

so you're

18

a handbook on your legal rights and responsibilities



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Dear Young Virginian:

Congratulations upon reaching adulthood, which offers many privileges and challenges. As you probably already know, upon your 18th birthday, you will enjoy many rights, including the right to vote, the right to serve on a jury, the right to make a binding contract and the right to get married without your parents' consent. However, as an adult, you will also have new responsibilities. You must register with the Selective Service, you must fulfill any contractual obligations that you make and you must obey the laws.

The laws of this Commonwealth will impact most aspects of your life. You should be aware of the legal consequences of all decisions that you make, such as signing a lease for an apartment, purchasing a car, applying for credit, interviewing for a job and accepting an offer of employment. Additionally, there are many legal responsibilities that arise once you marry and have children. I urge you to learn about your legal rights and use common sense and good judgment as you continue to mature and grow as a responsible adult.

I encourage you to read this handbook, and I hope that the knowledge you acquire will enable you to make good decisions as you enjoy your new freedoms. I hope that your review of this handbook will provide answers to questions that you may have about your new status as an adult.

I wish you happiness and success as you enter adulthood. May God bless you, our Commonwealth and our nation.

Sincerely,



Leroy Rountree Hassell, Sr.
Chief Justice
Supreme Court of Virginia

Introduction

The Virginia State Bar and the Conference of Local Bar Associations are pleased to present this updated edition of *So You're 18*. The information in this handbook highlights the ways in which your legal rights and responsibilities change when you reach 18 and move into the world of adulthood. The goal is to help you understand some of your rights as an adult, and to help you avoid some of the pitfalls.

For 17-year olds making the transition into adulthood, this booklet includes topics such as citizenship, voting, military service, jury duty and criminal charges. It also serves as a basic law-related education reference and includes topics such as contracts, landlord/tenant issues, marriage and divorce, employment, credit, consumer rights and wills.

So You're 18 should provide a good summary of the various legal issues you may encounter in the coming year and in the future. However, for more detailed questions about a particular subject or legal advice about a specific case, you should consult with an attorney. The information contained herein was accurate at the time of publication.

We are grateful for the efforts of Nancy M. Reed (revisions chair), Manuel A. Capsalis, P. George Eliades and Susan F. Pierce, from the Conference of Local Bar Associations Executive Committee, who updated and revised this material.

We also want to acknowledge and thank the Virginia Law Foundation for their grant, which has made this publication possible.

Turning 18 is an exciting milestone in your life, and we wish you much success in the years ahead.

Karen A. Gould
President
Virginia State Bar

George W. Shanks
Chair
Conference of Local Bar Associations

Copies of this booklet are available from the Virginia State Bar by calling 804/775-0521 and on the Virginia State Bar's Web site at <http://www.vsb.org/publications/index.html#18>.

General Information

What are some of the rights that I have at age 18 that I didn't have before?

- You have the right to vote in national, state and local elections.
- You have the right to live independently from your parents and be free of their control.
- You have the right to marry without your parents' permission.
- You have the right to enter into a contract.
- You have the right to make a will.
- You have the right to run for some elective offices.
- You have the right to obtain medical treatment without the consent of your parents.
- You have the right to apply for credit in your own name.
- You have the right to work in all types of jobs.

What are some of the new responsibilities that I have when I become 18?

- Your parents are no longer required to support you.
- You are responsible for all your actions. If you violate the law, you will be tried and sentenced as an adult, not as a juvenile.
- You may sue and be sued by others for contracts that you make.
- You may be called for jury duty.
- You can be sued for child support and the medical bills relating to your child's birth.
- If you are male, you must register with the Selective Service.
- You may purchase and use tobacco products.

What restrictions continue to apply after I turn 18?

Even though you are generally considered to be an adult at the age of 18, you can not purchase, possess or use alcohol or apply for a concealed weapon permit until you are 21 years old. This does not prevent you from having a weapon for legal hunting.

What are the requirements for voting in Virginia?

- You must be a U.S. citizen and a resident of Virginia.
- You must be at least 18 before the next general election.
- You must not be a convicted felon.
- You must not have been declared mentally incompetent.
- You must show valid identification such as a voter ID card or driver's license.

Where do I vote?

Voting takes place at a designated “polling place,” usually a school or church, within your voting precinct. When you receive your voter registration card, the address of your voting location will be printed on the back.

How and where do I register to vote?

