehicles

**Driver's licenses.** The General Assembly made several changes to Virginia's laws regarding driver's licenses and DMV-issued photo ID cards, partially in response to the September 11 terrorist attacks on the United States:

- Beginning July 1, young men from 18 to 25 years old will need to register with the Selective Service (draft) before they apply for a driver's license or learner's permit in Virginia.
- No one will be allowed to have both a Virginia driver's license and a DMV-issued photo ID card.
- Obtaining, aiding in obtaining, or possessing a Virginia driver's license or other document issued by DMV will be a Class 2 misdemeanor if the violation involved obtaining or possession of the document for purposes of engaging in an age-limited activity (such as alcoholic beverages) but will be a Class 6 felony if the violation was committed for other purposes.
- The use of immigration visas and written statements (whether notarized or not) wherein another person "vouches" for the Virginia residency of an applicant for a Virginia driver's license will be prohibited.

- Applicants for driver's licenses will be assigned driver's license numbers that are not social security numbers, except when applicants request in writing that their social security numbers be used as their driver's license numbers.
- The DMV Commissioner will report, no later than December 1, 2002, on the need for further modification or enhancement to the identity and residency requirements in the application process for Virginia driver's licenses.

**Aggressive drivers.** Drivers can be charged with the new offense of aggressive driving if they violate one or more of a list of traffic violations (for example, following too closely, failure to observe lanes marked for traffic, or stopping on the highway) with the intent to harass, intimidate, injure or obstruct another person. Aggressive driving will be punished as a Class 2 misdemeanor. However, aggressive driving with the intent to injure another person will be punished as a Class 1 misdemeanor.

**Open containers.** A driver is *presumed* to have consumed an alcoholic beverage if (i) an open container is located in the passenger area of a motor vehicle, (ii) the alcoholic beverage in the open container has been at least partially removed and (iii) the appearance, conduct, odor of alcohol, speech or other physical characteristic of the driver may be reasonably associated with the consumption of an alcoholic beverage. The *presumption* that he has consumed an alcoholic beverage can be rebutted by the driver in court. The violation is punishable as a Class 4 misdemeanor.

**"Four for Life."** The motor vehicle registration surcharge, used to support emergency medical services, will increase from two dollars per year (two-for-life) to four dollars per year (four-for-life).

**Inspection fees.** The cap on motor vehicle safety inspection fees for passenger cars and pickup or panel trucks will increase from \$10 to \$15 and on emission inspection fees from \$20 to \$28.

**Booster seats.** The maximum age of children who must be secured in child restraint devices when traveling in motor vehicles will increase from under four years old to under six years old.

## Education

**National motto.** All school boards will be required to post the statement, "In God We Trust," the national motto, enacted by Congress in 1956, prominently and in a conspicuous place, in each of their schools for all students to read.

**Guidance counselors.** The Standards of Quality are amended to require, within the

Standards of Accreditation, guidance counselors in elementary schools at the following staffing levels:

- one hour per day per 100 students,
- one full-time at 500 students, and
- one hour per day additional time per 100 students or major fraction thereof.

In addition, elementary schools may employ one full-time reading specialist "at the discretion of the local school board."

**Emergency management.** Incidents involving acts of terrorism will be added to the specific events that must be addressed in school crisis and emergency management plans. These plans include the procedures, operations, and assignments to prevent, manage, and respond to any critical event or emergency.

## Referendums

In addition to the transportation initiatives for Northern Virginia and Hampton Roads (see page 1), Virginia's voters will find a number of other measures on the November ballot:

### *Constitutional Amendments*

**Claims of actual innocence.** Permits the Supreme Court to consider, as part of its original jurisdiction, claims of actual innocence presented by convicted felons in the cases and manner provided by the General Assembly.

**Property tax exemptions.** Allows local governing bodies to grant tax exemptions for property used for charitable and certain other purposes by local ordinance subject to restrictions and conditions provided by general law enacted by the General Assembly. The present Constitution allows the General Assembly to exempt such property by classification or by designation by a three-fourths vote in each house.

### *Bonds*

**Parks.** Authorizes the issuance of Commonwealth of Virginia Park and Recreational Facilities Bonds in an amount not exceeding \$119,040,000 to provide funds for numerous capital projects at state parks, including \$30 million for acquiring land for natural areas and state parks and \$89 million for upgrading park facilities. The full faith and credit of the Commonwealth is pledged for the payment of the principal of and interest on the bonds and any bond anticipation notes or refunding bonds. The bill authorizes the Treasury Board, by and with the consent of the Governor, to fix the details of such bonds, to borrow money in anticipation of the issuance of the bonds, and to issue refunding bonds. The bill shall not become effective, and no bonds shall be issued, unless and until voter approval is obtained.

