



*“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: 2007 Changes to Virginia's Laws

This publication provides a brief summary of legislation passed by the 2007 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, 2007. The summaries were prepared by the staff of the Division of Legislative Services.

## ***Alcoholic Beverages***

**New ABC licenses and permits.** Several laws established new Alcoholic Beverage Control licenses and permits, including the following:

- A new internet wine retailer license for businesses that may not have a retail store open to the public, but sell and ship directly to consumers by way of internet sales or telephone orders.
- A license for certain businesses and food service entities to serve wine or beer at private gatherings or at special events. No charge may be made for the alcoholic beverages served, and no more than two 5-ounce glasses of wine or two 12-ounce glasses of beer may be served to each customer.
- A permit allowing the whiskey distilled at the licensed Mount Vernon distillery, according to the recipe used by George Washington, to be sold at the Mount Vernon gift shop.

## ***Business and Labor***

**Child labor at farm wineries.** The law allows an employee under the age of 18 years old to work at a licensed Virginia farm winery provided the child does not serve or dispense alcoholic beverages in any manner.

**Minimum wage for older workers.** The law removes persons over the age of 65 from the list of employees who are excluded from the provisions of the Virginia Minimum Wage Act.

## ***Unemployment***

**Unemployment compensation maximum weekly benefit.** The law increases the maximum weekly benefit from \$347 to \$363 for claims effective on or after July 1, 2007.

## ***Children's Welfare and Social Services***

**Adoption records.** The law requires that a child-placing agency or local director provide prospective

parents with all of the reasonably ascertainable background, medical, and psychological records of an adopted child.

**Long-term care services for seniors.** The law expands, under the Department for the Aging, the health, social, and supportive services needed to deliver long-term care, which includes transportation, education and housing, and opportunities for self-care and independent living, to citizens aged 60 and over who have chronic illnesses and impairments.

**Continued residence in an assisted living facility.** The law prevents the Board of Social Services from ordering the removal of a resident from an assisted living facility if the resident, his physician, his family, and the facility consent to the resident's continued stay. The facility must be capable of providing or obtaining necessary services for the resident, including home health care or hospice care.

**Virginia Caregivers Grant Program.** The law modifies the definition of caregivers that are eligible to receive a grant under the program to include legal guardians and raises the Virginia adjusted gross income limit under the program from \$50,000 to \$75,000 for a married caregiver.

**Family day homes.** The law requires a family day home to provide written notice to a child's parent or guardian within 10 business days of a termination of the facility's liability insurance coverage.

## ***Courts and Criminal Offenses***

**Virginia Amber Alert transmitted to residents.** The law requires the Virginia State Police to use automatic dialing technology, where available, to deliver a prerecorded message to alert residents of an Amber Alert in their locality. Targeted calls will be transmitted to the area where the abducted child was most recently seen.

**Senior Alert Program.** The law creates a program for local, regional, or statewide notification of a missing senior adult similar to the Amber Alert Program for missing children and insures that police and sheriff's departments eliminate the waiting period requirement before a report is acted upon. Within two hours of receiving a missing persons report, law-enforcement agencies are

required to enter identifying information about the missing senior adult into the Virginia Criminal Information Network and the National Crime Information Center Systems, forward the information to the Department of State Police, notify other law-enforcement agencies in the area, and initiate an investigation.

**Smoking near gas pumps.** The law provides that any person in the open air who smokes or uses an open flame within 20 feet of a pump used to fuel motor vehicles or a fueling tanker being used to deliver gasoline to a gasoline station, where smoking or the use of an open flame is prohibited by a posted sign, is guilty of a Class 3 misdemeanor.

**Extortion.** The law makes it a Class 5 felony for any person to possess, withhold, or destroy the passport or the government identification or immigration document of another person and thereby extorting money, property, or benefit from him in any way.

**Soliciting a firearms dealer to sell a gun to a person posing as a buyer.** The law makes it a Class 6 felony for any person, other than a law-enforcement officer acting in the line of duty, to entice a firearms dealer to sell a gun to a person who is not an actual buyer, defined as a person who executes the required consent form provided by the Department of State Police to purchase a firearm. A person who aids or abets a person violating this provision is also guilty of a Class 6 felony.

**Spousal support guidelines.** The law establishes a statewide formula to be used by the courts to calculate the amount of an award of pendente lite or temporary spousal support. The law allows the court the discretion to deviate from the amount calculated under the formula for good cause, including any relevant evidence relating to the current financial circumstances of the parties that indicates the amount is inappropriate. The formula applies to cases in which the parties' combined monthly gross income does not exceed \$10,000.