You must fill out an application to register that is available at your local library, post office, DMV branch or through your local registrar. Applications are also available on line at the State Board of Elections Web site: www.sbe.state.va.us/VotRegServ/. If you have any specific questions about voter registration, call the State Board of Elections at 800/552-9745.

May I register on Election Day?

No. Voting record books are closed 30 days before an election, so be sure to register well in advance.

May I vote in the city where I go to college?

You may vote there if that is where you claim your residency. If you maintain your residency with your parents in another city, you must vote in that city. If you are unable to return home on the day of the election, you may obtain an absentee ballot by calling the local registrar.



American Citizenship

How do I know if I am a United States citizen?

You are a United States citizen if:

- You were born in the United States or one of its territories (such as Puerto Rico);
- You were born abroad, both your parents are U. S. citizens, and at least one of them has lived in the United States;
- One of your parents is a U. S. citizen and that parent lived at least 5 years in the United States, with at least 2 of those 5 years occurring after the parent's 14th birthday; or
- You have completed the Immigration and Naturalization Service (INS) naturalization process.



How do I know if I am eligible to become a United States citizen through naturalization?

You are eligible to be naturalized and become a U. S. citizen if you are a permanent resident and you have a valid alien registration card (a “green card”) and you have lived continuously in the United States for at least 5 years. In addition, you must be of good moral character; have an understanding of U. S. history and civics; be willing to take an oath of allegiance to the United States; and can read, write, and speak English.

One of my parents became a naturalized citizen after I was born but before I turned 18 years old. Did I automatically become a citizen?

In order for you to have become a U. S. citizen when your parent became one, your parent must have separately applied for your citizenship. If this application process was not initiated on your behalf, then you may not be a U. S. citizen and you will need to initiate and complete the naturalization process.

American Citizenship

What are the benefits and responsibilities of citizenship?

- You have the right to vote in federal, state, and local elections.
- You can obtain a U. S. passport and have freedom to travel outside of the U. S.
- You can serve on a jury.
- You will become eligible for certain jobs in the federal government that require citizenship.

If you have any questions about your immigration status (whether or not you are a legal resident of the U. S.) or the naturalization process, it is best to speak with an attorney who practices immigration law. You can also call the INS at 1-800-375-5283 (TTY 1-800-767-1833) or visit their Web site at www.ins.usdoj.gov.

Military Service

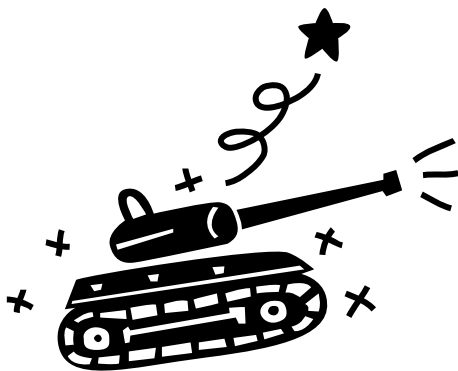
When can I enlist in the Armed Forces?

You must be 18 to enlist but, with the written consent of your parent or guardian, you may enlist at the age of 17.

Are all 18 year old males still required to register with the Selective Service System?

Absolutely. Even though this country has not had a “draft” for quite some time, every male citizen of the United States is still required to register for the United States Selective Service within 30 days before or after his 18th birthday. Females still need not register for the Selective Service System. All males between the ages of 18 and 26 who are not citizens of the United States must also register, unless they have legally entered the U.S. as non-immigrants. Although it may seem unusual, illegal aliens are still required to register for the Selective Service.

You may be exempt from registering if you are already on full-time active duty with the Armed Forces, but part-time duty with the National Guard or Reserves does not exempt you from registering.



Military Service

If for some reason you do not register when you are 18, you should register as soon as possible. The federal government will not prosecute you if you register before criminal action against you has been started. But if they find you first, it may be a different story. For failing to register, you could be convicted of a federal crime punishable by up to five years in prison and a fine up to \$250,000! If you need even more reasons to register, those who fail to do so are ineligible for federally-funded student financial aid, civilian jobs with the federal government and federal job training programs.

How and where do I register?

To register, you simply go to any post office and fill out a Selective Service registration form. After your registration is processed, a Selective Service registration card will be mailed to you.

The Selective Service System gets addresses of men with driver's licenses from the Department of Motor Vehicles (DMV), so don't be surprised if a registration form is mailed to you shortly after your 18th birthday.

What if I think I may be exempt from the draft?

You must still register. Draft cards are not issued at the time of registration, and you will not get a physical examination or receive a military classification. If a draft were to occur, you would be notified by the Selective Service. Your notice would order you to report for a physical examination and would provide information on possible exemptions and deferments at that time.