**Educational facilities.** Authorizes the issuance of Commonwealth of Virginia General Obligation Bonds in an amount not exceeding \$900,488,645 to provide funds for financing the costs of capital projects for the Commonwealth's institutions of higher education. The full faith and credit of the Commonwealth is pledged for the payment of the principal of and interest on the bonds and any bond anticipation notes or refunding bonds. The bill shall not become effective, and no bonds shall be issued, unless and until voter approval is obtained.

## Elections

**“Stand By Your Ad.”** Print, television, and radio advertisements supporting or opposing the nomination or election of clearly identified candidates must contain specific information regarding the sponsor of the advertisement. This law is patterned after the North Carolina “Stand By Your Ad Act.”

## Mental Health

**Independent agency.** The Department for Rights of Virginians with Disabilities is removed from the executive branch and becomes an independent state agency renamed the Virginia Office for Protection and Advocacy. The governing board for the Office consists of 11 members who are appointed by the Governor and the General Assembly for staggered terms and who cannot be members of the General Assembly. This board will hire the agency director, an attorney in good standing licensed to practice in Virginia. The office is given the authority to access facilities and programs, receive notification of deaths in state facilities and to protect the confidentiality of records. The bill establishes an ombudsman program, within the new office, to become effective July 1, 2004, and creates the Protection and Advocacy Fund. *The provisions of this act will not become effective until the Governor, pursuant to the applicable federal statutes and regulations, completes the process for redesignation of the Virginia Office for Protection and Advocacy.*

**Restructuring.** Any restructuring of the system of mental health services involving existing state mental health facilities must involve a state and community consensus and planning team. Each team must develop a plan that addresses

- the types, amounts, and locations of new and expanded community services that would be needed;
- the development of a detailed implementation plan designed to build community mental health infrastructure for current and future capacity needs;

- the creation of new and enhanced community services;
- the transition of state facility patients to community services in the locality of their residence prior to institutionalization;
- the resolution of issues relating to the restructuring implementation process, including employment issues related to state facility employee transition planning and appropriate transitional benefits; and
- a six-year projection comparing the cost of the current structure and the proposed structure.

In addition, the Commissioner will be required to ensure that each plan includes community education and planning components.

## Business

**Unemployment benefits.** The weekly benefit amount for recipients of unemployment compensation has increased as follows:

Unemployment Benefits		
Date for claims filed	Maximum benefit amount	Percent increase
Prior to 9/9/01	\$268	--
9/9/01 to 1/1/03	\$368	37.30
1/1/03 to 1/1/04	\$318	18.65
After 1/1/04	\$268	--

*The measure has an emergency clause, was signed by the Governor on March 8, 2002, and was effective retroactively to September 9, 2001.*

**Payday lending.** A “payday loan” is a transaction where the lender (i) accepts a check or similar instrument from the borrower; (ii) agrees to hold the check for a period of time; and (iii) gives the borrower the amount of the check less the permitted interest charge. If the borrower does not pay the loan by the due date, the lender may obtain repayment by cashing the borrower’s check. The fee that a payday lender may charge will be capped at \$15 per \$100 advanced to the borrower. The

minimum term will be 7 days. Lenders will be prohibited from renewing or “rolling over” such loans and required to be licensed with the State Corporation Commission. A violation of the measure is a prohibited practice under the Consumer Protection Act, and violators are subject to civil and criminal penalties. Making unlicensed loans, or arranging or brokering payday loans, is punishable as a Class 6 felony.

## Local Government

**Telecommunications.** Local governments’ ownership and operation of telecommunications services will no longer be banned. Prior to the enactment of this bill, localities generally had been limited to providing telecommunications services only for their own governmental use. The measure provides two routes under which local governments may provide telecommunications services. **First**, any locality may be permitted by the State Corporation Commission to offer qualifying telecommunications services, including high-speed data service and Internet access ser-

vice, if the proposed services are not available in quantity, quality, and price from three or more providers in the proposed geographic area. At such time as three providers enter the market, the SCC may require the locality to cease providing the services and to sell its system. **Second**, any of the 15 cities that operate a municipal electric utility system may apply to be a certificated local exchange carrier (telephone company). Once certificated, the city may provide telecommunications services, including local exchange service, within any locality in which it has electric distribution system facilities as of March 1, 2002. In addition, the measure provides that any local exchange carrier that was certificated prior to July 1, 2001, to provide telecommunications services in part of Virginia will be allowed to provide such services statewide beginning September 1, 2002.

**Open-space special districts.** Local governments will be allowed to create, by ordinance, a service district with the authority to acquire interests in real property in order to preserve open-space land. Currently, such service districts are limited to purchasing development rights that are to be dedicated as easements for conservation and open-space purposes.

## Animals

**Animal cruelty.** It will be a Class 6 felony to cause the death of a dog or cat by torturing or willfully inflicting inhumane injury or pain or cruelly beating, maiming or mutilating an animal regardless of whether the animal belongs to the person or to another.

