



# MOTOR VEHICLE, PEDESTRIAN, AND BICYCLIST FATALITIES

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## Scope of Study

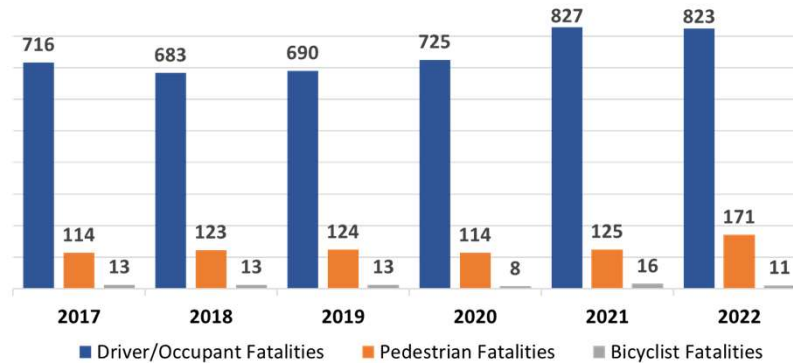
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- ▶ Motor vehicle, pedestrian, and bicyclist fatalities in Virginia (2017 to 2022);
- ▶ Roadway safety laws; and,
- ▶ Measures to promote roadway safety.



## Virginia Motor Vehicle Fatality Trends

- ▶ Driver and occupant fatalities, along with pedestrian fatalities, increased significantly since 2020.



Source: DMV, TRENDS, 2017-2022.

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## Virginia Motor Vehicle Fatality Trends

- ▶ 5,309 individuals were killed in motor vehicle crashes on Virginia roadways from 2017 to 2022.
- ▶ Motor vehicle crash fatality data combines:
  - Drivers and occupants;
  - Pedestrians; and,
  - Bicyclists.
- ▶ A single crash can include multiple fatalities.
  - For example, a single crash may result in the death of both a driver and a pedestrian.

Source: DMV, TRENDS, 2017-2022.

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## Virginia Motor Vehicle Fatality Trends

- ▶ Although total motor vehicle *crashes* remained below pre-2020 levels, the number of overall *fatalities* increased by 19% from 2020 to 2022.

	2017	2018	2019	2020	2021	2022
<b>Crashes</b>	127,375	131,848	128,172	105,600	118,498	122,434
<b>Fatalities</b>	843	819	827	847	968	1,005

Source: DMV, TRENDS, 2017-2022.



## Virginia Motor Vehicle Fatality Trends

	2017	2018	2019	2020	2021	2022	% Change
<b>Overall MV Crash Fatalities</b>	843	819	827	847	968	1,005	<b>+ 19%</b>
Unrestrained Fatalities	308	298	304	343	334	375	<b>+ 22%</b>
Speed-Related Fatalities	318	339	349	406	445	441	<b>+ 39%</b>
Alcohol-Related Fatalities	248	278	264	272	247	274	<b>+ 10%</b>

Source: DMV, TRENDS, 2017-2022. Note: A motor vehicle crash fatality can be classified as having more than one causal factor. As such, the sum of unrestrained, speed-related, and alcohol-related fatalities in the table is larger than the total number of overall motor vehicle crash fatalities.



## Virginia Motor Vehicle Fatality Trends

- ▶ Of the 5,309 individuals killed in motor vehicle crashes:
  - 71% (3,787 of 5,309) were male.
  - 33% (1,760 of 5,309) were ages 18 to 35.
  - 85% (4,496 of 5,309) occurred on non-interstates.

Source: DMV, TRENDS, 2017-2022.

- ▶ White individuals comprised an average of 64% of fatalities each year, while Black individuals comprised an average of 26% of fatalities.

Source: Virginia OCME, 2017-2021.



## Virginia Motor Vehicle Fatality Trends

- ▶ 52% (1,962 of 3,745) of individuals killed in a vehicle equipped with seat belts were not wearing their seat belt.\*
  - 81% (1,596 of 1,962) were male.
  - 42% (816 of 1,962) were ages 18 to 35.