Jury Duty

What are the qualifications for being a juror?

You must be 18 years old, have lived in Virginia for at least one year and have lived in the city or county where you are being summoned to serve as juror for at least six months immediately preceding your summons. If you have been convicted of a felony or have been declared mentally incompetent, you are not eligible to serve on a jury.

How are people called to serve on a jury?

Jurors are selected randomly from lists designated by the court, such as the voter registration list and the DMV list. Each individual selected for jury duty will receive a summons from the sheriff which will tell the date, location and time to report for jury service. Keep in mind that just receiving a jury summons does not automatically mean that you will sit on a jury. When you arrive in the courtroom, the judge and the lawyers involved in the particular case will ask you questions about any relationship you may have with the parties or any interest you may have in the outcome of the lawsuit. After these questions are asked, the lawyers will have an opportunity to remove jurors from the panel for any reason, other than race and sex, until the jury is reduced to the number of jurors required for that particular case.

If I'm called to serve on a jury, do I have to go?

Yes. All qualified citizens have a legal and civil obligation to serve as jurors when called.

Can I be excused from jury duty?

Upon request by juror the following shall be exempt: a mariner employed in maritime service; custodians of minors who require continuous care; person responsible for care of physically and mentally impaired person during court hours; person over 70 years of age; breast feeding mothers; those whose spouses are on the same jury panel; and a person whose services are essential to operations of particular business. Only a few people are automatically exempt from jury duty and include members of Congress and the General Assembly (during session), licensed active attorneys, judges, members of sheriff's departments, state troopers, certain corrections officers as well as members of executive branches of state and federal governments.

What if I get called for jury duty after I turn 18, but while I'm still in high school?

You have an obligation to serve on the jury, so you will be excused from school for jury selection and trial.

How long can I be required to serve on a jury?

As long as it takes. Some trials last only a few hours, others a day or two, and some trials can last even longer. Before a lengthy trial, it is likely that the judge will ask you whether you have any problems that could prevent you from serving

Jury Duty

on such a jury. It will then be up to the judge to decide whether or not you have a valid excuse from service.

Will I get paid for being on a jury?

Yes, but not much. In Virginia, jurors are paid \$30 per day of service. Any expenses a juror may have, such as meals and transportation, must come out of this \$30.

What happens if I have to miss work for jury duty?

You are obligated to report for jury duty and your employer cannot fire you or make you use sick days or vacation days for the time you miss. Whether you will continue to be paid your salary for the time you miss to serve on a jury depends on your employer.

Driving

Is driving a right or a privilege?

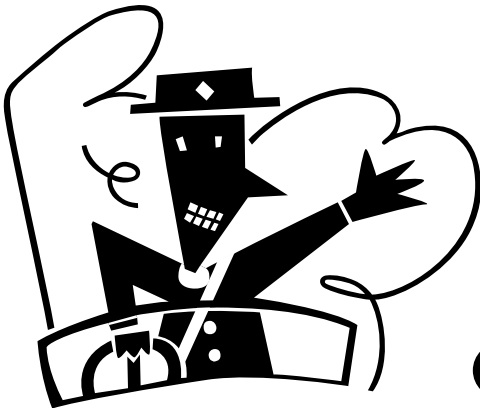
Driving is a privilege, not a right. You may not drive without a valid license. Your license may be revoked or suspended for a significant amount of time if state laws are not obeyed.

Am I required to have car insurance?

Virginia does not require car insurance. However, if you own your car, you must either obtain car insurance or pay an annual uninsured motor vehicle fee of \$500. The money collected from uninsured motor vehicle fees is used to help compensate victims of uninsured motorists.

What happens if I get too many traffic tickets?

In Virginia, driving violations are rated according to points. When you are convicted of certain violations, your driving record is penalized by the number of points assigned to those violations. When you accumulate a certain number of penalty points, the Department of Motor Vehicles will take appropriate action such as a personal interview or even the revocation of your driver's license. In addition,



Driving

driving violations may impact the cost of your insurance and even your ability to obtain and maintain car insurance.

Am I required to wear a seat belt?

The law in Virginia requires all persons 16 years or older occupying the front seat of a motor vehicle to wear their seat belts while the vehicle is in motion. There are exceptions for those with medical problems (you must have a signed statement by a doctor), mail carriers and newspaper deliverers. In addition, if you are the driver, you must ensure that a child between the ages of 4 and 16 is also wearing a seat belt. Children through the age of 5 must ride in an approved child safety seat.

