

# 2019 SESSION HIGHLIGHTS

The *2019 Session Highlights* summarizes significant legislation considered by the 2019 Session of the General Assembly as selected by the staff of the Virginia Division of Legislative Services. The brief overview of the 2019 Session covers legislative actions through sine die on Sunday, February 24, 2019. Bills are differentiated as Passed or Failed. Passed bills are subject to review and veto by the Governor; thus, some of the bills listed as passed in this volume may be amended and some may not become law.

## Agriculture/Natural Resources

### Passed

**HB 1839/SB 1692 Industrial hemp; federal Farm Bill; emergency.** Conforms Virginia law to the provisions of the federal 2018 Farm Bill by amending the definitions of cannabidiol oil, marijuana, and tetrahydrocannabinol (THC) to exclude industrial hemp in the possession of a registered person, hemp products, or an oil containing no more than 0.3% THC. The bill defines "industrial hemp" as any part of the plant *Cannabis sativa* that has a concentration of THC that is no greater than that allowed by federal law, and it defines "hemp product" as any finished product that is otherwise lawful and that contains industrial hemp. The bill adds the category of "dealer" in industrial hemp to the existing registration categories of grower and processor. The bill requires any registered grower, dealer, or processor who negligently violates the law to comply with a corrective action plan established by the Commissioner of Agriculture and Consumer Services (the Commissioner). The plan must identify a date by which the person is required to correct the violation and requires the person to report periodically for not less than two calendar years on his compliance with the law. No person who negligently violates the industrial hemp law three times in a five-year period is eligible to grow, deal in, or process industrial hemp for a period of five years beginning on the date of the third violation. The bill directs the Commissioner to (i) revoke the registration of any registered grower, dealer, or processor who violates the law with a culpable mental state greater than negligence and (ii) advise the Attorney General of the United States and the Superintendent of State Police, or the chief law-enforcement officer of the county or city, when such person grows, deals in, or processes with a culpable mental state greater than negligence any *Cannabis sativa* with a concentration of THC that is greater than that allowed by federal law. The bill authorizes the Department of Agriculture and Consumer Services (the Department), if it obtains the approval of the U.S. Secretary of Agriculture, to refrain from requiring destruction of industrial hemp until the THC level is greater than 0.6%, and it authorizes the Department at that point to allow a re-test of the industrial hemp if the THC level is no greater than one percent. The bill abolishes the higher education and Virginia industrial hemp research programs, along with the requirement that a grower or processor act exclusively within such a program. The bill authorizes the Commissioner to charge a fee for certain THC testing. Finally, the bill directs the Department to report by December 1, 2019, (a) to the General Assembly on the fiscal impact of the growth of the industrial hemp industry upon the Department's registration

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program and the existence of any need to alter the registration fee and (b) to the Chairmen of the House and Senate Agriculture Committees on the viability of markets for Virginia industrial hemp growers, the types of products made from industrial hemp that can be produced in Virginia, and the economic benefits and costs of production of such products. The bill also directs the Secretary of Agriculture and Forestry and the Secretary of Health and Human Resources to report by November 1, 2019, on the appropriate standards, if any, for the production of an oil with a THC concentration of no greater than 0.3 percent that is derived from industrial hemp. The bill contains an emergency clause.

**HB 2786/SB 1355 Coal combustion residuals impoundment; closure.** Requires the owner or operator of any coal combustion residuals (CCR) unit, defined in the bill to include a coal ash pond or landfill, within the Chesapeake Bay watershed at Bremo Power Station, Chesapeake Energy Center, Chesterfield Power Station, and Possum Point Power Station to close such CCR unit by removing all of the CCR for (i) recycling, known as encapsulated beneficial use, or (ii) deposition in a permitted and lined landfill that meets certain federal standards. The measure requires that any owner or operator beneficially reuse no less than 6.8 million cubic yards in aggregate of such removed CCR from no fewer than two of the sites. Such a closure project shall be completed within 15 years of its initiation and shall be accompanied by an offer from the owner or operator to provide connection to a municipal water supply for every residence within one-half mile, or if such connection is not feasible, the owner or operator shall offer to provide water testing for any such residence. The bill provides that if the owner or operator moves CCR off-site, it shall develop a transportation plan in consultation with any county, city, or town in which the CCR units are located and any county, city, or town within two miles of the CCR units, for any truck transportation that minimizes the effects on adjacent property owners and surrounding communities. The bill requires the owner or operator of a CCR unit to accept and review on an ongoing basis sufficiently detailed proposals to beneficially reuse any CCR that are not already subject to a removal contract. The bill requires that any entity conducting the closure work identify options for utilizing local workers, (b) consult with the Commonwealth's Chief Workforce Development Officer on opportunities to advance the Commonwealth's workforce goals, and (c) give priority to the hiring of local workers. The bill requires the CCR unit owner or operator to submit two biennial reports beginning October 1, 2022, and continuing until closure of all of its CCR units is complete. One report describes closure plans, progress, a detailed accounting of the amounts of CCR that have been beneficially reused and the amount of CCR that have been landfilled, the utilization of transportation options, water monitoring results, and other aspects of the closure process; the other report contains the beneficial reuse proposals that the owner or operator has received and its analysis of such proposals. The measure provides that all costs associated with closure of a CCR unit shall be recoverable through a rate adjustment clause authorized by the State Corporation Commission (the Commission) provided that (1) when determining the

reasonableness of such costs, the Commission shall not consider closure in place of the CCR unit as an option and (2) the annual revenue requirement recoverable through a rate adjustment clause shall not exceed \$225 million on a Virginia jurisdictional basis for the Commonwealth in any 12-month period, provided that any under-recovery amount of revenue requirements incurred in excess of \$225 million in a given 12-month period shall be deferred and recovered through the rate adjustment clause over up to three succeeding 12-month periods. The bill provides that costs may begin accruing on July 1, 2019, but no approved rate adjustment clause charges shall be included in customer bills until July 1, 2021; any such costs shall be allocated to all customers of the utility in the Commonwealth as a non-bypassable charge, irrespective of the generation supplier of any such customer; and any such costs that are allocated to the utility's system customers outside of the Commonwealth that are not actually recovered from such customers shall be included for cost recovery from jurisdictional customers in the Commonwealth through the rate adjustment clause. The measure prohibits cost recovery for any fines or civil penalties resulting from violations of federal or state law.