**Right to remove a law case to the circuit court eliminated.** A defendant no longer has the right to remove an action from the general district court to the circuit court in actions where the courts have concurrent jurisdiction over the amount in controversy, thus protecting a plaintiff's decision to bring an action in the general district court.

**Writings intended as wills.** The law establishes that even though a document is not in compliance with the requirements of an executed will, it can still be valid if clear and convincing evidence exists that the decedent intended the document to be a will, a partial or complete revocation of a will, an addition or alteration of a will, or a partial or complete revival of a formerly revoked will. The law does not excuse any failure to comply with the requirement of the testator's signature.



## **Sex Offenders**

**Sex offender registration.** The law requires a sex offender to include in sex offender registration information any e-mail addresses and internet or instant messaging screen names that he uses or will use. Any changes in this information or any other identity information must be reported and reregistered in person or electronically with the local law-enforcement agency within 30 minutes of the change.

**Sex offender notification.** The law requires nursing homes and assisted living facilities to provide residents with information on how to access the Virginia's sex offender registry on the Virginia State Police's website. The law provides similar requirements as established in the Virginia Residential Property Disclosure Act.

**Sex offenders prohibited on school property.** The law provides that an adult who has been previously convicted of a sexually violent offense is guilty of a Class 6 felony if he enters or is present during school hours at a public or private elementary or secondary school or a child day center property, except in specific circumstances outlined in the law or permitted by a court order.

**Sex offender treatment offices.** The law prohibits sex offender treatment offices or similar facilities to be located in a residentially zoned subdivision.

## ***Voting***

**Absentee ballots.** The law requires voters to provide the last four digits of their social security number when applying to vote by absentee ballot.

**Voting equipment and procedures.** The law requires localities to provide accessible equipment for disabled voters, as well as prohibits localities from purchasing direct recording electronic (DRE) devices, commonly known as touch screen voting machines. Localities may use existing DRE devices until they wear out. The law also prohibits any form of wireless communication between vote-counting systems until the polls are officially closed on Election Day.

## ***Elections***

**Public officials convicted of sex crimes.** The law provides that any holder of public office who is convicted of an offense requiring registration on the Sex Offender and Crimes Against Minors Registry will forfeit his public office once all rights of appeal have expired.

## ***Localities***

**Local employee's right to receive benefit information.** The law requires localities to provide information about benefit options and programs in writing to any local employee who develops a life-threatening health condition.

**FEMA floodplain map and notification of changes to property owners.** The law provides that any locality notified by the United States Federal Emergency Management Agency (FEMA) that a change in the FEMA floodplain map concerns or relates to real property within the locality's jurisdiction must provide property owners with written notification of any floodplain changes and contact information for the National Flood Insurance Program to aid owners in determining if there has been a change to the flood risk of their property.

**Zoning violations for overcrowding.** The law increases the fines for a conviction for overcrowding of a residential dwelling; however, a violation is not punishable by a jail term.



## **Eminent Domain**

**Eminent domain and the definition of "public uses."** The law defines "public uses" as relating only to the acquisition of property in the following instances:

- Land is taken for the possession, occupation, and enjoyment by the public or a public corporation.
- Land is taken for construction, maintenance and operation of public facilities by public corporations or by private entities provided that there is a written agreement with a public corporation providing for the use of the facility by the public.
- Land is taken for the creation or functioning of a public service corporation, public service company, or railroad.
- Land is taken for the provision of utility services by a government utility corporation.
- Land is taken because it is blighted for the elimination of the blight.
- Land is taken in a redevelopment or conservation area that is abandoned or the acquisition is needed to clear title where one of the owners agrees to such acquisition or the taking is by agreement of all of the owners.

The law states that property can only be taken when the public interest dominates the private gain and that the primary purpose is not private financial gain, private benefit, an increase in tax base or revenues, or an increase in employment, except if the property is taken for the creation or functioning of a public service corporation, public service company, or railroad, or for the provision of authorized utility services by a government utility corporation.

## ***Public Education***

**Technical high school diploma.** The law directs the Board of Education to establish the requirements for a technical diploma. The diploma must meet or exceed the requirements of a standard diploma and include a concentration in career and technical education. The law establishes an advanced technical diploma if a student meets the requirements of an advanced studies diploma and completes a concentration in career and technical education.