What should I do if I am involved in an accident?

If you are involved in an accident resulting in injury or property damage, you must immediately stop as close to the scene of the accident as possible without obstructing traffic and report your name, address, driver's license number and vehicle registration number to the police and to the other people involved in the accident. In addition, you must give reasonable assistance to anyone injured.

If an accident occurs that results only in damage to an unattended vehicle or property, you must make a reasonable effort to find the owner of the property and give the same information as above. If the owner cannot be located, you must leave a note in a conspicuous place at the scene of the accident and give a written report to the police within 24 hours.

Drinking

What is the minimum drinking age?

You must be 21 to purchase or possess any alcoholic beverage whether it is beer, wine or liquor.

May a person under 21 years of age buy alcohol with parental consent?

No. Parents cannot legally authorize an underage child to buy alcoholic beverages of any type. It is against the law for anyone to sell alcohol to, to make alcohol available to or to purchase alcohol for a person under 21.

What are the penalties for underage possession of alcohol?

Underage possession of alcohol is a Class 1 misdemeanor with penalties of up to 12 months in jail and up to a \$2,500 fine. In addition, anyone under age 21

Drinking

convicted of possessing alcohol must pay a minimum \$500 fine or perform a minimum of 50 hours of community service and shall have their driver's license suspended for a period of not less than six months and not more than one year.

Drunk Driving

What happens if I am stopped for drunk driving?

If you are stopped for driving under the influence (DUI), you will be questioned about your consumption of alcohol or drugs, asked to perform field coordination tests and requested to give a breath and/or blood sample to test for alcohol or drugs. By driving on a public street or highway, it is assumed that you have given your consent for the taking of such a sample. Refusal to take a blood or breath test is a civil offense for the first conviction and thereafter is a criminal offense. The following illegal drugs will also be basis for DUI when specified levels are found in one's blood: Cocaine, methamphetamine, phencyclidine (PCP), and 3,4- methylenedioxymethamphetamine (MDMA ecstasy).



What are the penalties for drunk driving?

Driving under the influence of alcohol or drugs is a Class 1 misdemeanor with penalties of up to 12 months in jail and a \$2,500 fine. You will be required to complete an alcohol and/or drug counseling program. If you are convicted of DUI, you may serve time in jail, even for a first offense, which carries a mandatory fine of \$250 regardless of the blood alcohol level. In addition, there is an automatic loss of driving privileges for one year for a first offense, three years for a second offense and 10 years for a third offense. The law presumes that you are under the influence of alcohol if a breath test shows that your blood alcohol content is 0.08% or higher. Driving with an elevated blood alcohol content will result in additional penalties, including mandatory jail time.

Under the "zero tolerance" law, if you are under the age of 21 and have a blood alcohol content as low as 0.02% but less than 0.08%, you will lose your driver's license for six months and be fined up to \$500.

Conviction for an unreasonable refusal of a blood or breath test results in a mandatory 12 month suspension of your driver's license. Refusal to take a blood or breath test within 10 years of a prior offense results in a three-year license suspension, up to six months in jail and up to a \$1,000 fine; refusal for a third offense within 10 years results in a three-year suspension, up to 12 months in jail and up to a \$2,500 fine.

Drunk Driving

Do drunk driving laws apply only to cars and trucks?

No. Drunk driving laws apply to all motorized vehicles, including boats, mopeds and motorcycles.

Is it true that I can lose my license before I am convicted?

Yes. If you are arrested for DUI and refuse to take a breath test, or take a breath test which indicates a blood alcohol content of 0.08% or more, you will immediately lose your license for seven days. This automatic loss of license is in addition to any suspension or revocation imposed as a result of a DUI conviction.

Criminal Charges

What happens if I am charged with a crime after I turn 18?

Always remember, one of your most precious rights is that you are presumed innocent until proven guilty!

For all criminal charges you'll be tried as an adult, and a record of any conviction will be maintained by the Commonwealth. Your criminal record is permanent and may have a negative impact on many aspects of your life whether or not you remain in Virginia.

If I am arrested for a criminal offense, what do I have a right to expect from the arresting officer?

The arresting officer should advise you of the charge for which you are being arrested. If you are in custody—that is, not free to leave—you should be advised of your Constitutional rights before you are interrogated. These “Miranda rights” allow you to remain silent and to have an attorney present during questioning. You usually are allowed one phone call.

What happens if I am arrested?