#### Failed

**HB 2064 Ground water withdrawals; allocation.** Requires any person applying for a ground water withdrawal permit in the Eastern Virginia Groundwater Management Area (EVGMA) who proposes to use 50 percent or more of the water to be withdrawn for human consumption to submit documentation of such use to the State Water Control Board (the Board). The bill requires the Board to conduct a technical evaluation to determine whether the proposed withdrawal, when combined with all existing lawful withdrawals, will lower water levels in any confined aquifer. The bill prohibits the Board from issuing a permit for such human consumptive use if the withdrawal would lower levels in any confined aquifer below a point representing 80 percent of the distance between the land surface and the top of the aquifer. For a use that does not qualify as a human consumptive use, the bill prohibits the Board from issuing a permit if the withdrawal would lower such levels below a point representing eight percent of the distance between the land surface and the top of the aquifer. The bill requires any existing permittee who wishes to be considered a human consumption permittee to submit water use data to the Board showing that 50 percent or more of the ground water withdrawn during the year ending July 1, 2020, was used for human consumption. The bill directs the Board to evaluate the effects of withdrawal for each permit holder in the EVGMA as of July 1, 2019, and to modify the permit of any permit holder whose withdrawals will lower the water in a contained aquifer to a level below 80 percent (for a human consumption permittee) or eight percent (for any other permittee) of the distance between the land surface and the top of the aquifer. The bill authorizes the Board to charge a fee of up to \$10,000 for each such technical evaluation. Certain provisions of the bill are set to expire on July 1, 2021.

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### Alcoholic Beverage Control

#### Passed

**HB 1770/SB 1668 Alcoholic beverage control; Sunday store hours; distiller commission.** Requires the Alcoholic Beverage Control Authority (the Authority) to pay a distiller who operates a government store on the distiller's licensed premises a commission of not less than 12 percent of the retail price of any goods sold. The bill requires the Authority to periodically review the commission paid to licensed distillers and provide any recommended changes to the Governor and the General Assembly. The bill also allows certain government stores, as determined by the Board of Directors of the Authority, to be open on Sundays for the sale of alcoholic beverages after 10:00 a.m.

**HB 2073/SB 1726 Alcoholic beverage control; happy hour advertising.** Expands the ability of retail on-premises licensees to advertise happy hours by allowing them to advertise the prices of featured alcoholic beverages and to use creative marketing techniques, provided that such techniques do not tend to induce overconsumption or consumption by minors.

**HB 2634/SB 1110 Alcoholic beverage control; local referendums.** Allows the sale of mixed beverages by licensed restaurants and the sale of alcoholic beverages by the Board of Directors of the Virginia Alcoholic Beverage Control Authority in any county, town, or supervisor's election district unless a referendum is held and a majority of the voters voting in such referendum vote to prohibit such sales. Under current law, such sales are prohibited unless they have been approved through the referendum process.

#### Failed

**SB 1683 Alcoholic beverage control; food-to-beverage ratio.** Provides an alternative to the food-to-beverage ratio for mixed beverage restaurant licensees by allowing such licensees to meet applicable food sale requirements by demonstrating at least \$500,000 in annual food sales.

### Commerce and Labor

#### Passed

**HB 2473/SB 1079 Minimum wage; exemptions.** Eliminates the exemptions to Virginia's minimum wage requirements for newsboys, shoe-shine boys, babysitters who work 10 hours or more per week, ushers, doormen, concession attendants, and cashiers in theaters.

**HB 2577/SB 1693 Health insurance; coverage for autism spectrum disorder.** Requires health insurers, health care

subscription plans, and health maintenance organizations to provide coverage for the diagnosis and treatment of autism spectrum disorder in individuals of any age. Currently, such coverage is required to be provided only for individuals from age two through age 10.

**HB 2664/SB 1696 Wage payment statements.** Requires each employer to provide on each regular pay date a written statement, by a paystub or online accounting, that shows the name and address of the employer, the number of hours worked during the pay period, and the rate of pay. Currently an employer is required to provide, when requested, a written statement of the employee's gross wages and any deductions. The measure does not apply to agricultural employment except that an agricultural employer, upon request of its employee, shall furnish the employee a written statement of the gross wages earned by the employee during any pay period and the amount and purpose of any deductions therefrom. The measure has a delayed effective date of January 1, 2020.

#### Failed

**SB 1465 Workers' compensation; occupation disease presumptions; PTSD.** Establishes a presumption that if certain firefighters, law-enforcement officers, hazardous materials officers, animal protection police officers, or 9-1-1 emergency call takers, dispatchers, or similarly situated employees (i) receive a diagnosis of post-traumatic stress disorder (PTSD) from a licensed physician, licensed clinical psychologist, licensed professional counselor, or licensed clinical social worker; (ii) suffer death or any impairment resulting in total or partial disability from work caused by the PTSD; and (iii) receive a statement from such a provider that the PTSD was caused by a single critical event or multiple exposures to critical events that occurred in the course of the employment, then the PTSD is an occupational disease, suffered in the line of duty, that is covered by the Virginia Workers' Compensation Act unless such presumption is overcome by a preponderance of competent evidence to the contrary.

### Constitutional Amendments

#### Passed

**HJ 615/SJ 306 Constitutional amendment (first resolution); apportionment; state and local independent redistricting commissions; criteria.** Requires the establishment of independent redistricting commissions by the General Assembly and the governing bodies of each county, city, or town in which members of the governing body are elected from districts. The Virginia Independent Redistricting Commission is required to be convened for the purpose of proposing districts for the United States House of Representatives and for the Senate and House of Delegates. The Commission shall consist of twelve commissioners, four to be appointed by the Governor, four to be appointed by the Speaker of the House of Delegates, and four to be appointed by the Senate

Committee on Rules. Equal representation shall be given to the two major political parties. Congressional district plans must receive an affirmative vote of eight of the twelve commissioners in order to be submitted to the General Assembly for a vote. Senate district plans must receive an affirmative vote of three of the four commissioners appointed by the Senate Committee on Rules in order to be submitted to the Senate for a vote. House of Delegates district plans must receive an affirmative vote of three of the four commissioners appointed by the Speaker of the House of Delegates in order to be submitted to the House of Delegates for a vote. Plans may not be amended by the General Assembly or the respective body and are not subject to amendment, approval, or veto by the Governor. If a plan is rejected by the General Assembly or the respective body, the Commission is required to submit a new plan for consideration and if that plan is rejected, the districts shall be established by the Supreme Court of Virginia. Congressional and legislative districts are to be established in accordance with certain criteria set out in the amendment. The independent redistricting commissions established by the governing body of each county, city, and town in which members of the governing body are elected from districts will consist of four members, with equal representation given to the political parties, and will be responsible for submitting to its governing body proposed plans for local electoral districts. A proposed plan submitted to a governing body shall, if enacted, be done so in accordance with law.

