Gerald F. Lackey, Ph.D.
Commissioner

COMMONWEALTH of VIRGINIA
Department of Motor Vehicles

2300 W. Broad St.
P.O. Box 27412
Richmond, VA 23269-0001
(804) 497-7100
TTY: 711 or (800) 828-1120
dmv.virginia.gov

December 1, 2024

The Honorable Karrie K. Delaney
Chair, House Committee on Transportation
General Assembly Building, Room 1112
201 North 9th Street
Richmond, Virginia 23219

Re: Report of the Vehicle Registration Renewal Study Group (House Bill 219)

Dear Chair Delaney:

Delegate Orrock introduced House Bill 219 during the General Assembly's 2024 Regular Session. The bill proposed to amend Code § 46.2-646 by creating a tiered traffic fine system for expired vehicle registrations. It would have mandated a $25 traffic fine for registrations that were expired for less than one year and authorized fines between $25 and $250 for registrations that were expired for more than a year. The bill also would have provided a grace period in which a driver could not be cited for an expired registration if it was valid within the last 60 days.

After considering the bill and hearing testimony in subcommittee, the House Committee on Transportation voted to lay the bill on the table to allow the Department of Motor Vehicles (DMV) to review the existing penalties for expired registrations and evaluate options to encourage timely registration renewals. In a charge letter dated April 17, 2024, you directed DMV to study (1) whether a tiered penalty system would be appropriate and (2) the impact of providing a 60-day grace period for registrations.

In response to your letter, DMV convened a study group comprising Deputy Commissioner for Operations Linda Ford, Assistant Commissioner for Driver and Vehicle Services Sharon Brown, Assistant Commissioner for Legal Affairs Carla Jackson, Director of Legislative Services Brandon Bailey, Director of Vehicle Services Melanie Lester, and Director of Systems Support Betty Mattice. This letter presents the study group's findings in response to the two topics in your charge letter.

For the reasons laid out below, the study group recommends codifying the current $10 late fee charged when a customer renews a registration after it has expired. The study group also proposes allowing DMV to incrementally increase the fee by $5 for the second and each subsequent month after the registration has expired, up to the amount of the prepayable fine for a traffic ticket for driving a vehicle with an expired registration (DWER).[1] The group also recommends requiring the owner to pay any outstanding registration and late fees before DMV issues a new or renewal registration for a vehicle with an expired registration. Finally, the group does not recommend creating an additional grace period.

Summary of Current Virginia Vehicle Registration Law

Virginia law currently provides two separate but related requirements to register a vehicle, and each requirement has its own, separate penalty.

(1) Code § 46.2-464 requires owners to register their vehicles with DMV on an annual basis,[2] although an owner may pay for up to three years in advance. Violating this requirement is only an administrative violation. If an owner fails to renew their vehicle registration before it expires, DMV charges a $10 late fee when the owner renews. This $10 late fee was established by Item 435(F)(2) of the 2012 budget bill, 2012 Spec. Sess. Acts ch. 3, and continues in the current budget, Item 426(E)(2) of 2024 Spec. Sess. Acts ch. 2. The budget language includes a 10-day grace period for renewals conducted by mail and a 90-day grace period for certain federal military and civilian personnel under Code § 46.2-221.4. Currently there are no other grace periods relating to the $10 late fee.

(2) Code § 46.2-613(A)(1) prohibits anyone from driving a vehicle on a public road unless the vehicle is registered under Code § 46.2-646. Violating this requirement is a traffic infraction and is penalized with a fine. Code § 46.2-646(E) prevents a law enforcement officer from stopping a vehicle for an expired registration until the first day of the fourth month after it expired, but an officer may issue a ticket for an expired registration at any time if he or she stops a driver for another offense. DWER is a Class 4 misdemeanor under Code § 46.2-113. Class 4 misdemeanors are punishable under Code § 18.2-11(d) by a fine up to $250.

However, the Supreme Court of Virginia has designated DWER as a prepayable traffic infraction under Code § 16.1-69.40:1(C). That Code section allows the Court to designate traffic offenses for which a defendant may waive a court appearance, plead guilty, and pay a fine in lieu of trial. The Code section also allows the Court to establish the amount of the prepayable fine for each offense. The Court has set the current fine for DWER at $25 in the Traffic Infractions and Uniform Fine Schedule. When a driver declines to waive a hearing, plead guilty, and prepay the fine, judges are permitted by Rule 3B:2 of the Rules of the Supreme Court of Virginia to impose

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[1] The amount of the prepayable fine for the traffic infraction is set by the Supreme Court of Virginia, as explained below.