Source: DMV, TRENDS, 2017-2022. \*In order to calculate safety restraint fatalities, data excludes vehicles not equipped with safety restraints, such as motorcycles.



## Virginia Motor Vehicle Fatality Trends

- ▶ 2,298 individuals were killed in speed-related crashes on Virginia roadways:
  - 73% (1,674 of 2,298) were male.
  - 43% (985 of 2,298) were ages 18 to 35.
  - 82% (1,887 of 2,298) occurred on non-interstates.
  
- ▶ The number of alcohol-related crash fatalities remained fairly consistent, with an average of 264 individuals killed each year.

Source: DMV, TRENDS, 2017-2022.



## Virginia Pedestrian Fatality Trends

- ▶ Of the 771 pedestrian fatalities:
  - 74% (567 of 771) were male.
  - 54% (417 of 771) were age 51 or older.
  - 76% (587 of 771) occurred in urban areas.
  - The majority occurred after sunset at non-intersections.
  - Per OCME data, approximately 1/3 had a BAC of .08% or higher.

	2017	2018	2019	2020	2021	2022	% Change
<b>Pedestrian Fatalities</b>	114	123	124	114	125	171	<b>+ 50%</b>

Source: DMV, TRENDS, 2017-2022.



## Virginia Roadway Safety Laws

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- ▶ Seat Belts
- ▶ Speeding
- ▶ Photo Speed Monitoring Devices
- ▶ Handheld Personal Communication Devices
- ▶ Vulnerable Road Users
- ▶ Pedestrians
- ▶ Stopping for Pedestrians
- ▶ Bicyclists



## Virginia Roadway Safety Laws

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- ▶ While Virginia's population and the number of vehicles on its roadways have been increasing, the total charges and convictions for many traffic offenses have been decreasing.
- ▶ Decreases can be attributed to various factors, such as:
  - COVID-19 impacts;
  - Law enforcement staffing shortages;
  - Decreased proactive enforcement; and,
  - Recent changes to Virginia laws.



## Virginia Seat Belt Law

- ▶ Virginia law requires adult, front seat occupants to wear a seat belt (§ 46.2-1094).
  - The adult seat belt statute is a secondary offense.
  - Failure to wear a seat belt is a civil infraction with a \$25 penalty.



## Virginia Seat Belt Law

- ▶ In 2020, the statute was amended to explicitly prohibit law enforcement from stopping a vehicle for a seat belt violation and to exclude any evidence from such a stop (§ 46.2-1094).

	2017	2018	2019	2020	2021	2022	% Change
<b>Charges</b>	38,930	35,758	36,442	21,692	22,421	21,141	- 46%
<b>Convictions</b>	36,051	33,914	33,480	20,053	21,761	19,302	- 46%

Source: Virginia Supreme Court, OES, general district court case management system, 2017-2022, as analyzed by Virginia Criminal Sentencing Commission staff. Table prepared by Crime Commission staff.



## Speeding (1 to 19 mph over)

- ▶ Virginia punishes speeding (1 to 19 miles per hour over) as a traffic infraction (§ 46.2-870).

	2017	2018	2019	2020	2021	2022	% Change
<b>Charges</b>	274,105	246,227	247,371	163,668	177,606	171,504	- 37%
<b>Convictions</b>	260,662	239,387	231,333	151,883	171,721	157,850	- 39%

Source: Virginia Supreme Court, OES, general district court case management system, 2017-2022, as analyzed by Virginia Criminal Sentencing Commission staff. Table prepared by Crime Commission staff.

