

“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: 2003 Changes to Virginia's Laws



This publication provides a brief summary of legislation passed by the 2003 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, 2003. The summaries were prepared by the staff of the Division of Legislative Services.

Privacy / Identity Theft

During its 2003 session, the General Assembly passed a number of measures designed **to protect individual privacy and prevent identity theft**. Many of these new laws protect individuals by limiting the use of personal information, particularly social security numbers, by various public entities.

A court order granting a name change must contain only the person's old name or names, new name, and address, and not the sensitive information (such as the applicant's mother's maiden name and social security number) required for the name change application. The bill thus protects sensitive information from being included in the public order and deed books, while ensuring that all necessary information is retained in the person's complete court file and is transmit-

ted, as necessary, to the State Registrar of Vital Records and the Central Criminal Records Exchange.

Beginning January 1, 2004, **no court clerk shall post on a court-controlled website**, except on a secure network or system with restricted access, any document that contains the following information: (i) an actual signature; (ii) a social security number; (iii) a date of birth identified with a particular person; (iv) the maiden name of a person's parent so as to be identified with a particular person; (v) any financial account number or numbers; or (vi) the name and age of any minor child.

To prevent identity theft, another measure limits the appearance of social security numbers on identification cards and parcels and punishes the distribution or possession with intent to distribute of another's personal iden-

tifying information or the distribution of the means by which personal information may be stolen. The bill also creates a mechanism whereby a victim may expunge a criminal charge resulting from identity theft.

Government agency-issued identification cards, student identification cards or license certificates issued or replaced after July 1, 2003, must not display an individual's entire social security number. There are certain exceptions, including certain licensing and identification cards issued by the Department of Motor Vehicles issued prior to July 1, 2003, which are required to be replaced no later than July 1, 2006, and voter registration cards, which are required to be replaced by 2011.

After July 1, 2004, **no agency shall send or deliver any letter or package that displays a social security number** on the face of the mailing envelope or package or from which a social security number is visible, whether on the outside or inside of the mailing envelope or package.

Environment

Waste tire piles. The ability of the Department of Environmental Quality (DEQ) to clean up the 339 remaining tire piles throughout the state will be enhanced. The bill:

- authorizes the establishment of **tire convenience centers**, which are collection points for the temporary storage of tires;
- establishes a **strict liability standard** for damages incurred by neighboring property owners and other third parties when a tire pile burns;
- applies strict liability in the case of an unpermitted tire pile of **more than 100 tires**, rather than the current standard of 50,000 tires;
- grants the agency the authority to **enter property and remove a tire pile** if the owner refuses an order to remove the tires.

Land application of sewage sludge. Localities that have adopted a biosolids testing and monitoring ordinance will have the authority

to order the abatement of land application of sewage sludge for violations of laws and regulations. The current biosolids land application law is strengthened by establishing standard complaint and investigation procedures, including the maintenance of a searchable electronic database of complaints by the Virginia Department of Health (VDH). Nutrient management plans (NMPs) must be prepared by persons certified by the Virginia Department of Conservation and Recreation (DCR) for all land application sites, regardless of the frequency of application.

Hunting

Nonresident hunting fees. The fees for a nonresident statewide hunting license will increase from \$60 to \$80 and three-day nonresident hunting licenses from \$30 to \$40.

Deer kill permit. The director of the Department of Game and Inland Fisheries may issue a deer kill permit to landowners whose residential plants have been damaged by deer. The director may charge a permit fee not to exceed the actual costs.

Invasive species. Invasive species are not native to an ecosystem and may cause economic or environmental harm or harm to human health. The **Invasive Species Council** will be charged with providing state leadership regarding prevention and control of invasive species and preparation of an invasive species management plan.

Aquatic Nuisance Species Act. This bill declares the **zebra mussel**, the **quagga mussel**, and the **northern snakehead fish** as non-indigenous aquatic nuisance species and authorizes the Board of Game and Inland Fisheries to declare other aquatic nuisance species if it finds that their presence in state waters poses a threat of harm. Importing, possessing, transporting, selling, purchasing, giving, receiving, or introducing such nuisances into state waters without a permit will be illegal and punishable by a fine of up to \$25,000.

Waterway “pass-through” zones. Localities, will be able to establish “pass-through” zones in portions of their waterways where watercraft traffic congestion routinely poses a significant safety risk. The local ordinance must require watercraft operators to maintain reasonable and safe speeds and must prohibit them from anchoring, loitering or engaging in recreational activities while in the pass-through zone.

Unemployment Compensation

Weekly benefit. Beginning July 6, 2003, an individual’s benefit will be 52 percent of his previous weekly wages during the two highest quarters in his base period, not to exceed the maximum weekly benefit amount of \$316. For claims filed after July 3, 2004, the maximum weekly benefit amount will be \$326.