[2] There are exceptions, such as for nonresidents (Code § 46.2-657) and other exemptions codified in Chapter 6, Article 6, of Title 46.2.

a different fine. Code § 46.2-646(D) also allows a court to dismiss a DWER ticket if the defendant proves that vehicle's registration was renewed on or before the court date.

The study group emphasizes key differences between the two types of violations. The failure to timely renew a vehicle registration as required by Code § 46.2-646 results only in a late fee set in the budget. The late fee is paid ***to DMV*** by the vehicle's ***owner*** when they renew their expired registrations, regardless of whether they have been ticketed by law enforcement. By contrast, DWER is a traffic infraction that results in a fine set either by the Supreme Court of Virginia (if prepaid) or by the judge in each individual case. The fine is paid ***to the court*** by the ***driver*** after conviction.

The group also points out that because a law enforcement officer tickets the *driver*—not necessarily the *owner*—for the traffic infraction, courts do not order the defendant to actually renew the expired registration. As a result, a driver—even if the vehicle's owner—may be ticketed by law enforcement one day, prepay the $25 fine, and continue driving the vehicle on the expired registration with no requirement to complete the renewal.[3]

Statistical Findings and Implications for Registration Enforcement

DMV's internal data reveals that at any given time, there are an average of about 937,000 vehicles with unrenewed registrations, in varying stages of delinquency between 1 day and 12 months late. However, this figure includes more vehicles than those being driven with expired registrations. It may include, for example, vehicles whose owners did not renew their registration in Virginia because they moved to another state, and neither the owner nor the new state reported the relocation to DMV. DMV's data cannot distinguish between vehicles that are being driven with expired registrations and other registrations that were not timely renewed.

The table below illustrates recent registration renewal patterns based on DMV's data. It shows that there are an average of about 140,000 vehicles with unrenewed registrations between 1 day and 1 month late; 100,000 between 1 and 2 months late; 84,000 between 2 and 3 months late; 76,000 between 3 and 4 months late; and 70,000 between 4 and 5 months late. As a result, the table shows that about 40,000 owners with an expired registration renew within the first

[3] An owner may choose to take the risk of continuing to drive with an expired registration rather than renew for several reasons. First, the cost to renew would include the vehicle's normal registration fee (which varies between $30.75 and $44.75 depending on the size of the vehicle, not including any additional fees for a personalized or special plates) plus the $10 late fee, plus the Highway Use Fee required under Code § 46.2-772 depending on the vehicle's fuel type or fuel economy. Second, an owner cannot renew their vehicle registration if their local personal property taxes are delinquent. An owner may need to pay their locality hundreds of dollars in personal property taxes, fines, fees, and interest before the locality releases its hold on the vehicle's registration record.

month; an additional 16,000 renew within the second month; an additional 7,000 renew within the third month; and an additional 5,500 within the fourth month.[4]

Report Month	Months Overdue													Total
	< 1	1	2	3	4	5	6	7	8	9	10	11	12	
Feb 2024	126,278	88,634	75,969	76,041	73,492	74,512	68,419	65,926	62,402	58,252	64,773	49,506	42,332	926,536
Mar 2024	125,549	92,393	75,563	68,212	69,835	68,726	70,746	65,768	63,649	60,572	56,884	63,385	44,126	925,408
Apr 2024	155,328	89,700	78,471	67,096	62,221	64,838	64,819	67,508	63,411	61,689	59,056	55,575	56,723	946,435
May 2024	156,591	110,826	76,948	69,903	61,372	58,036	61,255	61,899	64,992	61,479	60,127	57,747	49,381	930,556
June 2024	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
July 2024	149,533	103,041	84,337	86,142	64,135	60,364	54,639	52,848	56,690	58,000	61,408	58,713	52,497	942,347
Aug 2024	141,061	106,115	88,693	76,254	80,055	60,436	57,278	52,571	51,143	55,166	56,632	60,154	52,006	937,564
Sept 2024	151,570	101,216	91,011	80,191	70,954	75,393	57,664	54,949	50,994	49,827	53,965	55,562	53,242	946,538
Oct 2024	140,397	107,685	87,947	82,641	74,619	67,123	72,064	55,599	53,116	49,799	48,837	52,994	49,336	942,157
Nov 2024	133,404	99,391	92,577	79,773	76,755	73,537	64,175	69,330	53,929	51,594	48,804	47,943	47,245	938,457