Defendants arrested on warrants are taken before a magistrate who decides whether to set bond or bail or send you to jail. A person who is issued a summons and not taken into custody is released on such summons upon his written promise to appear in court.

What does it mean to be released on bail?

When a magistrate sets a bond/bail, he considers whether the defendant is a threat to the community or is unlikely to return for the next court appearance.

Criminal Charges

The amount and type of bond reflects the magistrate's evidence of those two factors. A defendant may be placed on a personal recognizance bond, which means on his own signature wherein the defendant promises to be on good behavior during the pendency of his case, and will appear for court. He may be placed on a surety bond or a no-bond status. A surety bond is a financial guarantee, usually at least \$1,000 and as much as a million dollars, that the person will be on good behavior during the pendency of his case and will appear for court. A defendant who fails to abide by either condition may have his bond canceled or forfeited, which means he owes the state the amount of the bond.

What is the difference between a felony and a misdemeanor?

A felony is a major crime punishable by possible imprisonment in the state penitentiary. A misdemeanor is punishable by a jail sentence of up to 12 months, a fine of up to \$2,500, or both.

What if I cannot afford to hire a lawyer?

If a court determines you cannot afford to hire a lawyer as determined by state guidelines, and if you are charged with an offense punishable with jail or prison time, then a lawyer will be appointed for you—either a public defender or a private attorney.

Employment

How do I find a job?

Finding a job you like, or any job, can be hard. Read the classified ads in your

local newspaper, watch for “help wanted” signs and tell friends and neighbors you are looking for a job.

The Virginia Employment Commission has resources to help you find a job or you can use the resources of a private employment agency, although there may be a cost to you.



How can I improve my chances of getting a job?

An employer's first impression of you is extremely important. Dress neatly and appropriately. Arrive for your job interview on time. Be thoughtful and truthful when preparing the job application. Make sure you know what the job entails, and let the employer know what skills and talents you have that are well suited for the job.

Must an employer give employees a written contract?

No. Most employment contracts are verbal.

Do I have a right to sick days, personal days and vacation days?

You need to ask your prospective employer what sick days, personal days and vacation days to which you will be entitled. There is no law, such as the minimum wage, that guarantees you such paid days off.

If you work for an employer with 50 or more employees, the Family and Medical Leave Act entitles you up to 12 work weeks of unpaid leave during any 12 month period for the birth or adoption of a child; to care for your spouse, child or parent with a serious health condition; or for a serious health condition that makes you unable to perform the functions of your position.

What if my employer fails to pay me?

You can file a wage claim with the U.S. Department of Labor.

For what reasons may I be fired?

If no employment contract exists, an employee may be fired for any reason except one prohibited by statute such as age, race, sex discrimination, sexual harassment or disability. If an employment contract exists, the language of the contract will dictate the terms for dismissal. Where no specified time is fixed determining the duration of the employment, it is presumed to be an "employment at will" that can be terminated at any time by either party.

What are unemployment benefits?

Unemployment benefits are government funds provided to an employee who is laid off or discharged through no fault of his or her own for a limited period of time following termination from employment.

Employment

What is workers' compensation?

Workers' compensation provides for the payment of certain expenses incurred by an employee for injuries or illness arising out of, or in the course of, employment. You should report all such injuries or illnesses to your employer as soon as they occur, and you should review your situation with both the workers' compensation department and a lawyer to be fully advised of your legal rights.

Whom should I contact if I think I have been discriminated against?

Contact the Virginia Council on Human Rights, the Department for Rights of Virginians with Disabilities, the U.S. Equal Employment Opportunity Commission (EEOC) or private organizations which deal with discrimination. You should make that contact as soon as possible because there may be a specific time frame in which you must act to file a claim. The law not only protects you from discrimination in hiring and firing, but it also protects you from discrimination in wages, hours and promotions.

Once you graduate from high school and go to work or college, you will likely face many situations in which you are asked to enter into contracts. Some of the more common contracts you may encounter in the next few years include: leases on apartments, sales contracts for goods and services, car loans, student loans and insurance policies.

Contracts

What is a contract?

A contract is an agreement between two or more persons that creates an obligation to do or not do a particular thing.

Can I make a contract before turning 18?

Yes, but you will probably find that most people will refuse to enter into a contract with someone under the age of 18 because the courts will generally not enforce contracts against minors. However, there are certain exceptions including some government and student loans and contracts for "necessaries" (e.g., food, lodging and clothing).

Must all contracts be in writing?