Unemployment Benefits		
Date claim filed	Maximum weekly benefit	Wage replacement rate
Prior to 9/9/01	\$268	52%
9/9/01 to 1/5/03	\$368	71.4%
1/6/03 to 7/5/03	\$318	61.7%
7/6/03 to 7/3/04	\$316	52%
After 7/3/04	\$326	52%

Note: The wage replacement rate is lower for claimants whose benefits are capped by the maximum weekly benefit amount.

Social Security reduction. An individual’s weekly unemployment compensation benefit will be reduced by an amount equal to **50 percent** of the Social Security Act or Railroad Retirement Act retirement benefits received. Currently, unemployment benefits are reduced by 100 percent of such retirement payments.

Alcoholic Beverages

Mail-order beer and wine. Adult Virginians will be able to purchase, from wineries and breweries within and outside of the Commonwealth, and have shipped to their homes up to two cases of beer and wine per month.

Virginia’s wineries and breweries likewise will be able to sell and deliver by common carrier their products to individuals in Virginia and in 13 other states that permit such deliveries.

Abortion

Parental consent for abortion. A physician will be required to obtain parental consent prior to performing an abortion on an unwed minor. A minor will be able to seek judicial authorization for an abortion under certain conditions, including evidence of abuse or neglect.

Partial birth infanticide. The bill defines “partial birth infanticide” and punishes the act of partial birth infanticide as a Class 4 felony. This provision will not prohibit the use by a physician of any procedure that, in reasonable medical judgment, is necessary to prevent the death of the mother, so long as the physician takes every medically reasonable step, consistent with such procedure, to preserve the life and health of the infant.

DUI

Penalty for DUI. Minimum fines of \$250, \$500 and \$1,000 for first, second and third offense DUI convictions, respectively, will be imposed beginning July 1.

Underage drinking and driving. An automatic seven-day administrative **license suspension** will be imposed as a penalty when a person under the age of 21 operates a motor vehicle after consuming alcohol and has a blood alcohol concentration (BAC) of 0.02.

Protecting Children

Amber Alert Program. State buildings open to the public will have a Code Adam program as a preventive tool against child abductions and for **locating lost children** in certain public buildings. The alerts will be used to lock down buildings where a child has been lost

or possibly abducted. Also, the Board of Education will develop, in cooperation with private entities, a program to provide parents with child identification kits through school distribution. The kits will include a current photo, fingerprints, DNA samples, and important medical information and instructions for the proper safekeeping of the kit. The Department of State Police will develop a statewide child abduction alert plan (the **Virginia Amber Alert Plan**) to rapidly publicize information on a child abduction.

Child pornography. A Child Pornography Registry will be established that includes images of sexually explicit visual material presented as evidence and used in a conviction for a child pornography offense. The **penalties** for child pornography possession will **increase** to a Class 6 felony and second and subsequent offenses to a Class 5 felony.

Death Penalty

Mental retardation. In June 2002 the United States Supreme Court held that the execution of a mentally retarded person is cruel and unusual punishment prohibited by the Eighth Amendment. In response, the General Assembly passed a bill that establishes procedures for determining whether a defendant in a capital case is mentally retarded and may not be sentenced to death. This bill **defines mental retardation**, sets procedures for determining whether a defendant meets the definition, and provides for the appointment of expert evaluators. The bill also establishes a procedure for defendants sentenced to death prior to the effective date of the bill to raise the issue of mental retardation.

Animals

Dogs injuring or killing other dogs. A dog that attacks or bites another dog and causes serious physical injury to the other dog will be added to the definition of “dangerous dogs” and may be regulated by localities. In such localities, owners of dogs found to be dangerous must obtain a special registration certificate, confine the dog in a specified way, and follow other requirements. The owner of any companion animal that is injured or killed by a dog will be able to recover damages under certain conditions.

Dangerous or vicious dogs. An animal control officers’ previous findings of dangerous dogs will be added to the list of factors in determining if a dog is vicious. The bill also removes the \$50 cap on the dangerous dog registration fee and increases from \$50,000 to \$100,000 the amount of liability insurance that a locality could require for animal bites if it has adopted the permissive insurance provision as part of its dangerous dog ordinance.

Dog fighting. Possessing, owning, training, transporting, or selling dogs for the purpose of dog fighting will be added to the dog fighting prohibitions. These acts are Class 6 felonies, as are the acts currently included in the dog fighting section. Any person who violates the dog fighting statute is required to pay the costs incurred in housing or euthanizing the confiscated dogs. Attending a dog fighting event will be a Class 1 misdemeanor.