Corrections

**Passed**

**HB 1642/SB 1777 Department of Corrections; restrictive housing; data collection and reporting; report.** Requires the Department of Corrections to report to the General Assembly and the Governor on or before October 1 of each year certain population statistics of persons incarcerated in state correctional institutions, including certain statistics regarding offenders placed in and released from restrictive housing and Shared Allied Management Units.

**HB 1918/SB 1598 Board of Corrections; minimum standards for health care services in local correctional facilities.** Authorizes the Board of Corrections (Board) to establish minimum standards for health care services in local, regional, and community correctional facilities and procedures for enforcing such minimum standards, with the advice of and guidance from the Commissioner of Behavioral Health and Developmental Services and the State Health Commissioner.

**Failed**

**SB 1498 Board of Juvenile Justice; regulations governing the housing of youth pursuant to contracts with the federal government.** Requires the Board of Juvenile Justice to promulgate regulations governing the housing of youth who are detained in a

juvenile correctional facility pursuant to a contract with the federal government and not committed to such juvenile correctional facility by a court of the Commonwealth.

**SB 1786 Conditional release of terminally ill prisoners.** Makes eligible for consideration by the Parole Board for conditional release any person who is terminally ill and is serving a sentence imposed upon a conviction for a felony offense, other than a Class 1 felony.

Courts/Civil Law

**Passed**

**HB 1820 Nondisclosure or confidentiality agreement; sexual assault; condition of employment.** Prohibits an employer from requiring an employee or a prospective employee to execute or renew any provision in a nondisclosure or confidentiality agreement that has the purpose or effect of concealing the details relating to a claim of sexual assault as a condition of employment.

**HB 1979 Assisted conception.** Amends the assisted conception statute to provide gender-neutral terminology. The bill allows an unmarried individual to be an intended parent, paralleling the ability of an unmarried individual to adopt under the adoption statutes. The bill further allows for the use of an embryo subject to the legal or contractual custody of an intended parent in a surrogacy arrangement.

**SB 1619 Spoliation of evidence.** Establishes that a party or potential litigant has a duty to preserve evidence that may be relevant to reasonably foreseeable litigation. The bill further provides that a court (i) upon finding prejudice to another party from loss, disposal, alteration, concealment, or destruction of such evidence, may order measures no greater than necessary to cure the prejudice, or (ii) only upon finding that the party acted recklessly or with the intent to deprive another party of the evidence's use in the litigation, may (a) presume that the evidence was unfavorable to the party, (b) instruct the jury that it may or shall presume that the evidence was unfavorable to the party, or (c) dismiss the action or enter a default judgment. The bill further provides that no independent cause of action for negligent or intentional spoliation of evidence is created.

**Failed**

**HB 2127 Best interests of a child; frequent and continuing contact with each parent.** Provides that, while considering the best interests of a child for the purposes of determining custody or visitation arrangements, the court shall, when appropriate, assure frequent and continuing contact with each parent.

**SB 1539 Withholding of income for child support; independent contractors.** Clarifies that income earned by an independent

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contractor may be withheld by court order for payment of child support obligations.

### Courts/Criminal Justice

#### Passed

**HB 1720/SB 1632 Possession or distribution of cannabidiol oil or THC-A oil; public schools.** Provides that no school nurse employed by a local school board, person employed by a local health department who is assigned to the public school pursuant to an agreement between the local health department and the school board, or other person employed by or contracted with a local school board to deliver health-related services shall be prosecuted for possession or distribution of cannabidiol oil or THC-A oil for storing, dispensing, or administering cannabidiol oil or THC-A oil, in accordance with a policy adopted by the local school board, to a student who has been issued a valid written certification for the use of cannabidiol oil or THC-A oil. The bill also provides that the Department of Health Professions, in coordination with the Department of Education, shall develop and make available to school boards a standardized form that is to be completed by the practitioner who issues a written certification and a pharmaceutical processor that dispenses the cannabidiol oil or THC-A oil to a student. The bill also provides that no school board shall be required to suspend or expel any student who holds a valid written certification for the use of cannabidiol oil or THC-A oil issued by a practitioner for the possession or use of such oil in accordance with the student's individualized health plan and in compliance with a policy adopted by the school board.

**HB 1817 Promoting travel for prostitution; penalty.** Makes it a Class 1 misdemeanor for any travel agent to knowingly promote travel services for the purposes of prostitution or certain offenses involving minors that require registration on the Sex Offender and Crimes Against Minors Registry.

**HB 2042 Assault and battery against a family or household member; prior conviction; mandatory minimum term of confinement.** Provides that upon a conviction for assault and battery against a family or household member, where it is alleged in the warrant, petition, information, or indictment on which a person is convicted, that such person has been previously convicted of an offense that occurred within a period of 10 years of the instant offense against a family or household member of (i) assault and battery against a family or household member, (ii) malicious wounding or unlawful wounding, (iii) aggravated malicious wounding, (iv) malicious bodily injury by means of a substance, (v) strangulation, or (vi) an offense under the law of any other jurisdiction which has the same elements of any of the above offenses is guilty of a Class 1 misdemeanor and the sentence of such person shall include a mandatory minimum term of confinement of 60 days.

