

# Virginia State Crime Commission

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## Sale of Items Prohibited From Use

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2008

# SALE OF ITEMS PROHIBITED FROM USE

## Background

Using the statutory authority granted to the Crime Commission, staff was requested to investigate the use of tinted license plate covers by members of the public in Virginia.

Virginia Code § 46.2-716(B) provides:

*No colored glass, colored plastic, racket, holder, mounting, frame, or any other type of covering shall be placed, mounted, or installed on, around, or over any license plate if such glass, plastic, bracket, holder, mounting, frame, or other type of covering in any way alters or obscures (i) the alpha-numeric information, (ii) the color of the license plate, (iii) the name or abbreviated name of the state wherein the vehicle is registered, or (iv) any character or characters, decal, stamp, or other device indicating the month or year in which the vehicle's registration expires. No insignia, emblems, or trailer hitches or couplings shall be mounted in such a way as to hide or obscure any portion of the license plate or render any portion of the license plate illegible.*

A violation of this statute is a traffic infraction, punishable by a fine of up to two hundred and fifty dollars.

## Analysis

The wording of Va. Code § 46.2-716(B), with the broad prohibition expressed by the phrase “in any way alters or obscures,” indicates, in a general way, that possibly no tinted or colored license plate covers are lawful in Virginia—the argument being that even a light tint could, in certain circumstances, ever so slightly obscure the lettering of the plate. No appellate cases exist in Virginia which provide any further guidance on this issue, or clarify that lightly tinted license plate covers are permissible. Unlike the statute which regulates tinted windows on cars, there are no definite standards as to which commercially available tinted license plate covers are legal, and which are not. Therefore, Virginia residents who purchase tinted license plate covers for their automobiles may unknowingly be committing traffic infractions, and thus be subject to traffic stops by law enforcement, as well as court fines and costs. Unlike other traffic offenses, the use of tinted license plate covers is not immediately apparent as an unlawful activity, especially as these covers are widely available for

purchase at auto goods stores and other larger retailers throughout the state.

There are five main options available to the legislature in regards to this situation. One is to pass no legislation, and maintain the uncertainty of the status quo. Another is to authorize and direct either the State Police or the Virginia Department of Motor Vehicles to promulgate regulations that would provide more specificity as to which tinted license plate covers, if any, will be acceptable on Virginia's roadways. A third option would be to authorize or encourage the State Police to have a public awareness campaign on this topic, similar to the campaigns focused on seat belt laws or bringing attention to the seriousness of drunk driving. Such a campaign would warn Virginians that having a tinted license plate cover could lead to being stopped and ticketed by law enforcement.

A fourth option would be for such a warning to be delivered by merchants who sell these covers—the warning being mandated either through statute or regulation. The fifth option would be to completely outlaw the sale of tinted license plate covers in the state, similar to the prohibition on the sale of any radar detectors. Doing this would help to clarify that tinted license plate covers are not permitted on cars driven on public highways in Virginia, and would protect Virginia residents from receiving a false assurance that because these covers are openly sold in Virginia stores, they are lawful to use. This last approach has been taken by a few other states. For instance, when Illinois prohibited the use of all license plate covers, including those that are clear, they prohibited at the same time the sale of any such covers in all Illinois stores.

## **Conclusion**

The members of the Crime Commission considered these proposals at the December 9, 2008, meeting. Concerns were raised that if specific legislation were to be enacted for all potential automobile modifications or accessories that are illegal or potentially illegal, the General Assembly would be faced with a never-ending task; each year, a new safety awareness campaign would have to be approved or mandated, or the sale of yet another item, otherwise lawful in itself, would be made illegal. After deliberations, the Crime Commission voted for the first option, to maintain the status quo.