Health

Virginia Birth-Related Neurological Injury Compensation Program. Introduced to address a number of issues raised by a JLARC study of the program’s implementation, this bill makes numerous amendments to the Birth-Related Neurological Injury Compensation Act. The Workers’ Compensation Commission will be authorized to award **up to \$100,000** to the parents or legal guardian of an injured infant covered under the program who dies within 180 days of birth. Other changes to the program (i) clarify that a mother is not subject to the program’s exclusive remedy provision with respect to physical injuries she suffers during delivery; (ii) require hospitals to release fetal monitoring strips to the program or injured infant’s legal representative and provide that the failure to provide the information creates a rebuttable presumption of fetal distress; (iii) require the investigation and referral to the Board of Health Professions or Department of Health, as appropri-

Emergency Legislation

Several bills were passed by the 2003 General Assembly as “emergency legislation,” which means that they took effect as soon as they were signed by the Governor.

Two of the more significant measures:

Sexually violent predators. The effective date of the sexually violent predator legislation was moved from 2004 to “effective from its passage,” which was April 2, 2003. A sexually violent predator is defined as a person with a qualifying offense who, because of a mental abnormality or personality disorder, has difficulty controlling his predatory behavior, which makes him likely to engage in sexually violent acts, and receives a certain minimum score on a sex offender risk assessment instrument. The original law permits the civil commitment of such a predator after he is released from prison

Electric utility restructuring. The bill, which was signed by the Governor on April 3, 2003, bars electric utilities with transmission capacity from joining a regional transmission entity (RTE) prior to July 1, 2004. The Electric Utility Restructuring Act originally required utilities to join an RTE by January 1, 2001.

ate, of health care providers and participating hospitals if the conduct gives rise to disciplinary action; (iv) require physicians and nurse midwives to inform patients whether they are participants in the program; (v) require all hospitals to provide a brochure on the program with post-partum materials if the infant was hospitalized in a neonatal intensive care unit. The program’s board is directed to (a) develop and implement a policy on handicapped-accessible housing, (b) study and develop options for revising fees for participating providers, and (c) maintain a list of program participants and, with consent, make the list available to other claimants.

Disciplinary procedures for doctors. The disciplinary standard for physicians will be lowered from **gross negligence** to **simple negligence**. The bill also provides that before a doctor is reinstated to practice, a **three-year minimum period** must elapse after the revocation of his certificate, registration or license. Existing reporting requirements by hospitals, health care institutions, health professionals and others concerning disciplinary actions, certain disorders, malpractice judgments, and settlements are clarified concerning timing for the reports, mandated reporters and the information required to be reported to the

Board of Medicine. Civil penalties for failure to report are increased up to a maximum of \$25,000 for hospitals and health care institutions and \$5,000 for all others. Certification, registration and licensure are conditioned upon the payment of such penalties. The Department of Health Professions is given increased authority to **regulate unlicensed practice** and is directed to investigate all complaints within the jurisdiction of the relevant health regulatory board. Finally, the bill requires the executive committee of the Board of Medicine to include two citizen members.

State Government

Virginia Information Technologies Agency. The Virginia Information Technologies Agency (VITA) will oversee the planning, budgeting, acquiring, managing, and disposing of major information technology projects in Virginia. The Department of Information Technology, the Department of Technology Planning, the Virginia Information Providers Network Authority, and the Chief Information Officer Advisory Board will be abolished.

Roadmap for Virginia's Future. The "Roadmap for Virginia's Future" will be implemented, a process that includes: (i) developing a set of guiding principles that are reflective of public sentiment and relevant to critical decision-making, (ii) establishing a **long-term vision** for the Commonwealth, (iii) conducting a situation analysis of core state service categories, (iv) setting long-term objectives for state services, (v) aligning state services to the long-term objectives, (vi) instituting a planning and performance management system consisting of strategic planning, performance measurement, program evaluation, and performance budgeting, and (vii) performing plan adjustments based on **public input** and evaluation of the results of the roadmap.

Education

Drug testing in public schools. Local school boards **may** require drug testing in accordance with Board of Education guidelines. Most recently, the U.S. Supreme Court upheld an Oklahoma regulation that required

random drug testing of public school students as a condition of participation in competitive extracurricular activities, not just competitive sports.

Bill of Rights. The law requiring the posting of the National Motto in public schools was amended to add the required posting of the Bill of Rights of the Constitution of the United States.

School personnel investigation procedures. Each local department of social services and school division will be required to adopt a written interagency agreement as a protocol for investigating child abuse and neglect reports against school personnel. When the subject of the child abuse or neglect complaint is an employee of a local school board or employed in a school operated by the Commonwealth, the local department of social services must conduct a face-to-face interview with the employee, and must notify the employee at the onset of the interview of the general nature of the complaint, of the identity of the alleged victim, and of his right to have an attorney or other representative present during any interview.