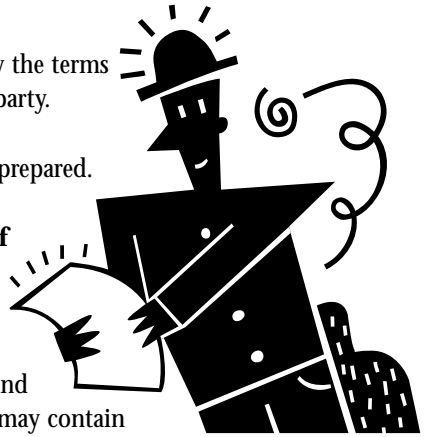
No, not all contracts have to be in writing. However, the law does require that contracts for the sale of land and long-term leases be in writing.

What are some of the advantages of written contracts?

A written contract allows you to see clearly the terms of the agreement between you and the other party. There is less chance of a misunderstanding or disagreement when a well-written contract is prepared.

What are some of the disadvantages of written contracts?

Certain contracts, especially form contracts prepared by only one of the parties, may contain language not easily understood and which may be unfair to you. These contracts may contain clauses that, without the advice of an attorney, put you at a real disadvantage if problems arise in the future.



What are some general rules to follow when asked to sign a contract?

The first and most important rule is **READ THE CONTRACT!** After you have read the contract, if there are items you do not understand or disagree with, do not sign it until you are completely satisfied with the answers and understand every clause or until you have consulted with your attorney. Never blindly accept the explanation or assurances of the other party about the meaning of any terms in the contract. Remember, once a written contract is signed, the courts generally will not allow verbal understandings to be considered in the event of a dispute. Also, watch out for unduly harsh penalty clauses or any clause in which you agree to waive any rights that you may have under the contract or under existing law. Finally, as a practical matter, you should be sure that you can meet the obligations imposed by the contract whether that be payment of money or providing goods or services.

Being an Adult Consumer

How can I be a smart shopper?

If you are in the market for any product or service—such as a car, clothes, stereo system, or educational course—there are several simple rules to keep in mind. If you follow them, your dollars will go farther and you'll be more satisfied with the results.

Being an Adult Consumer

- **Shop and compare.** Compare products on the basis of features, warranty protection and price. The best buy isn't always the cheapest. Use the Yellow Pages and magazines like Consumer Reports to help you.
- **Don't fall for deceptive advertising.** Advertisements can provide useful information. Too often, though, ads appeal to your emotions rather than your intelligence. While there are laws against deceptive advertising, it's still best to avoid a problem by watching out for deceptive ads rather than getting snared by them and having to rely on a law or someone else to get you out of a mess.
- **Ask for promises in writing.** Contracts don't have to be in writing to be binding. It's easier, of course, to make someone stick to something that is in writing rather than something that is based on your recollection of what was agreed. If a salesperson makes important claims about a product that are not in your contract or warranty, get it in writing.
- **Read the terms of your contract or warranty carefully.** Know what you can expect and what's expected of you. Certain contracts, especially form contracts, may contain language not easily understood and that may be unfair to you. If you don't understand something, ask questions or seek help from a friend, parent, teacher or lawyer.
- **Never sign a contract with blank spaces.** Fill in blank spaces or draw a line through them.
- **Keep good records.** Keep copies of all contracts, receipts, warranties and all notes or letters you've written regarding the product or service and records of payments, maintenance, repairs and other services.

- **Returning Merchandise.**

Remember that a merchant is free to establish a policy concerning refunds, credits, exchanges and layaways. A merchant is not required to refund your money for returned merchandise unless it is defective. Even then, the merchant may decide to correct the problem or replace the defective product instead of giving your money back.



● Being an Adult Consumer

What is a warranty?

A “warranty” is part of a contract that specifies the quality and dependability of the product or service you are purchasing. The warranty tells you what you can expect from the product, what you must do if you have a problem and what the seller will do in return.

Are warranties important?

Yes. A good warranty can save you much money and frustration if the item you buy needs to be repaired or replaced within the warranty period. You should always check to see if the items you intend to buy are covered by warranties and find out exactly what the warranties include and exclude.

Do I have any protection after the warranty period ends?

You might, depending on the situation and what state and federal laws apply. You may also have protection under products liability law if you or someone else is injured by a defective product even after the expiration of the warranty period.

Do these warranties apply to used items?

An item may be specifically warranted by its seller whether it is new or used, but many used items are not covered by a warranty. You should be aware that if an item is sold “as is,” it is not covered by a warranty and you buy it at your own risk. Virginia law requires that used car dealers clearly indicate on the cars what warranty, if any, will apply to the vehicle.