Mean	139,968	99,889	83,502	76,250	70,382	66,996	63,451	60,711	57,814	56,264	56,721	55,731	49,654	937,333
Median	140,397	101,216	84,337	76,254	70,954	67,123	64,175	61,899	56,690	58,000	56,884	55,575	49,381	938,457

Change													
Mean		(40,079)	(16,387)	(7,252)	(5,868)	(3,386)	(3,545)	(2,740)	(2,897)	(1,550)	457	(990)	(6,077)
Median		(39,181)	(16,879)	(8,083)	(5,300)	(3,831)	(2,948)	(2,276)	(5,209)	1,310	(1,116)	(1,509)	(6,194)

The beginning of the fourth month is the one two critical thresholds.[5] The first day of the fourth month is the first day a law enforcement officer may stop a vehicle for a DWER infraction under Code § 46.2-646(E). About 63,000 owners renew their expired registrations before the fourth month, when driving with an expired registration becomes a stoppable offense. Only about 26,500 owners renew after the beginning of the fourth month. The study group suggests that this pattern indicates that the DWER offense is not a practical incentive to renew an already overdue registration. The study group's view is further bolstered by data from the Office of the Executive Secretary of the Supreme Court of Virginia (OES), explained below.

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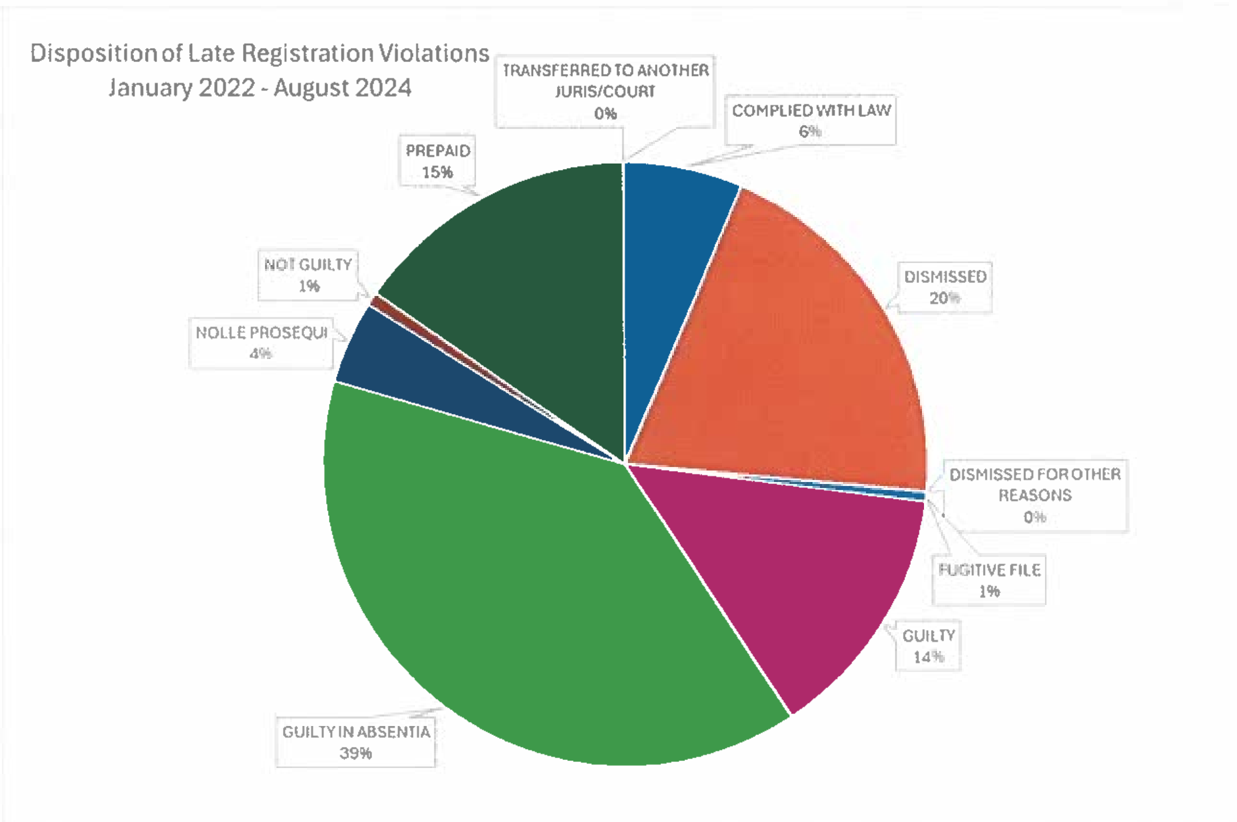
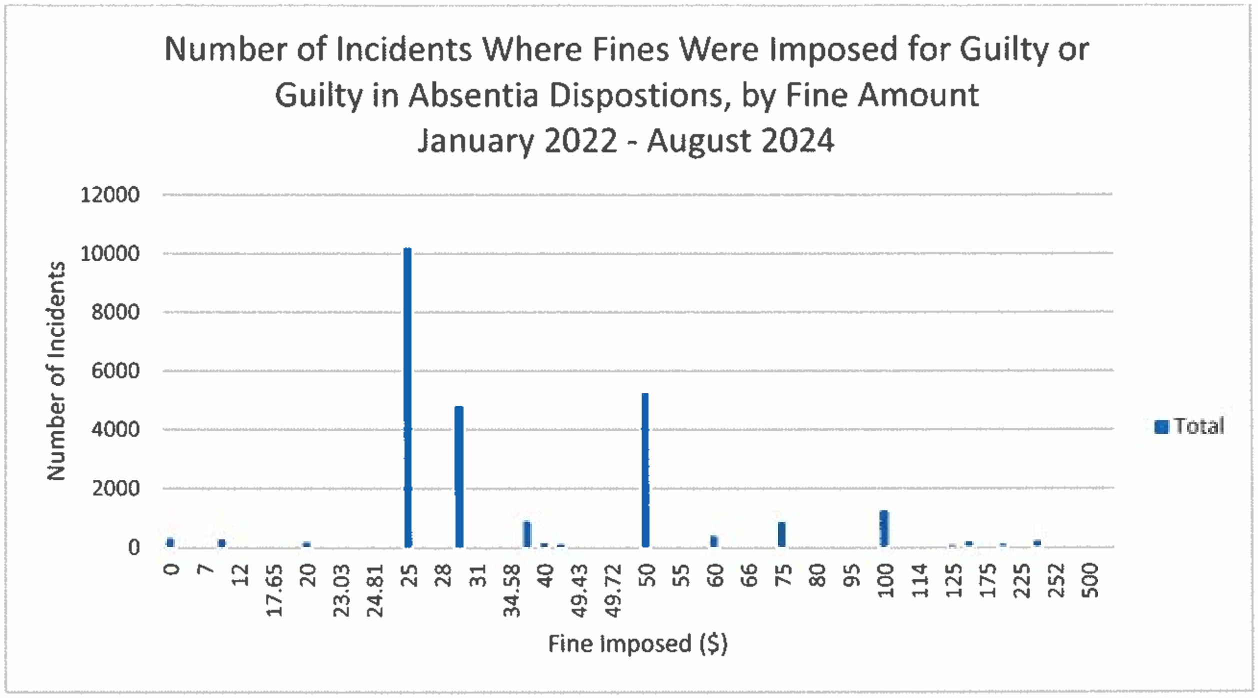
[4] Note that the chart moves down and across one cell to track a particular cohort. For example, plates that expired on January 31, 2024 are shown in the first column in the first row, the second column in the second row, the third column in the third row, and so on, as highlighted in lavender on the table. DMV does not have data for June 2024.

[5] The second critical threshold is the end of the twelfth month of delinquency. Under longstanding DMV policy, a registration that has not been renewed after thirteen months is cancelled and cannot be renewed. Rather, the owner must apply for a new registration and obtain a new license plate. As mentioned above, there are some lawful reasons an owner may not have renewed an expired registration, such as moving out of state or taking the vehicle out of service. DMV therefore imposes an end date for a vehicle's registration lifecycle. The twelve-month lifecycle has two incidental consequences. The first consequence is that DMV does not have renewal data after a vehicle's registration has been expired more than twelve months; a registration delinquent that long cannot be renewed and the owner must apply for a new registration. The second consequence is that some owners can game the system to avoid paying the registration fee, discussed in more detail below.