**Childhood obesity.** The law requires the Superintendent of Public Instruction and the State Health Commissioner to work together to combat childhood obesity and other chronic health conditions that affect school-aged children.

**Family life education.** The law requires the Board of Education to include instruction on dating violence and abusive relationships in the family life education curriculum.

**Due process for students with disabilities.** The law requires that all testimony will be given under oath in dispute procedures involving children with disabilities and their parents or guardians and the school divisions in all matters of program placements, individualized education programs, tuition eligibility, and other areas as defined in state or federal statutes or regulations.

**Safety hotline decal on school buses.** The law allows school divisions to display on its school buses a decal providing information and phone numbers of a locality's school bus safety hotline.

**Transportation sharing with private schools.** The law permits local school boards to enter into an agreement with a nonpublic school to provide student transportation to and from the private school for a fee.

**Online learning for the incarcerated.** The law allows the Board of Correctional Education to develop programs for incarcerated individuals, providing restricted Internet access to online secondary education, adult education, and literacy programs leading to a diploma or the General Education Development (GED) program.



## Higher Education

**Suicide prevention.** The law directs public institutions of higher education to develop and implement policies that advise students, faculty, and staff, including residence hall staff, of the proper procedures for identifying and addressing the needs of students that exhibit suicidal tendencies or behavior.

**In-state tuition.** The law allows in-state tuition to any person, who lives outside of the Commonwealth, but within a 30-mile radius of one of the Virginia Community College System's institutions, provided the student's state of residence has a reciprocal arrangement for Virginia residents.

**Two-Year College Transfer Grant Program.** The law establishes a Two-Year College Transfer Grant Program for the purpose of providing higher education grants of up to \$2,000 per year to Virginia residents who have successfully completed an acceptable associate degree program at a public two-year institution of higher education. The State Council of Higher Education (SCHEV) will make the appropriate regulations for the program's administration.

## Health

**Abraham's Law.** The law specifies that a decision by parents or a legal guardian to refuse a particular medical treatment for a child with a life-threatening condition will not be deemed a refusal to provide necessary care if the decision is made jointly by the parents and the child, the child has reached the age of 14 and is sufficiently mature to have an informed opinion on the subject of his medical treatment, the parents and the child have considered alternative treatment options, and the parents and the child believe in good faith that the decision is in the child's best interest.

**HPV vaccine.** The law requires females to receive three properly spaced doses of human papillomavirus (HPV) vaccine. The child will receive the first dose before entering sixth grade. After having reviewed information about the link between the human papillomavirus and cervical cancer approved by the Board of Health, a parent may elect for his daughter not to receive the vaccine. The law has a delayed effective date of October 1, 2008.

**Pregnant Women Support Act.** Every licensed practitioner, during the course of routine prenatal care, must include information and support services to patients receiving a positive test diagnosis for Down Syndrome or other conditions diagnosed in prenatal testing. The act also creates the Virginia Pregnant Women Support Fund to help women and families who are facing an unplanned pregnancy.

**Laboratory test results.** The law permits a health care provider to allow laboratory or other testing facilities to provide a copy of test results, upon request, directly to the patient or a legal guardian.

**Organ donations.** The Revised Uniform Anatomical Gift Act (UAGA) addresses each step in the organ donation process and establishes rules to resolve uncertainties and ambiguities that have arisen under prior versions of UAGA. The act further ensures that if an individual wishes to make an anatomical gift or to refuse to make such a gift, his wishes will be respected without exception.

**Physical therapists.** The law permits patients to receive treatment from a licensed physical therapist without a doctor's referral by meeting the following conditions:

- The patient is not already under the care of a physician.
- The patient identifies a physician that he intends to see if his condition does not improve.
- The patient gives written consent for health information and treatment records to be sent to his physician.
- The physical therapist notifies the physician no later than three days after treatment commences and provides him with a copy of the initial evaluation and a copy of the patient's history.

**Hospital visitation policy.** The law prevents hospitals from barring an adult patient from having any visitor he desires, subject to hospital visitation hours and rules and established Department of Health regulations.

**Private wells.** The law prohibits the construction of a private well within 50 feet of the property line of an adjacent agricultural property, except under certain conditions and with the approval of the Department of Health and the permission of the owner of the agricultural parcel.

## **Natural Resources & the Environment**

**Cruelty to animals.** The law states that a person who has been convicted of a prior offense of animal cruelty will be charged with a Class 6 felony for a second offense, if occurring within five years of the first, for maliciously depriving an animal of food, drink, shelter or emergency veterinary treatment when either violation resulted in the death of the animal.