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## Speeding (20 mph over)

- ▶ Virginia punishes reckless driving by speed as a Class 1 misdemeanor (§ 46.2-862):
  - 20 miles per hour over

	2017	2018	2019	2020	2021	2022	% Change
<b>Charges</b>	99,361	85,579	79,499	55,864	54,206	52,269	- 47%
<b>Convictions</b>	45,763	40,285	35,247	24,502	26,041	22,706	- 50%

Source: Virginia Supreme Court, OES, general district court case management system, 2017-2022, as analyzed by Virginia Criminal Sentencing Commission staff. Table prepared by Crime Commission staff.

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## Speeding (over 85 mph)

- ▶ Over 85 miles per hour (§ 46.2-862).
  - Amended from 80 to 85 miles per hour in 2020.
  - Virginia stakeholders observed an increase in 100+mph speeding violations in recent years.

	2017	2018	2019	2020	2021	2022
<b>Charges</b>	14,683	18,848	27,299	23,901	17,112	16,831
<b>Convictions</b>	7,327	8,076	10,109	10,899	8,382	7,738

Source: Virginia Supreme Court, OES, general district court case management system, 2017-2022, as analyzed by Virginia Criminal Sentencing Commission staff. Table prepared by Crime Commission staff.

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## Photo Speed Monitoring Devices

- ▶ In 2020, Virginia enacted legislation that allows for photo speed monitoring devices in school and work zones (§ 46.2-882.1).
  - As of January 2023, 5 localities were using school zone devices.
  - VDOT, in coordination with VSP, will be piloting work zone devices beginning in early 2024.

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## Handheld Personal Communication Devices

- ▶ In 2020, Virginia enacted legislation that prohibits holding a cell phone while driving (§ 46.2-818.2).
  - This legislation repealed the previous statute which prohibited texting or reading on a cell phone while driving (§ 46.2-1078.1).

	2017	2018	2019	2020	2021	2022
<b>Charges</b>	2,064	1,954	2,181	1,274	15,606	16,482
<b>Convictions</b>	1,633	1,515	1,618	941	10,229	12,544

Source: Virginia Supreme Court, OES, general district court case management system, 2017-2022, as analyzed by Virginia Criminal Sentencing Commission staff. Table prepared by Crime Commission staff.



## Vulnerable Road Users

- ▶ In 2020, Virginia enacted legislation to protect vulnerable road users (pedestrians, bicyclists, wheel chairs, skate boards, etc.) (§ 46.2-816.1).
- ▶ The statute requires proof of all the following elements:
  - Careless or distracted driving;
  - Serious bodily injury or death;
  - Proximate causation; and,
  - Vulnerable user was lawfully present on roadway.



## Vulnerable Road Users

- ▶ The vulnerable road user statute has rarely been charged for a variety of reasons, such as:
  - Narrowly tailored to fit very specific factual circumstances;
  - Same punishment (Class 1 misdemeanor) as reckless driving; and,
  - No established case law as compared to reckless driving.

§ 46.2-816.1	2020	2021	2022
<b>Charges</b>	1	10	6
<b>Convictions</b>	0	0	5

Source: Virginia Supreme Court, OES, general district court case management system, 2017-2022, as analyzed by Virginia Criminal Sentencing Commission staff. Table prepared by Crime Commission staff.



## Reckless Driving

- ▶ Under Virginia law, driving “recklessly or at a speed or in a manner so as to endanger life, limb, or property” is reckless driving (Class 1 misdemeanor) (§ 46.2-852).

	2017	2018	2019	2020	2021	2022	% Change
<b>Charges</b>	15,881	15,120	14,071	11,274	10,796	10,762	- 32%
<b>Convictions</b>	6,493	6,189	6,332	5,255	6,028	5,649	- 13%

Source: Virginia Supreme Court, OES, general district court case management system, 2017-2022, as analyzed by Virginia Criminal Sentencing Commission staff. Table prepared by Crime Commission staff.



## Pedestrians

- ▶ In 2020, Virginia amended its law on where pedestrians can cross roadways to prohibit law enforcement from stopping a person for such a violation and to exclude any evidence from such a stop (§ 46.2-923).