**Animal “dumping.”** “Dumping” a dog, cat, or other companion animal in any public place, including the right-of-way of any public highway, road or street or on the property of another, will be punishable as a Class 3 misdemeanor

**Soring of horses.** The soring of horses will be considered cruelty to animals. The current penalty for soring of horses (Class 3 misdemeanor) will increase to a Class 1 misdemeanor, and if a second conviction occurs within five years resulting in the death of the animal, the penalty is increased to a Class 6 felony.

**Preserving open space.** A locality may provide in its zoning or subdivision ordinance standards, conditions, and criteria for clustering of single-family dwellings and the preservation of open space developments. In establishing such standards, conditions and criteria, the governing body may include any provisions it determines appropriate to ensure quality development, preservation of open space and compliance with its comprehensive plan and land use ordinances.

# Environment

**Power plant permits.** The authority of the State Corporation Commission to consider the environmental impact of proposed electric generating plants and associated facilities will be limited. The SCC, in conducting its environmental review, cannot reconsider matters related to the project's environmental impact if those matters were addressed by another governmental agency's issuance of a permit. The measure also gives the Department of Environmental Quality and the Air Pollution Control Board the authority to consider the

cumulative impact of new and proposed electric generating facilities on air quality standards.

**Permit fees.** The Virginia Waste Management Board will develop new permit fee schedules sufficient to cover up to 20 percent of the direct costs of the hazardous and solid waste programs, using as the base the amounts allocated to these programs in the 2002 Appropriation Act. No individual permit fee can increase more than 300 percent, however, and the bill also triples the statutory caps on water permit fees.

## Special License Plates

The 2002 General Assembly authorized special license plates:

### ***Bearing the legend:***

- United We Stand
- Education Begins at Home
- "God Bless America."
- Fox hunting
- Unlocking autism
- Fight terrorism
- Proud to be an American

### ***For supporters of:***

- Councils of the Girls Scouts of the USA serving Virginia Girl Scouts
- The NASA Langley Research Center
- The Relay for Life
- The Motorcycle Rider Safety Training Program
- The Shenandoah National Park Association
- Big Brothers Big Sisters of America
- The American Cancer Society
- Professional motor sports
- Virginia's zoos
- The Washington Redskins football team
- Youth soccer
- Crime prevention

### ***For:***

- Persons awarded multiple Bronze Star, Bronze Star with a "V" for valor, or Silver Star medals
- Persons awarded the Air Medal or the Air Medal with a "V" for valor
- Persons awarded the Combat Infantry Badge
- Printers
- Rocky Mountain Elk Foundation volunteers
- Beekeepers and supporters of beekeepers
- Retired members of the U.S. Air Force

### ***For members of:***

- BoatU.S.
- The 173rd Airborne Brigade
- Rotary International
- Optimist International
- The 1600 Communications Association
- The Virginia Court Appointed Special Advocate Association Society
- Pony Clubs
- Parrothead Clubs
- The Blue Knights organization

### ***Celebrating:***

- The 250th anniversary of the Town of Smithfield
- The 200th anniversary of the City of Salem
- The 250th anniversary of the City of Portsmouth
- The values of diversity and the contributions of African-American communities
- Virginia's Indian tribes

### ***Commemorating:***

- The victims of the bombing of the USS Cole
- The September 11, 2001, attack on the Pentagon
- The coming of the first Africans to Virginia in 1619

### ***Promoting:***

- Childhood cancer awareness

### ***Depicting:***

- A Holstein dairy cow.

***Information on obtaining special license plates is available at any DMV office.***

### Multiple Copies

Members of the General Assembly wishing to order multiple copies of this publication are asked to contact their respective Clerk's office.

Complete information on all actions of the 2002 General Assembly is available on the Internet at the General Assembly's website (<http://legis.state.va.us>). Click on *Legislative Information System* for a complete array of menu choices for finding bill summaries or complete bill text for all legislation considered by the 2002 General Assembly during its regular session.



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## Other Measures

**Amusement Device Rider Safety Act.** Establishes a code of conduct for riders of amusement devices, especially roller coasters. Riders are required to report injuries sustained on an amusement device before leaving the premises, to obey posted rules and warnings, and to refrain from acting in a manner that may cause or contribute to injuring the rider or others. Violators are subject to a civil penalty not to exceed \$500.

**Right to breast-feed.** A woman's right to breast-feed her child on any property owned, leased or controlled by the State

will be guaranteed. The bill also stipulates that childbirth and related medical conditions specified in the Virginia Human Rights Act include activities of lactation, including breastfeeding and expression of milk by a mother for her child.

**Tattoo parlors and body-piercing salons.** The Board of Barbers and Cosmetology will license and regulate tattoo parlors, body-piercing salons, and those who practice tattooing or body piercing. The board will adopt regulations by 2004 establishing the requirements for licensure. Currently, these establishments are regulated at the local level.