The OES data show that from January 2022 to early August 2024, there were a total of 49,684 DWER infractions. Below is a pie chart with the court dispositions for those infractions, followed by a bar chart showing the number of times each dollar amount was imposed as a fine for cases where the verdict in a non-prepaid case was either guilty or guilty in absentia. The pie chart shows that 15% of the 49,684 infractions—about 7,450 cases—were resolved when the driver prepaid the $25 fine. It also shows that an additional 53% of the infractions—about 26,300 cases—were resolved when the court found the driver guilty or guilty in absentia. The bar chart shows that in those cases, the most common penalty by far that the court imposed was the same $25 fine—about 10,000 cases. The second-most common fine was $50—about 5,300 cases—and the third-most common was $30—about 4,800 cases.





The 49,684 ticketed DWER infractions within this January 2022 through August 2024 timeframe illustrates how ineffective the infraction and associated fine are at motivating registration renewal. Averaging the 49,684 ticketed DWER infractions over the 32 months of the OES data period, indicates that law enforcement officers issue only about 1,550 tickets per month. By comparison, DMV's data shows that at any given time, an average of about 937,000 vehicles have a registration that has been expired for some duration. In other words, there are approximately 1.6 ticketed DWER infractions for every 1,000 vehicles with expired registrations—a "catch rate" of only 0.16%. The study group reiterates that compared to the number of ticketed DWER infractions across the entire 32-month OES data period, 63,000 owners renew an expired registration before the fourth month, when driving a vehicle with an expired registration becomes a stoppable offense. In other words, 63,000 owners renew a late registration each month *before* they could be stopped by law enforcement; fewer than 50,000 owners were ticketed over a 32-month period *after* they could be stopped.

The ineffectiveness of the DWER infraction ticketing rate is compounded by the conviction rate. Only 53% of ticketed drivers are found guilty. Another 15% plead guilty and prepay, for a combined percentage of 68%—about 33,800 drivers, more than half of whom pay $25 or less. The study group also reiterates that even when a driver is ticketed for and subsequently found guilty of a DWER infraction, the court does not order the vehicle's owner to renew the registration, so the DWER infraction doesn't actually incentivize registration renewal.

The ineffectiveness of the traffic infractions is further emphasized by the low number of owners who pay to renew their expired registrations rather than pay the traffic fine. As noted above, a court may dismiss the traffic ticket under Code § 46.2-646(D) without any fine if the defendant proves the registration was renewed on or before the court date. But the pie chart shows only 6% of traffic infractions were dismissed for this reason—only 581 cases— within the 32-month OES period.

The study group also acknowledges a significant defect in DMV's approach to retaining vehicle registration data. As noted above in footnote five, DMV terminates a vehicle's registration lifecycle after the registration has remained expired for more than 12 months. As an unintended consequence of this policy, an owner who does not renew an expired registration for 12 months or more could apply for a new registration without paying the $10 late fee or the previous year's registration fee. For example, if a vehicle's registration expired in July 2023 and the owner waited until August 2024 (or later), the owner could apply for a new registration, pay only for one year (e.g., August 2024 through August 2025), and effectively get 12 or more months free. The study group's recommendations below include a proposal to close this loophole.

Survey of Other State Approaches to Late Registrations

The study group surveyed other state vehicle registration agencies through the American Association of Motor Vehicle Administrators (AAMVA) regarding their practices dealing with late registrations. AAMVA asked other states: (1) does your state have a late fee or other penalty for overdue registrations and if so, please explain; (2) does the fee or traffic fine increase the longer the registration is overdue and if so, by how much over what length of time; and (3) are there circumstances where the late fee is waived or exempted?

AAMVA reported responses from 21 states to question 1 (whether they have late fees or other penalties). Eleven states had no administrative late fees, but in at least some states (such as Oregon) a lapsed registration could be a traffic offense. The other states had late fees ranging generally from $10 to $25. Florida imposes late fees that vary based on a vehicle's license tax (i.e., the greater the tax, the greater the late fee).