	2017	2018	2019	2020	2021	2022	% Change
<b>Charges</b>	183	196	268	174	59	43	- 77%
<b>Convictions</b>	158	140	195	163	57	30	- 81%

Source: Virginia Supreme Court, OES, general district court case management system, 2017-2022, as analyzed by Virginia Criminal Sentencing Commission staff. Table prepared by Crime Commission staff.

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## Pedestrians

- ▶ In 2020, Virginia amended its law that bars pedestrians from stepping into a roadway from an obstructed location to prohibit law enforcement from stopping a person for such a violation and to exclude any evidence from such a stop (§ 46.2-926).

	2017	2018	2019	2020	2021	2022
<b>Charges</b>	59	120	67	32	22	22
<b>Convictions</b>	40	90	60	26	15	15

Source: Virginia Supreme Court, OES, general district court case management system, 2017-2022, as analyzed by Virginia Criminal Sentencing Commission staff. Table prepared by Crime Commission staff.

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## Stopping for Pedestrians

- ▶ In 2020, Virginia amended its law to require drivers to stop, rather than yield, to pedestrians crossing the roadway (§ 46.2-924).

	2017	2018	2019	2020	2021	2022
<b>Charges</b>	740	813	890	538	492	360
<b>Convictions</b>	604	668	676	452	369	288

Source: Virginia Supreme Court, OES, general district court case management system, 2017-2022, as analyzed by Virginia Criminal Sentencing Commission staff. Table prepared by Crime Commission staff. -

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## Bicyclists

- ▶ Virginia law requires bicyclists who are riding two abreast to move into single-file formation when a vehicle is approaching from behind (§ 46.2-905).
  - Amended in 2021 to allow bicyclists to remain two abreast, but then amended back to single-file in 2022.

	2017	2018	2019	2020	2021	2022
<b>Charges</b>	50	58	42	21	12	13
<b>Convictions</b>	51	47	40	14	8	10

Source: Virginia Supreme Court, OES, general district court case management system, 2017-2022, as analyzed by Virginia Criminal Sentencing Commission staff. Table prepared by Crime Commission staff.

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## Roadway Safety Measures

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- ▶ Various criminal justice measures exist to enhance roadway safety, such as:
  - Seat belt laws
  - Photo speed monitoring devices
  - Drugged driving detection
  - Penalty for criminally negligent maiming
  - Improved data collection measures



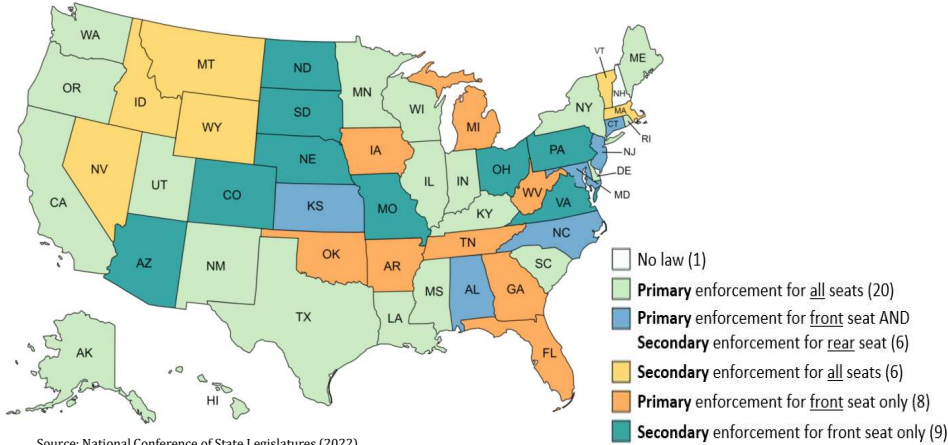
## Seat Belts

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- ▶ Seat belts are the single most effective life-saving safety equipment in a motor vehicle.
  - NHTSA estimated the use of seat belts in passenger vehicles saved 14,955 lives in 2017, including 323 lives in Virginia.
- ▶ Seat belt usage in the front seat of a car reduces the risk of a fatal injury by nearly 50% (NHTSA).