Whom should I contact if I have consumer questions?

You should contact the Virginia Division of Consumer Affairs of the Department of Agriculture and Consumer Affairs, your local Chamber of Commerce, the State Corporation Commission’s Division of Energy Regulation (for utility complaints) or the Virginia Bureau of Insurance.

The Virginia Department of Health and Human Services is a clearinghouse of consumer complaints. It makes referrals to appropriate state or federal agencies. Most professions have boards or commissions that oversee the conduct of their members and take complaints from the public.

Credit

What is buying on credit?

If you do not have cash to buy certain goods and services (a car for example) the salesperson may be willing to sell the item to you in exchange for your promise (almost always made in writing) to pay the purchase price over time in installments. That is buying on credit. Your ability to buy on credit depends on your credit rating. If you have a good credit rating (i.e., you have a history of paying your bills on time, you have a dependable income, etc.), then you are more likely to be able to buy goods and services on credit.



How do I get a credit rating?

Credit ratings are developed by private companies called credit bureaus or credit reporting agencies and are made available upon request to most businesses where you ask for credit. These reports let them know if you are a good credit risk or not. While the records often include confidential and personal information, by law they can not include information on your marital status, race, religion, color, ancestry, ethnic origin, sexual preference or political affiliation, except as required by government record-keeping.

Because your credit rating is so important, the law allows you to check personal or financial information in your file at the credit bureau. Under the Fair and Accurate Credit Transactions Act (FACT Act) consumers can request and obtain a free credit report once every 12 months from each of the three nationwide consumer credit reporting companies. AnnualCreditReport.com provides consumers with the secure means to do so. You can also request your credit report by mail by filling out the request form and mailing it to Annual Credit Report Request Service, P.O. Box 105281, Atlanta, GA 30348-5281. You must have an Adobe viewer to download the request form. You can also order your free report by telephone by calling 1- 877-322-8228. Ordering reports by phone or by mail is recommended to avoid imposter websites and identity theft. If you dispute any of the information in your file, the credit bureau must reinvestigate and correct the mistake if it finds an error. If the bureau decides that there is no error but you still dispute the information, you may file a brief statement explaining your side of the story and the credit bureau must put this information in your file. You also are entitled to be given the names of persons or companies who recently received your credit rating.

What is collateral?

Collateral is real property (a house and land for example) or personal property (an automobile or bank account for example) pledged to ensure that a debt is repaid. For example, a car can serve as collateral to secure payment of the loan used to buy the car. Most people who buy cars do not have enough money to pay the purchase price in full. Therefore, they borrow the money either from the car manufacturer or a bank. The buyer pledges the car to assure the lender that the loan will be paid back. Pledging the car as collateral for the loan gives the lender the ability to take the car away from the buyer if the buyer fails to pay the loan back. If the lender has to repossess the car for the buyer's failure to pay the loan, the lender can sell the car and use the proceeds to pay off the loan. If the sale does not provide enough money to pay off the loan, the buyer is still responsible for the deficit.

What if the store from which I wish to purchase an item does not offer a way to purchase on credit?

You may go to a bank and apply for a loan. Many people purchase cars by obtaining a loan from their bank, rather than finance the car through the automobile dealership. Banks will also check your credit rating to determine if you are a good credit risk. When purchasing anything on credit it is best to shop around and see what stores or banks give the best rates and terms for lending you money to purchase the product you want.

What if I buy a TV or stereo on an installment contract and have problems getting it fixed?

As a general rule, you must still make your required payments to the lender.

What can happen if I miss payments or don't meet other obligations of a contract?

If you breach (fail to perform) your contract with another party, you may be liable for all the damages (losses) suffered by the other party as a result of your breach. The other party can take you to court and seek judgment for money damages or, in some cases, force you to perform the contract. When you buy goods on credit such as automobiles, televisions or furniture, the creditor (seller) may be able to repossess (take back) the item sold to you. Even if the item is repossessed, you may still owe some of the debt to your creditor. Also, if judgment is entered against you by the court, your wages or bank accounts may be garnished (paid to the creditor) or your personal property made subject to sale by the sheriff.

Credit

Can a store automatically take some of my wages if the purchase contract says it can?

No. A store or other creditor can garnish your wages only after a court has granted a judgment on your debt. Provisions in a purchase contract that say your wages can automatically be taken, or say you grant permission for your wages to be automatically taken, are not enforceable.

What can I do if I owe more money than I can pay?