Twenty states responded to the second question (whether the fee increases the longer a registration is overdue and if so, how much and over what period). Several states had late fees that increased or had repeating fees. For example, Alabama imposes daily interest that is annualized at 12% which accrues on its $15 fine. Arkansas charges $3 for each 10-day period a registration is overdue, with the total not to exceed the annual registration fee. Colorado charges a $25 late fee each month or pro-rated portion of a month, up to $100. North Carolina charges a late fee plus interest. The fee is $15 if the registration is less than a month overdue, $20 if it is one or two months overdue, and $25 if it is two or more months overdue. Maine charges up to

$50 if the registration is expired between 30 days and 150 days; the ceiling increases to $100 if the registration is expired for more than 150 days. The ceiling increases to $500 for each subsequent offense. Nevada charges $6 per month for overdue registrations.

Twenty states also responded to the third question (waiver or exemption of late fees). Two states that have late fees indicated they had no waivers or exemptions. Some states—including Colorado, Ohio, and Virginia—grant exemptions for deployed military personnel who miss a registration date.[6] Other states such as Alabama, Arkansas, and Louisiana waive the fee if a vehicle owner can prove it was not used during the registration period. Delaware noted an exemption for Covid and that certain vehicles, such as state vehicles, are exempted from these fees. Ohio allows waiver on a case-by-case basis for situations that include military service, jury duty, or hospitalization, and exempts seasonal vehicles from late fees. Maine, like Virginia, allows dismissal of traffic fines if the owner provides proof of registration before a court date.[7]

Recommendations

Based on the findings presented above, the study group offers the following four recommendations for consideration. First, the study group recommends codifying the $10 late fee currently authorized only in budget language. The language currently found in Item 426(E)(2) could be moved to a new subsection in Code § 46.2-646.

Second, because the OES data indicates that the DWER traffic infraction is not an effective incentive for owners to renew expired vehicle registrations, the study group recommends allowing DMV to incrementally increase the $10 late fee by $5 for the second and each subsequent month that a registration is delinquent, up to the amount set by the Supreme Court of Virginia for the prepayable DWER fine under Code § 16.1-69.40:1(C). The study group proposes to limit the amount of the late fee so this administrative charge never exceeds the fine for the traffic infraction. However, because the Supreme Court may change the amount of the traffic fine at any time without consulting the General Assembly, the study group suggests that the language limiting the late fee should incorporate the amount of the fine by reference rather than being fixed in statute.

DMV would use the additional revenue generated from increasing the late fee to cover the costs of sending an additional cycle of renewal reminder notices to vehicle owners. DMV currently mails owners a notice 60 days before their vehicle's registration expires. DMV could send an additional notice 30 days before expiration.

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[6] This exemption may be more common, but most states answering the survey did not mention it specifically.

[7] This may also be a common form of dismissal for registration traffic offenses, but most states answering the survey did not address it specifically.

Third, the study group recommends granting DMV statutory authority to deny an application to register a vehicle if it was previously registered to the same owner, the previous registration expired, and the owner has not paid the outstanding registration and late fee. This proposal would close the loophole described above, under which an owner who waits more than 12 months to renew an expired registration can simply apply for a new registration and elude the previous registration and late fees. Such an owner would not be able to obtain a new registration until the outstanding fees were paid.

To return to the example above of a vehicle registration that expired in July 2023, the owner could wait to apply for a new registration in August 2024, pay only for one year, and receive a new registration valid until August 2025—getting 12 or more months free. Under this recommended change, DMV would place a stop on the vehicle's record, so that the owner would be required to pay for the missed August 2023 through August 2024 registration period and pay the late fee, before being allowed to obtain a new registration for the August 2024 through August 2025 period.

Finally, the study group does not recommend expanding the existing grace periods to renew an expired registration already established in the Code. Extending the grace period would not incentivize owners to renew their expired registrations but would have a significant fiscal impact on DMV. Based on the monthly registration renewal data presented above, the 60-day grace period originally proposed by House Bill 219 would result in a loss of $400,000 each month if it applied to the $10 late fee, because the roughly 40,000 owners who renew their expired registrations within that period each month would no longer pay the fee. Further, Code § 46.2-646(E) already prohibits law enforcement officers from stopping a vehicle for having an expired registration until the fourth month, so drivers already have a limited 120-day grace period in addition to the existing grace periods for the administrative late fee.

DMV welcomes discussing any of the study group's recommendations with the Committee.

Sincerely,

Gerald F. Lackey

Gerald F. Lackey, Ph.D.
Commissioner

cc: The Honorable W. Sheppard Miller III
Secretary of Transportation

The Honorable Robert D. Orrock, Sr.
Delegate