## Adult Seat Belts Laws



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## Seat Belts

- States with primary adult seat belt laws had higher seat belt usage rates and lower unrestrained fatalities than secondary and no law states between 2017 and 2022.

	Number of States	Average % Seat Belt Usage, 2017-2021	Average % Unrestrained Fatalities, 2017-2021
<b>Primary Law</b>	34	91%	42%
<b>Secondary Law</b>	15	85%	53%
<b>No Law</b>	1	73%	66%

Source: National Conference of State Legislatures (2022) for classification of state laws; NHTSA National Occupant Protection Use Survey for seat belt usage, and NHTSA FARS for unrestrained fatality data.

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## Seat Belts

- ▶ Virginia consistently had a higher percentage of unrestrained fatalities as compared to the national percentage between 2017 and 2021.

Year	% National Fatalities Unrestrained	% Virginia Fatalities Unrestrained	% Difference
2017	42.8	53.5	+ 10.7
2018	43.1	53.0	+ 9.9
2019	42.6	53.8	+ 11.2
2020	45.7	58.4	+ 12.7
2021	44.9	49.3	+ 4.4

Source: NHTSA, FARS, *Passenger car and light-truck unrestrained occupants killed, 2017-2021.*

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## Roadway Safety Measures

- ▶ Photo Speed Monitoring Devices
  - Devices supplement law enforcement staffing shortages and do not require traffic stops.
  - Concerns exist about due process and disparate racial impacts.
- ▶ Drugged Driving Detection
  - Oral fluid testing for certain drugs or drug classes.
  - Emerging technologies (breathalyzer).

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## Roadway Safety Measures

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### ► Criminally Negligent Maiming

- Virginia has not enacted an enhanced punishment for criminally negligent driving that results in the serious bodily injury of another person.
  - Similar to the “*gross, wanton, and culpable as to show a reckless disregard for human life*” standard in DUI maiming (§ 46.2-924).
- At least 13 states and Washington, D.C. have an enhanced charge or penalty for causing the serious bodily injury of another person as a result of reckless driving.



## Roadway Safety Measures

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- The Virginia Police Crash Report (FR300) does not capture the race and ethnicity of individuals involved in fatal or non-fatal crashes.
  - Race and ethnicity are not collected in a comprehensive manner for non-fatal motor vehicle crashes.
  - Race and ethnicity are collected by the Virginia OCME, but only for motor vehicle fatalities.
    - This data cannot be readily analyzed to determine whether disparate impacts exist across various *types* of crashes (no-restraint, speeding, etc.).



## 2022 DUI Study Update

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- ▶ Drug-impaired driving continues to be difficult to identify.
- ▶ The Department of Forensic Science (DFS) began testing all DUI blood sample submissions for marijuana in January 2023.
- ▶ 2023 Crime Commission legislation requires DMV to publish an annual report on alcohol and drug impaired driving.



## 2022 DUI Study Update

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- ▶ FY2024 budget provided the Virginia State Police continued funding, as well as additional funding to hire 6 FTEs to expand impaired driving training for law enforcement as recommended by the Crime Commission.
- ▶ FY2024 budget does not include funding for DFS to screen all DUI blood samples for drug classes or to require DFS to provide for the analysis of all blood samples from drivers killed in motor vehicle crashes as recommended by the Crime Commission.



## Conclusion

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- ▶ The number of overall motor vehicle crash fatalities in Virginia increased in recent years.
  - Preliminary data suggests a decrease in overall motor vehicle crash fatalities thus far in 2023.
  
- ▶ Promoting roadway safety requires a comprehensive, multi-system approach.
  - Numerous roadway safety measures exist outside of the criminal justice system.



## DISCUSSION