

VIRGINIA E-Z PASS "Text Alerts" ACKNOWLEDGMENT AND DISCLAIMER OF WARRANTIES AND LIABILITY

Definitions

As used in these Terms and Conditions: "Commonwealth of Virginia" and "VDOT" shall mean the Commonwealth of Virginia, the Virginia Department of Transportation and all other operating agencies, their agents, representatives and respective employees.

"Virginia E-ZPass Third Party Service Provider" shall mean any company or entity that contracts with VDOT or any other agency of the Commonwealth of Virginia to provide services in relation to the operation of Virginia's E-ZPass program, including, but not limited to customer service and back office functions, information technology or back office system hosting or maintenance, any other function related to Text Alerts, along with said company's (or companies')its subsidiaries, related companies, licensors, and their current or former officers, directors, agents, assigns, employees, representatives, successors, and any other persons or entities acting on behalf of Virginia E-ZPass Third Party Service Provider.

Acknowledgment

By opting-in to receive Text/Mobile Alerts ("Text Alerts") on your Virginia E-ZPass@ account, you:

- acknowledge and represent to the Commonwealth of Virginia, VDOT and Virginia E-ZPass Third Party Service Provider that you are the authorized user of the mobile phone(s) that you link to the Text Alert messaging service or have been granted permission by the authorized user of the mobile phone(s) to enroll such mobile phone(s) in the service;
- grant the Commonwealth of Virginia VDOT and Virginia E-ZPass Third Party Service Provider express permission to send text messages to that (those) mobile phone(s) through your wireless phone carrier unless and until such permission is revoked in accordance with these Terms and Conditions;
- by granting such permission to the Commonwealth, VDOT and Virginia E-ZPass Third Party Service Provider you are hereby requesting to receive such messages in spite of the fact that your number may otherwise be on the federal, or a state's, do not call list and you agree, to the maximum extent permitted by law, that such text messages shall not be in violation of such do not call list(s);
- acknowledge that standard text messaging rates apply and that neither the Commonwealth nor the Virginia E-ZPass Third Party Service Provider shall be responsible for any fees that may accrue as a result of such text messages being sent to that (those) mobile phone(s);
- acknowledge that you are responsible for being aware of, and obeying of Virginia laws and regulations, as well as all local laws, regulations and ordinances, relating to Virginia's prohibition of texting while driving including, but not limited to, Va. Code § 46.2-1078.1. Section 46.2-1078.1 provides, in its entirety:

§ 46.2-1078.1. Use of handheld personal communications devices in certain motor vehicles; exceptions; penalty

- A. It is unlawful for any person to operate a moving motor vehicle on the highways in the Commonwealth while using any handheld personal communications device to:
1. Manually enter multiple letters or text in the device as a means of communicating with another person; or
 2. Read any email or text message transmitted to the device or stored within the device, provided that this prohibition shall not apply to any name or number stored within the device nor to any caller identification information.
- B. The provisions of this section shall not apply to:
1. The operator of any emergency vehicle while he is engaged in the performance of his official duties;
 2. An operator who is lawfully parked or stopped;
 3. The use of factory-installed or aftermarket global positioning systems (GPS) or wireless communications devices used to transmit or receive data as part of a digital dispatch system; or
 4. Any person using a handheld personal communications device to report an emergency.
- C. A violation of this section is a traffic infraction punishable, for a first offense, by a fine of \$125 and, for a second or subsequent offense, by a fine of \$250.

For the purposes of this section, "emergency vehicle" means:

1. Any law-enforcement vehicle operated by or under the direction of a federal, state, or local law-enforcement officer;
2. Any regional detention center vehicle operated by or under the direction of a correctional officer responding to an emergency call or operating in an emergency situation;
3. Any vehicle used to fight fire, including publicly owned state forest warden vehicles, when traveling in response to a fire alarm or emergency call;
4. Any ambulance, rescue, or life-saving vehicle designed or used for the principal purpose of supplying resuscitation or emergency relief where human life is endangered;

5. Any Department of Emergency Management vehicle or Office of Emergency Medical Services vehicle, when responding to an emergency call or operating in an emergency situation;
6. Any Department of Corrections vehicle designated by the Director of the Department of Corrections, when (i) responding to an emergency call at a correctional facility, (ii) participating in a drug-related investigation, (iii) pursuing escapees from a correctional facility, or (iv) responding to a request for assistance from a law-enforcement officer; and
7. Any vehicle authorized to be equipped with alternating, blinking, or flashing red or red and white secondary warning lights pursuant to § 46.2-1029.2.