**HB 2089/SB 1418 Sex Offender and Crimes Against Minors Registry; reregistration schedule.** Changes the dates for required reregistration of persons on the Sex Offender and Crimes Against Minors Registry (the Registry) from a repeating specified number of days after initial registration to time periods corresponding to such person's birth month and the first letter of such person's last name. The time intervals for reregistration for each of the following four categories of reregistration do not materially change. The bill provides that (i) a person required to register, other than those persons convicted of a sexually violent offense or murder, shall reregister once each year during such person's birth month; current law is once each year from the date of initial registration; (ii) a person convicted of a sexually violent offense or murder shall reregister every three months, beginning in such person's birth month; current law is every 90 days from the date of initial registration; (iii) a person convicted of providing false information or failing to provide registration information, but not convicted of a sexually violent offense or murder, shall reregister every six months beginning with such person's birth month; current law is every 180 days from the date of such conviction; and (iv) a person convicted of providing false information or failing to provide registration information, when such person was included in the Registry for a sexually violent offense or murder, shall reregister every month; current law is every 30 days from the date of such conviction. The bill requires persons with a last name beginning with A through L to register from the first to the fifteenth of each required reporting month and persons with last names M through Z to register from the sixteenth to the last day of the month of each required reporting month. The bill also requires that for the period of July 1, 2020, to July 1, 2021, any person required to reregister shall continue to reregister with the State Police on such person's reregistration schedule in place prior to July 1, 2020, until such person has reregistered pursuant to the new reregistration schedule, at which time such person shall continue reregistering with the new schedule. The bill has a delayed effective date of July 1, 2020.

**HB 2253 Nonresident concealed handgun permits; time of issuance.** Requires the Department of State Police (Department) to issue a concealed handgun permit to a nonresident within 90 days of receipt of the nonresident's completed application unless it determines that he is disqualified. The bill provides that the Department shall certify the nonresident's application as a de facto concealed handgun permit, which is effective for a period of 90 days after issuance, if the Department has not issued the permit or determined that the nonresident is disqualified within that 90-day period. The bill has a delayed effective date of October 1, 2019.

**HB 2303/SB 1047 Sex offenders in emergency shelters; notification registration.** Provides that a registered sex offender who enters an emergency shelter designated by the Commonwealth or any political subdivision thereof and operated in response to a declared state or local emergency shall, as soon as practicable after entry, notify a member of the shelter's staff who is responsible for providing security of such person's status as a registered sex

offender. The bill provides that any person who fails to notify the shelter's staff of his status as a registered sex offender is guilty of a Class 3 misdemeanor. This bill provides that no person shall be denied entry solely on the basis of his status as a sex offender unless such entry is otherwise prohibited by law, but emergency shelter staff may deny entry of a person on such registry who has been convicted of a sexually violent offense for a period of time necessary to ensure the safety of other individuals admitted to the emergency shelter.

### **HB 2548 Restoration of firearms rights; report to State Police.**

Creates a method whereby circuit courts shall report to the Department of State Police the issuance of a restoration order that unconditionally authorizes the possession, transportation, or carrying of a firearm to a person (i) who has been convicted of a felony; (ii) adjudicated delinquent as a juvenile 14 years of age or older at the time of the offense of murder, kidnapping, robbery by the threat or presentation of firearms, or rape; or (iii) under the age of 29 who was adjudicated delinquent as a juvenile 14 years of age or older at the time of the offense of a delinquent act that would be a felony if committed by an adult. The bill provides that if a court enters an order restoring a felon's right, the order shall contain the felon's name and date of birth and the clerk of the court shall certify and forward the restoration order accompanied by a complete set of the petitioner's fingerprints to the Central Criminal Records Exchange (CCRE). The bill provides that the Department of State Police, upon receipt of the restoration order, shall enter the felon's name and description in the CCRE so that law-enforcement personnel accessing the CCRE will be aware of the order's existence. The bill has a delayed effective date of January 1, 2021.

### **Failed**

### **HB 1763 Firearms; removal from persons posing substantial**

**risk; penalties.** Creates a procedure by which any attorney for the Commonwealth or any law-enforcement officer may apply to a general district court, circuit court, or juvenile and domestic relations district court judge or magistrate for an emergency substantial risk order to prohibit a person who poses a substantial risk of injury to himself or others from purchasing, possessing, or transporting a firearm. If an emergency substantial risk order is issued, a judge or magistrate may issue a warrant to remove firearms from such person. An emergency substantial risk warrant shall expire on the fourteenth day following issuance of the order. The bill requires a court hearing in the circuit court for the jurisdiction where the person is subject to the order resides within 14 days from issuance of an emergency substantial risk order to determine whether a substantial risk order should be issued. Seized firearms shall be retained by a law-enforcement agency for the duration of an emergency substantial risk order or a substantial risk order or, with court approval, may be transferred to a third party 21 years of age or older chosen by the person from whom they were seized. The bill allows the complainant of the original warrant to file a motion for a hearing to extend the substantial risk order prior to its expiration.

The court may extend the order for a period not longer than 180 days. The bill provides that persons who are subject to a substantial risk order, until such order has been dissolved by a court, are guilty of a Class 1 misdemeanor for purchasing, possessing, or transporting a firearm; are disqualified from having a concealed handgun permit; and may not be employed by a licensed firearms dealer. The bill also provides that a person who transfers a firearm to a person he knows has been served with a warrant or who is the subject of an order is guilty of a Class 4 felony.

### **SB 1013 Suspension of driver's license for nonpayment of fines**

**or costs.** Repeals the requirement that the driver's license of a person convicted of any violation of the law who fails or refuses to provide for immediate payment of fines or costs be suspended. The bill also removes a provision allowing the court to require a defendant to present a summary prepared by the Department of Motor Vehicles of the other courts in which the defendant also owes fines and costs. The bill requires the Commissioner of the Department of Motor Vehicles to return or reinstate any person's driver's license that was suspended prior to July 1, 2019, solely for nonpayment of fines or costs, provided that such person has paid the applicable reinstatement fee. The provisions of the bill are contingent upon funding in a general appropriation act.

### **SB 1024 Carrying dangerous weapon to place of religious**

**worship.** Repeals the statutory prohibition on carrying a gun, pistol, bowie knife, dagger, or other dangerous weapon, without good and sufficient reason, to a place of worship while a meeting for religious purposes is being held at such place.

### Education

### **Passed**

### **HB 1652/SB 1005 School calendar; opening day of the school**

**year.** Requires each local school board to set the school calendar so that the first day students are required to attend school is no earlier than 14 days before Labor Day unless the Board of Education waives such requirement for good cause. Under current law, each local school board is required to set the school calendar so that the first day students are required to attend school is after Labor Day unless the Board of Education waives such requirement for good cause. The bill provides that in each school division in which the school board sets the school calendar so that the first day students are required to attend school is before Labor Day, such school board shall close each school in the school division from the Friday immediately preceding Labor Day through Labor Day. The bill exempts from certain requirements certain school boards that were previously granted good cause waivers by the Board of Education.