**Retrieving hunting dogs.** The law provides that a hunter that goes on prohibited lands to retrieve his hunting dogs and willfully refuses to identify himself when requested to do so by a landowner is guilty of a Class 4 misdemeanor.

**Boating safety and mandatory education.** The law establishes a \$100 civil penalty for anyone to operate a motorboat with a motor of 10 horsepower or greater without having successfully completed an approved boating safety education course. The education requirement is phased-in so that by July 1, 2016, all motorboat operators will have been required to complete and pass a course or an equivalency exam.

**Boating BUI.** The law makes the protocol for testing alcohol or drug content of the blood or breath for boating under the influence (BUI) consistent with procedures for driving under the influence (DUI).

**Garbage dumping.** The law increases the fine from a maximum of \$100 to \$1,000 for dumping garbage into Virginia's waters.

**State park regulations.** The law reduces the penalty for violating the regulations in Virginia State Parks from a Class 1 misdemeanor to a Class 3 misdemeanor.

**Violation of erosion and sediment control ordinances.** The law allows localities to adopt an ordinance that assesses a civil penalty between \$100 and \$1,000 for violation of erosion and sediment control laws, as well as increases the cap on civil penalties from \$3,000 to \$10,000.

**Land application of sewage sludge.** To facilitate state permit applications to store sewage sludge, the law requires localities to certify within 30 days a storage site's compliance with all local ordinances. Localities also have the authority to adopt an ordinance that may reasonably restrict the storage of sewage sludge to certain areas based on public health, welfare, or safety concerns. Local ordinances may not restrict farmers from storing sewage sludge solely for land application on their own farms for a period of no longer than 45 days.

## **Taxes**

**Individual income tax filing threshold amounts.** The law increases the filing threshold for the state income tax for individuals to \$11,250 in 2008, \$11,650 in 2010, and \$11,950 in 2012. The threshold for married persons increases to \$22,500 in 2008, \$23,300 in 2010, and \$23,900 in 2012. The personal tax exemption amount increases to \$930 in 2008.

**Sales tax exemption for energy-efficient products.** The law provides a sales tax exemption for purchases of certain *Energy Star* qualified products with a sales price of \$2,500 or less made during a four-day period each year in mid-October, beginning in 2007. The sales tax holiday will expire July 2012.

**Sales and use tax exemption for hurricane preparedness equipment.** The law provides a sales and use tax exemption, beginning in 2008, for certain hurricane preparedness equipment purchased during a seven-day period beginning on May 25 of each year. The sales and use tax holiday will expire July 2012.



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## **Transportation Reform**

The law allows the Commonwealth Transportation Board to issue bonds not to exceed \$3 billion for statewide transportation funding with the debt to be paid from one-third of the annual revenues from the state tax on insurance businesses. Other aspects of tax reform include the following:

- Statewide funding of transportation projects through current funds and additional funds. Authority to the Northern Virginia Transportation Authority and the Hampton Roads Transportation Authority to impose regional fees and taxes.
- Authority to localities under either of the above transportation authorities to impose an additional real property tax on commercial property with revenues to be used for transportation.
- Administrative and efficiency reforms impacting transportation.



## **DMV and Special License Plates**

### **Operation of a Vehicle**

**Specially constructed, reconstructed, and replica vehicles.** The law revises procedures whereby specially constructed, reconstructed, and replica vehicles are titled and registered by DMV and requires that these vehicles meet safety and emission standards for the year of which the vehicle is a replica.

**Photo-monitoring of traffic signals.** The law authorizes localities to operate traffic signal enforcement systems. Localities may install photo-monitoring systems at no more than one intersection at a time for every 10,000 residents. The law limits the use and retention of recorded images.

**Child restraint devices.** The law increases the age that children must be secured in a child restraint device from five to eight years old and requires that rear-facing child restraint devices for infants from birth to one-year-old be secured only in the back seat of motor vehicles manufactured after January 1, 1968. The law also requires the use of child restraint devices in the rear cargo area of vehicles other than pickup trucks.

### **Special License Plates**

Authorizes issuance of revenue-sharing license plates for members of:

**Nurses**

**Fraternal Order of Police of Virginia**

Authorizes issuance of special license plates for members and unmarried surviving spouses of members of:

**United States Coast Guard**

Authorizes issuance of special license plates honoring:

**Robert E. Lee**



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