D. Distracted driving shall be included as a part of the driver's license knowledge examination.

- acknowledge and represent to the Commonwealth of Virginia, VDOT and Virginia E-ZPass Third Party Service Provider that you will not, at any time, violate any of Virginia's texting while driving laws, as well as all local laws, regulations and ordinances pertaining thereto, including Va. Code § 46.2-1078.1;
- agree to be legally bound by these Terms and Conditions. If at any time you do not agree with these Terms and Conditions, or any future modifications to these Terms and Conditions, your sole and exclusive remedy is to affirmatively opt-out of the Text Alerts messaging system;
- agree that your use of the Text Alert messaging system may only be used for lawful purposes and may not be used for any illegal activities, including, but not limited to: spamming, solicitation or unauthorized advertising, launch of denial of service attacks or viruses, fraud or harassment, intellectual property infringement, texting while driving, or any other activity that subjects the Commonwealth of Virginia, VDOT or Virginia E-ZPass Third Party Service Provider to liability, damages or danger.
- agree that once delivered to your device, Text Alerts are under your control and are your responsibility. By using the text messaging service you hereby release VDOT and Virginia E-ZPass Third Party Service Provider from any liability arising from or related to access to these messages once they have been delivered.

No Warranties

The Text Alert messaging service is provided on an "as is" and "as available" basis. The Commonwealth of Virginia, VDOT and Virginia E-ZPass Third Party Service Provider make no representations or warranties of any kind, expressed, implied or statutory, arising out of Text Alerts. THE COMMONWEALTH OF VIRGINIA, VDOT AND VIRGINIA E-ZPASS THIRD PARTY SERVICE PROVIDER HEREBY DISCLAIM ALL WARRANTIES, INCLUDING ANY IMPLIED REPRESENTATIONS OR WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE RELATING TO THE TEXT ALERT MESSAGING SYSTEM.

Disclaimer of Liability

The Commonwealth of Virginia, VDOT and Virginia E-ZPass Third Party Service Provider shall have no obligation or liability to you with respect to use of or the performance of Text Alerts. The Commonwealth of Virginia, VDOT and Virginia E-ZPass Third Party Service Provider do not assume any legal liability or responsibility for the consequences resulting from action taken by you in response to receiving a Text Alert. By using the Text Alert messaging service, you hereby release and discharge the Commonwealth of Virginia, VDOT and Virginia E-ZPass Third Party Service Provider from any liability arising from or related to access to Text Alert messages once they have been delivered. You further agree to release, discharge, indemnify and hold the Commonwealth of Virginia, VDOT and Virginia E-ZPass Third Party Service Provider harmless from and against any and all rights, claims, lawsuits, actions, disputes, causes of action, damages (including, but not limited to, compensatory damages, punitive damages, attorneys' fees and litigation costs), losses, costs, expenses, injuries or liabilities relating to, arising from, or as a result of the use of, or the performance of, Text Alerts or the Text Alert messaging system, or as a result of inaccurate Text Alert user account information, even if the Commonwealth of Virginia, VDOT or Virginia E-ZPass Third Party Service Provider were expressly advised about, or should have known of, the possibility of such damages. Your use of the Text Alert messaging system is at your sole risk.

By signing below, you acknowledge that you have read the **Virginia E-ZPass "Text Alerts" Acknowledgement and Disclaimer of Warranties and Liability** document and accept its terms and conditions.

Name: _____

Mobile#: _____

Signature _____

Date: _____

Account#: _____

(To be added once account is opened)