### **HB 1704/SB 1593 State Council of Higher Education for**

**Virginia; financial aid award notification.** Requires any comprehensive financial aid award notification provided to a student by a public institution of higher education or nonprofit

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private institution of higher education to meet the requirements and best practices established by the Council in its Financial Aid Award Letters Policies and Guidance.

**HB 1729 School counselors; nomenclature; staff time.** Changes the name of guidance counselors to school counselors and requires each school counselor employed by a school board in a public elementary or secondary school to spend at least 80 percent of his staff time during normal school hours in the direct counseling of individual students or groups of students.

**HB 2037/SB 1397 Teacher licensure; criteria; assessments.** Requires the Board of Education to issue a license to an individual seeking initial licensure who has not completed the professional assessments prescribed by the Board, if such individual (i) holds a provisional license that will expire within three months; (ii) is employed by a school board; (iii) is recommended for licensure by the division superintendent; (iv) has attempted, unsuccessfully, to obtain a qualifying score on the professional assessments prescribed by the Board; (v) has received an evaluation rating of proficient or above on the performance standards for each year of the provisional license, and such evaluation was conducted in a manner consistent with the Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, Principals, and Superintendents; and (vi) meets all other requirements for initial licensure. The bill removes the requirement that the Board of Education prescribe an assessment of basic skills for individuals seeking entry into an approved education preparation program and establish a minimum passing score for such assessment.

**HB 2173/SB 1118 Public institutions of higher education; tuition and fee increases; public comment.** Requires the governing board of each public institution of higher education, prior to a vote on an increase in undergraduate tuition or mandatory fees, to permit public comment on the proposed increase at a meeting of the governing board. The bill requires each such governing board to establish policies for such public comment, which may include reasonable time limitations.

**HB 2490/SB 1617 Tech Talent Investment Program.** Creates a grant program to assist qualified public institutions of higher education, defined in the bill, in reaching, by 2039, a goal of increasing by at least 25,000 degrees the number of bachelor's and master's degrees awarded in computer science, computer engineering, and closely related fields, or that otherwise align with traded-sector, technology-focused growth opportunities identified by the Virginia Economic Development Partnership Authority. To be eligible for an annual grant, a qualified institution is required to enter into a memorandum of understanding setting forth specific criteria for eligible degrees, eligible expenses, degree production goals, and graduation rates. The bill requires qualified institutions that are grant recipients to report annually on progress toward meeting such goals and that grants issued pursuant to the program are subject to appropriation. The bill also requires the Secretary of

Finance to report annually to the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance regarding the progress of each qualified institution in meeting its goals and the amount of grants awarded to such institution.

**HB 2609/SB 1130 Department of Criminal Justice Services; school resource officers; school administrators; training.** Requires the Department of Criminal Justice Services (Department) to establish and every full-time or part-time law-enforcement officer employed as a school resource officer after July 1, 2020, to comply with compulsory minimum training standards for law-enforcement officers serving as school resource officers. The bill requires the training provided by the Department pursuant to such standards to be specific to the role and responsibility of a law-enforcement officer working with students in a school environment and to be available throughout the Commonwealth. The bill requires each school board to ensure that every public school it supervises employs at least one school administrator who has completed, either in-person or online, school safety training for public school personnel conducted by the Virginia Center for School and Campus Safety, unless such training is not available online.

### Failed

**HB 2388 Eligibility for in-state tuition; certain individuals.** Declares eligible for in-state tuition any individual who meets certain eligibility criteria and who has filed an application for permanent residency or asylum or is under the age of 27 and is the child of an individual who has filed an application for asylum. The bill provides that any such individual shall remain eligible for in-state tuition for as long as he maintains continuous enrollment in the public institution of higher education and such application has not been denied. The bill also prohibits any student who became eligible for in-state tuition as a result of his lawful presence in the United States pursuant to approval under the Deferred Action for Childhood Arrivals program or any other federal deferred action program from being deemed ineligible for in-state tuition by virtue of the elimination or modification of any such program.

### Elections

#### Passed

**HB 1620/SB 1455 State Board of Elections; membership; appointment of Commissioner of Elections.** Increases the membership of the State Board of Elections from three members to five members and increases the terms of Board members from four years to five years. Representation shall be given to each of the political parties having the highest and next highest number of votes in the Commonwealth at the preceding gubernatorial election, with three Board members being of the party of the Governor. Terms are initially staggered. The bill also grants to the Board the authority to appoint the Commissioner of Elections, subject to confirmation by

the General Assembly, and to remove the Commissioner of Elections. The appointment or removal of the Commissioner shall require an affirmative vote of four of the five Board members. The bill has a delayed effective date of January 1, 2020.

**HB 2790/SB 1026 Absentee voting; no-excuse in-person voting available beginning on second Saturday immediately preceding election.** Allows for any registered voter to vote by absentee ballot in person beginning on the second Saturday immediately preceding any election in which he is qualified to vote without providing a reason or making prior application for an absentee ballot. The bill makes absentee voting in person available beginning on the forty-fifth day prior to the election and ending at 5:00 p.m. on the Saturday immediately preceding the election. The bill retains the current provisions for voting an absentee ballot by mail or in person prior to the second Saturday immediately preceding the election, including the application requirement and the list of statutory reasons for absentee voting. The provisions of the bill do not become effective until the November 3, 2020, general election.

General Laws

**Passed**

**HB 1650/SB 1060 Virginia Lottery Law; disclosure of a lottery winner's identity.** Prohibits the Virginia Lottery from disclosing information about individual winners whose prize exceeds \$10 million, and exempts such information from disclosure under the Freedom of Information Act (FOIA), unless the winner consents to disclosure. Under FOIA, disclosure of the winner's name, hometown, and amount won is currently mandatory.

**HB 1668 Virginia Public Procurement Act; high-risk contracts; report.** Requires the Department of General Services (DGS), the Virginia Information Technologies Agency (VITA), and the Office of the Attorney General, as appropriate, to review contract solicitations and contracts for any public contract with a state public body for goods, services, insurance, or construction that meets the definition of high-risk contract provided in the bill. The bill directs DGS and VITA to develop guidelines for state agencies to use when assigning staff to administer high-risk contracts and requires that such guidelines (i) provide that any staff designated as a contract administrator must have prior contract administration experience and (ii) direct an agency's chief procurement officer to communicate to such contract administrator, when he first assumes his role, his responsibilities for effectively administering the contract. Some provisions of the bill have a delayed effective date for implementation for certain high-risk contract review processes.