Other Measures

Family restrooms. The Virginia Department of Transportation will be required to construct family restrooms at rest stops constructed on or after July 1, 2003, along interstate highways.

Unsolicited fax transmissions. The unsolicited transmission of advertising materials by fax will be a prohibited practice under the Consumer Protection Act. Enforcement provisions under the Consumer Protection Act (i) permit the Attorney General to issue civil investigative demands and assurances of voluntary compliance, (ii) create an individual action for damages, and (iii) permit aggrieved parties or the Attorney General to seek injunctive relief to prevent further violations.

Department of Veterans Services. Veterans benefit claims support and veterans care center and cemetery services will be consolidated into the newly created Department of Veterans Services, headed by the Commissioner of Veterans Services.

Regulation of hair braiders. Individuals wishing to perform hair-braiding services only will be able to get a separate license. Licensed cosmetologists will be able to perform hair braiding without a separate license, as will any braider working in a licensed cosmetology salon under the direct supervision of a licensed cosmetologist.

Special License Plates

For **new special license plates** (except for those specifically exempted from this requirement), at least 350 prepaid applications must be presented to DMV **within two years** (rather than the previous three years) before those plates are issued. Another option will be the payment of an administrative fee of \$3,500 in lieu of presentation of any specific number of prepaid applications.

New “Revenue-Sharing” Special License Plates

“Revenue-sharing” special license plates are 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 some specified entity (shown here in parentheses):

- Virginia is for Lovers** (the Virginia Tourism Authority and the Virginia Hospitality and Travel Association Foundation, to support tourism promotion activities for the benefit of Virginians.)
- Supporters of the **National D-Day Memorial Foundation** (the National D-Day Memorial Foundation, to assist in its programs, activities, and operation)
- Commemorating the **30th anniversary of Secretariat’s winning of horse racing’s Triple Crown** (the Secretariat Museum Foundation and used to assist in the creation and operation of the Secretariat Museum)
- Supporters of **Seton House** (Seton House, to support its programs and activities in Virginia)
- Supporters of the **Interdenominational Children’s Foundation of Virginia** (the Interdenominational Children’s Foundation of Virginia, to support the Foundation’s activities and programs)
- Cold War veterans** (the Cold War Museum, to assist in its programs and activities in Virginia)
- Supporters of the **Mariners’ Museum** (the Mariners’ Museum, to further the construction of the USS Monitor Center)
- Historic covered bridges** (VDOT, for maintenance and interpretation of covered bridges in Virginia)
- Supporters of the **Leukemia and Lymphoma Society** (the Leukemia and Lymphoma Society, to support the Society’s Team in Training Program in Virginia)
- Friends of Tibet** (the Conservancy for Tibetan Art and Culture, to assist in its programs and activities in Virginia)

“Standard” Special License Plates:

- Members and former members of the **3rd Infantry Regiment** (“Old Guard”)

Members of

- the **Air Force Association**
- Job’s Daughters**
- the **Police Benevolent Association**
- the **Izaak Walton League**
- city councils**
- town councils**

Members and supporters of

- the **Urban League of Hampton Roads**
- the **YMCAs of Virginia**

Supporters of

- St. Jude Children’s Research Hospital**
- the **Children’s Hospital of the King’s Daughters**
- the **Washington Capitals** hockey team

Persons who are

- Emergency medical technicians and paramedics**
- Emergency medical technicians or paramedics and firefighters**
- Military parachutists**
- Virginia certified hunter education instructors**
- Medical doctors**
- Teachers**

Celebrating

- Virginia’s coal mining heritage**
- the members and achievements of the **Civilian Conservation Corps**

Bearing the legend

- “In God We Trust”**
- “Multiple Sclerosis”**
- “Langley Air Force Base”**

Members of the Special Forces Association

Special license plates are authorized for members of the Special Forces Association. These plates are unusual in that they are exempt from the usual minimums, but will not be issued until the DMV Commissioner receives at least 50 prepaid applications for them and a one-time fee in an amount adequate to offset the normal costs associated with production of special license plates.

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 2003 General Assembly is available on the Internet at the General Assembly's website (<http://legis.state.va.us>).

Click on *Session Tracking* for a complete array of menu choices for finding bill summaries or complete bill text for all legislation considered by the 2003 General Assembly during its regular session.



Published in Richmond, Virginia, by the Division of Legislative Services, an agency of the General Assembly of Virginia.

E.M. Miller, Jr.: Director,
R.J. Austin: Manager, Special Projects
K.C. Patterson: Editor



Available on the Internet at <http://dls.state.va.us/>