**HB 2655/SB 1450 Eviction Diversion Pilot Program.** Establishes the Eviction Diversion Pilot Program (the Program), consisting of specialized dockets within the existing structure of the general district courts for the cities of Danville, Hampton, Petersburg, and Richmond. The Program is established as a pilot program that has a

delayed effective date of July 1, 2020, and that expires on July 1, 2023. The purpose of the Program is to reduce the number of evictions of low-income persons. Parties to an unlawful detainer action in participating jurisdictions will be directed to participate in the Pilot Program upon certain findings by the court. The Virginia Housing Commission (the Commission) shall request data from the Executive Secretary of the Supreme Court of Virginia for the evaluation of the Program's effectiveness and potential benefits and costs.

**SB 1126 Lottery Board; regulation of casino gaming; penalties.** Authorizes casino gaming in the Commonwealth to be regulated by the Virginia Lottery Board (the Board). Casino gaming shall be limited to certain cities that meet the criteria that is outlined in the bill, and a referendum must be passed in the city on the question of allowing casino gaming in the city. The bill requires the Joint Legislative Audit and Review Commission (JLARC) conduct a review of casino gaming laws of other states and report its findings to Chairmen of the Senate Committee on General Laws and Technology and the House Committee on General Laws on or before December 1, 2019. The bill contains enactment clauses that prohibit (i) any referendum from being held prior to the publication of the JLARC findings and recommendations regarding casino gaming or after January 1, 2021, and (ii) the Board from issuing a license to operate a gaming operation before July 1, 2020. The bill also provides that amendments to the Code of Virginia that are made in the bill will not become effective unless reenacted by the 2020 Session of the General Assembly.

**Failed**

**HB 2421 Prohibited discrimination; sexual orientation and gender identity.** Prohibits discrimination in employment, public accommodation, public contracting, apprenticeship programs, housing, banking, and insurance on the basis of sexual orientation or gender identity. The bill codifies existing prohibited discrimination in public employment on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, disability, or status as a veteran and adds discrimination based on sexual orientation or gender identity to the list of unlawful discriminatory housing practices.

Health

**Passed**

**HB 1942 Behavioral health services; exchange of medical and mental health information and records; correctional facilities.** Authorizes the State Board of Corrections (the Board) to establish minimum standards for behavioral health services in local correctional facilities, including (i) requirements for behavioral health screening and assessment for all individuals committed to local correctional facilities, the delivery of behavioral health

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services in local correctional facilities, and the sharing of medical and mental health information and records concerning individuals committed to local correctional facilities; (ii) requirements for discharge planning for individuals with serious mental illness assessed as requiring behavioral health services upon release from local correctional facilities; (iii) requirements for at least one unannounced annual inspection of each local correctional facility to determine compliance; and (iv) provisions for billing the sheriff in charge of a local correctional facility or superintendent of a regional correctional facility by a community services board that provides behavioral health services in the local or regional correctional facility. The bill also allows the person in charge of a state, regional, or local correctional facility, or his designee, to receive from a health care provider medical and mental health information and records concerning a person committed to such correctional facility, even when such committed person does not provide consent or consent is not readily obtainable, when such information and records are necessary (a) for the provision of health care to the person committed, (b) to protect the health and safety of the person committed or other residents or staff of the facility, or (c) to maintain the security and safety of the facility. The bill clarifies that the administrative personnel of a state, regional, or local correctional facility may receive medical and mental health information and records from any health care provider concerning any person committed to such correctional facility as necessary to maintain the safety of the facility, its employees, or other prisoners.

**HB 1952/SB 1209 Patient care team podiatrist definition; physician assistant supervision requirements.** Establishes the role of "patient care team podiatrist" as a provider of management and leadership to physician assistants in the care of patients as part of a patient care team. The bill modifies the supervision requirements for physician assistants by establishing a patient care team model.

**HB 2026 Newborn screening; congenital cytomegalovirus.** Directs the Board of Health to amend regulations governing newborn screening to include screening for congenital cytomegalovirus in newborns who fail the newborn hearing screen.

**HB 2546 Maternal Death Review Team established.** Establishes the Maternal Death Review Team (the Team) to develop and implement procedures to ensure that maternal deaths occurring in the Commonwealth are analyzed in a systematic way. The bill requires the Team to (i) develop and revise as necessary operating procedures for maternal death reviews, including identification of cases to be reviewed and procedures for coordinating among the agencies and professionals involved; (ii) improve the identification of and data collection and record keeping related to causes of maternal deaths; (iii) recommend components of programs to increase awareness and prevention of and education about maternal deaths; and (iv) recommend training to improve the review of maternal deaths.

**HB 2731 Lyme disease; disclosure of information to patients.** Requires every laboratory reporting the results of a test for Lyme disease ordered by a health care provider in an office-based setting to include, together with the results of such test provided to the health care provider, a notice stating that the results of Lyme disease tests may vary and may produce results that are inaccurate and that a patient may not be able to rely on a positive or negative result from such test. Such notice shall also include a statement that health care providers are encouraged to discuss Lyme disease test results with the patient for whom the test was ordered. The bill also provides that a laboratory that complies with the provisions of the bill shall be immune from civil liability absent gross negligence or willful misconduct.

**HB 2750/SB 1004 Advance estimate of patient payment amount for elective medical procedure, test, or service; notice of right to request.** Provides that every hospital currently required to provide an estimate of the payment amount for an elective procedure, test, or service for which a patient may be responsible shall also provide each patient with written information regarding his right to request such estimate, to post written information regarding a patient's right to request such estimate conspicuously in public areas of the hospital, and to make such information available on the hospital's website.

**SB 1488 Department of Behavioral Health and Developmental Services; causes of high state hospital census; report.** Directs the Secretary of Health and Human Resources to convene a stakeholder work group to examine the causes of the high census at the Commonwealth's state hospitals for individuals with mental illness, including (i) the impact on such census of the practice of conducting evaluations of individuals who are the subject of an emergency custody order in hospital emergency departments, the treatment needs of individuals with complex medical conditions, the treatment needs of individuals who are under the influence of alcohol or other controlled substances, and the need to ensure that individuals receive treatment in the most appropriate setting to meet their physical and behavioral health care needs and (ii) the potential impact on such census of extending the time frame during which an emergency custody order remains valid, revising security requirements to allow custody of a person who is the subject of an emergency custody order to be transferred from law enforcement to a hospital emergency department, diverting individuals who are the subject of an emergency custody order from hospital emergency departments to other more appropriate locations for medical and psychological evaluations, and preventing unnecessary use of hospital emergency department resources by improving the efficiency of the evaluation process. The work group shall analyze how such issues affect both adults and children.

**SB 1557 Board of Pharmacy; cannabidiol oil and tetrahydrocannabinol oil; regulation of pharmaceutical processors.** Authorizes licensed physician assistants and licensed nurse practitioners to issue a written certification for use of

cannabidiol oil and THC-A oil. The bill requires the Board to promulgate regulations establishing dosage limitations, which shall require that each dispensed dose of cannabidiol oil or THC-A oil not exceed 10 milligrams of tetrahydrocannabinol.

Local Government

**Passed**

**HB 2342/SB 1373 Conditional rezoning proffers.** Makes extensive changes to conditional zoning provisions first enacted in 2016. Specific amendments include the addition of provisions stating that no local governing body shall require any unreasonable proffer, as described in current law. Under current law, no locality may request or accept any unreasonable proffer. Other changes (i) allow an applicant to submit any onsite or offsite proffer that the applicant deems reasonable and appropriate, as conclusively evidenced by the signed proffers, and (ii) state that nothing in the bill shall be deemed or interpreted to prohibit communications between an applicant or owner and the locality or to prohibit presentation, analysis, or discussion of the potential impacts of new residential development or other new residential use on the locality's public facilities.

**HB 2621/SB 1091 Site plan approval; decommissioning certified solar energy equipment, facilities, or devices.** Requires a locality, as part of the local legislative approval process or as a condition of approval of a site plan, to require an owner, lessee, or developer of real property to enter into a written agreement to decommission solar energy equipment, facilities, or devices upon certain terms and conditions, including right of entry by the locality and financial assurance.

**SB 1156 Sanctuary policies prohibited.** Provides that no locality shall adopt any ordinance, procedure, or policy intended to restrict the enforcement of federal immigration laws.

Social Services

**Passed**

**HB 1659/SB 1257 Child abuse and neglect; mandatory reporters.** Adds to the list of persons who are required to report suspected child abuse or neglect ministers, priests, rabbis, imams, and duly accredited practitioners of any religious organization or denomination usually referred to as a church; however, the bill exempts such clergy members from the mandatory reporting requirement when the information supporting the suspicion of child abuse or neglect (i) is required by the doctrine of the religious organization or denomination to be kept confidential or (ii) would be subject to the exemptions set forth in § 8.01-400 or 19.2-271.3 if offered as evidence in court.

**HB 1871/SB 1145 Virginia Initiative for Employment Not Welfare (VIEW); transitional child care.** Allows VIEW participants whose Temporary Assistance for Needy Families financial assistance is terminated to receive child care assistance for up to 12 months after termination if the individual is enrolled in an accredited public institution of higher education or other postsecondary school licensed or certified by the Board of Education or the State Council of Higher Education for Virginia, and is taking courses as part of a curriculum that leads to a postsecondary credential, such as a degree or an industry-recognized credential, certification, or license. Under current law, such child care assistance is only available if it enables the individual to work.

**HB 2597/SB 1661 Child abuse and neglect report or complaint; victims of sex trafficking; taking child victim into custody.** Requires a local department of social services to conduct a sex trafficking assessment upon receiving a complaint of suspected child abuse that is based upon information and allegations that a child is a victim of sex trafficking, provided that the local department has not determined that a separate investigation or family assessment is required. The bill also allows a child-protective services worker of a local department responding to such complaint to take the child victim into custody and allows the local department to maintain custody of the child for up to 72 hours without prior approval of a parent or guardian.

**SB 1339 Foster care omnibus.** Makes numerous changes to the laws governing the provision of foster care services in the Commonwealth. Among other things, the bill (i) allows the Commissioner of Social Services to develop and implement a corrective action plan for or assume temporary control over the foster care services of a local board of social services upon determining that the local board (a) has failed to provide foster care services or make placement and removal decisions in accordance with applicable laws or regulations or (b) has taken any action that poses a substantial risk to the health, safety, or well-being of any child under its supervision and control; (ii) requires the Commissioner to create within the State Department of Social Services (the Department) a foster care health and safety director position; (iii) directs the Commissioner to establish and maintain a confidential hotline to receive reports and complaints from foster parents and other persons regarding violations of laws or regulations applicable to foster care and any other matters related to the health, safety, or well-being of children in foster care; (iv) directs the Department to develop and implement a more reliable, structured, and comprehensive case review and quality improvement process to monitor and improve foster care services provided by local boards and departments of social services; and (v) requires the Department to establish and update annually a caseload standard that limits the number of foster care cases that may be assigned to each foster care caseworker.

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**SB 1678 Family First Prevention Services Act; statutory alignment.** Aligns the Code of Virginia with the federal Family First Prevention Services Act of 2018 regarding background check requirements for employees of, volunteers at, and contractors providing services to juveniles at children's residential facilities. The bill contains an emergency clause.

### Failed

**SB 1129 Eligibility for food stamps and TANF; drug-related felonies.** Provides that a person who is otherwise eligible to receive food stamp benefits or Temporary Assistance for Needy Families shall not be denied such assistance solely because he has been convicted of any drug-related felony, provided that such person is complying with, or has already complied with, all obligations imposed by the criminal court, is actively engaged in or has completed a substance abuse treatment program, participates in periodic drug screenings, and fulfills any other obligations as determined by the Department of Social Services.

**SB 1321 Licensed family day homes; storage of firearms.** Requires that firearms and ammunition in a licensed family day home be stored in a locked closet, cabinet, or container during the family day home's hours of operation. The bill requires that the key or combination to such locked storage places be maintained out of the reach of all children in the family day home.

### Taxation

#### Passed

**HB 1722/SB 1083 Remote sales and use tax collection; sufficient activity by dealers and marketplace facilitators as to require registration for sales and use tax collection.** Directs the Department of Taxation (the Department) to require a remote seller to collect sales and use tax if the seller has more than \$100,000 in annual gross revenue from sales in Virginia or at least 200 sales transactions in Virginia and requires a marketplace facilitator, which enables marketplace sellers to sell in Virginia through its marketplace, to collect sales and use tax if its annual gross revenue from facilitated sales in Virginia exceeds \$100,000 or it facilitates at least 200 sales transactions in Virginia. The bill provides that the obligation of remote sellers and marketplace facilitators to collect sales and use tax shall not apply to transactions occurring before July 1, 2019. The bill provides that in administering remote sales and use tax collection, the Department shall provide information to remote sellers to allow them to identify state and local tax rates and exemptions. For auditing purposes, the Department is directed to allow a remote seller to complete a single audit covering all localities. The bill requires the Department to give remote sellers at least 30 days' notice of any change in tax rate. The bill provides that if a remote seller or marketplace facilitator collects an incorrect amount of tax, it shall be relieved of liability for failure to collect the correct amount if the error is the result of its reliance on information

provided by Virginia. The bill also relieves a marketplace facilitator of liability if it collects an incorrect amount of tax based on certain incorrect information provided by a seller or purchaser. The bill repeals several contingent provisions of previous related bills that would take effect if the United States Congress enacted legislation related to remote sales and use tax collection.

#### **HB 2356/SB 1255 Major Headquarters Workforce Grant Fund.**

Creates the Major Headquarters Workforce Grant Fund. A qualified e-commerce company that makes a capital investment of at least \$2 billion in a major headquarters facility in Arlington County and that creates at least 25,000 new full-time jobs with an average annual wage of \$150,000 will be eligible for up to \$550 million in grants from the Fund. A qualified company may also be eligible for an additional \$200 million in grants for creating an additional 12,850 new full-time jobs.

**HB 2529/SB 1372 Income tax; conformity.** Advances conformity of the Commonwealth's tax code with the federal tax code to December 31, 2018, effective starting in taxable year 2018. Starting in taxable year 2019, the bill deconforms from the provisions of the federal Tax Cuts and Jobs Act (TCJA) that limit the deduction for state and local taxes and that suspend the overall limit on itemized deductions. The bill establishes income tax subtractions starting in taxable year 2018 for Global Intangible Low-Taxed Income (GILTI) and for one-fifth of the amount of business interest that is disallowed as a deduction from federal income tax. The bill increases the standard deduction to \$4,500 for single individuals and \$9,000 for married persons filing jointly for taxable years 2019 through 2025. Under current law, the standard deduction is \$3,000 for single individuals and \$6,000 for married couples filing jointly. The bill provides for a refund, not to exceed a taxpayer's tax liability of up to \$110 for individuals and \$220 for married persons filing a joint return. The refund will be issued in October 2019 and will be available only for a taxpayer filing a final return by July 2019. The refunds will be reduced and prorated if the additional revenues generated by the TCJA are insufficient to fully fund the refunds. The bill establishes the Taxpayer Relief Fund (the Fund). For fiscal years 2019 through 2025, any additional revenues attributable to the TCJA, beyond those necessary to fund the provisions of the bill, would accrue to the Fund. The bill directs the General Assembly to appropriate moneys from the Fund to enact permanent or temporary tax reform measures. The bill contains an emergency clause.

### Failed

**HB 2160/SB 1297 Refundable income tax credit for low-income taxpayers.** Allows low-income individuals and married persons to claim either (i) a nonrefundable income tax credit equal to \$300 for each individual, his spouse, and any dependents or (ii) a refundable income tax credit equal to 20 percent of the federal earned income tax credit claimed that year by the individual or married persons. Under current law, low-income individuals and married persons may elect either of these amounts; however, both options for

claiming the credit are nonrefundable. The provisions of the bill apply to taxable years beginning on and after January 1, 2019, but before January 1, 2026.

Transportation/Motor Vehicles

**Passed**

**HB 2514 Motor vehicle safety inspections; charges.** Increases the maximum charge for a state safety inspection for a motor vehicle from \$16 to \$20 and increases the amount transmitted to the Department of State Police from \$0.50 to \$0.70.

**HB 2718/SB 1716 Interstate 81; Interstate 81 Corridor Improvement Fund.** Creates the Interstate 81 Corridor Improvement Fund. Revenues deposited in the Fund are allocated for improvements to the Interstate 81 Corridor. The bill also directs the Commonwealth Transportation Board (Board) to develop and update, in consultation with an Interstate 81 Committee (Committee) established by the bill, an Interstate 81 Corridor Improvement Program. The Committee is also directed to review the Interstate 81 Corridor Improvement Plan adopted by the Board in December 2018, as it relates to funding options and make recommendations to the Governor and the General Assembly regarding funding recommendations and prioritization of projects.

**SB 1521 Handheld photo speed monitoring devices.** Provides that the Department of State Police may operate a handheld photo speed monitoring device, defined in the bill, in or around a highway work zone for the purpose of recording images of vehicles that are traveling at speeds of at least 12 miles per hour above the posted highway work zone speed limit within applicable highway work zones.

**SB 1768 Use of handheld personal communications devices; highway work zones; penalty.** Prohibits any person from holding a handheld personal communications device while driving a motor vehicle in a highway work zone, with certain exceptions. The bill provides that a violation is punishable by a mandatory fine of \$250.

**Failed**

**HB 1811/SB 1341 Use of handheld personal communications devices while driving.** Prohibits any person from holding a handheld personal communications device while driving a motor vehicle. Current law prohibits only the reading of any email or text message and manually entering letters or text in such a device as a means of communicating. The bill expands the exemptions to include handheld personal communications devices that are being held and used (i) as an amateur radio or a citizens band radio or (ii) for official Department of Transportation or traffic incident management services.

**HB 1843/SB 1740 Driver privilege cards; penalty.** Authorizes the issuance of new driver privilege cards by the Department of Motor Vehicles to an applicant who (i) has reported income from Virginia sources on an individual tax return filed with the Commonwealth in the preceding 12 months; (ii) is not in violation of the insurance requirements for the registration of an uninsured motor vehicle; and (iii) provides an unexpired passport as proof of identity. The bill provides that driver privilege cards shall confer the same privileges and shall be subject to the same provisions as driver's licenses and permits; however, driver privilege cards shall not (a) confer voting privileges, (b) permit an individual to waive any part of the driver examination, or (c) have their issuance be contingent upon the applicant's ability to produce proof of legal presence in the United States.

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