If you cannot make your payments as they come due, you should contact your creditor as soon as possible, explain your situation and seek to work out a new payment schedule or extension. If your creditor will not give you an extension of time nor reduce your payments, you may have to file bankruptcy. Under the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 you must undergo a "means test" to qualify for Chapter 7 bankruptcy. The "means test" is how the Internal Revenue Service will determine who can or cannot file for Chapter 7. Your income and expenses are examined in detail to see how they compare to the standard for your area as set by the IRS. If you earn less than the median income for a family of your size in your state, you can automatically file for Chapter 7 bankruptcy. But if your income from the last six months is greater than the median income and you can pay at least \$6,000 over five years or \$100 a month toward your debt, you are not allowed to file for Chapter 7 but must file for Chapter 13 instead. Chapter 13 will require you to repay a portion of your debts over three to five years. A part of the means test requires that you file any overdue tax returns within weeks of filing a Chapter 7 bankruptcy. Also, under the new law, when you file for bankruptcy you must receive approved credit counseling and a budget analysis, at your own expense. Credit counseling should address the means test calculation for you. Bankruptcy should be seen as your last resort if you are in financial trouble and should be chosen only after very careful consideration. Consult an attorney before you choose bankruptcy.

What are some of the consequences of bankruptcy?

If you file for bankruptcy, you may be forced to turn over your assets (real property and personal property) to the bankruptcy court, and these assets will be used to help pay your creditors. Once the bankruptcy proceedings are complete, you will receive a "discharge" which means that in most cases your prior debts will be wiped out. There are negative aspects of bankruptcy, however, including a poor credit rating that will make it harder for you to obtain a loan in the future.

How long does it take to clear up a bad credit report?

Bankruptcy notations are maintained for 10 years in your credit file. In the event of a disagreement with a creditor, a letter can be placed in your credit file explaining your position. In the event of computer error, a conference with the appropriate representative of the retail merchants association will assist in correcting the problem.

Landlord/Tenant

Must a lease be written to be enforceable?

No. An oral lease is also enforceable if it is for a term of not more than one year.

What should I be concerned about when signing a lease?

As with any written contract you should understand and agree with all of the terms. Leases usually are form contracts that may contain language not easily understood and that may unfairly favor the landlord. If you don't understand something, ask questions or seek help from a friend, parent, teacher or lawyer. Signing a lease begins a relationship with your landlord that will continue throughout the term of the lease. You should therefore keep good records of rental payments, repair requests, etc.

What are my obligations as a tenant?

Your chief obligations are to pay the rent and to maintain the property in the condition you received it, except normal wear and tear. A good tenant is mindful of neighbors' rights as well.

Are there specific laws in Virginia that govern landlord/tenant relationships?

Yes. The Virginia Residential Landlord Tenant Act (VRLTA) applies to all multi-family rentals and to single family rentals when a landlord owns and rents out more than 10 single-family dwellings. The VRLTA balances rights and obligations between tenant and landlord. Many rental properties use standard leases reflecting the terms of the VRLTA.

Leases that do not fall under the VRLTA are governed by much older laws that generally favor the rights of landlords. It is, therefore, important that you know if your lease is governed by the VRLTA.

Landlord/Tenant

What is a security deposit and for what is it used?

A security deposit is an amount of money, not to exceed two months' rent, required by the landlord at the beginning of a lease term. It serves as security for the landlord to cover any damages to the leased property above and beyond normal wear and tear caused by the tenant or his guests or to cover unpaid rent and late charges.



The landlord and tenant should walk through the property together at the beginning and at the end of the lease term. An inspection report should be signed by both the landlord and the tenant to document the condition of the property. This report will protect the tenant from an unscrupulous landlord who may try to keep the security deposit to pay for a condition that existed prior to leasing the property.

The security deposit is not supposed to be used for the last month's rent but is returned to the tenant after the landlord conducts a favorable walk-through inspection after the lease expires.

In a monthly lease, can I end the lease by just leaving at the end of a month?

No. If the lease term is month to month, 30 days written notice to the landlord is required.

If I sign a lease with three friends, and they move out, do I have to pay the full rent or only my share?

Most leases signed by more than one person provide that the tenants are "jointly and severally liable" for the rental payments. That means the landlord has the right to seek the entire monthly rent from any one of the co-tenants even though one or more may have moved.

If I break a lease, for what amount can I be sued?

If you break a lease, your landlord may seek the loss of rent to the end of the lease term minus any amount received when the property is relet. The landlord has a duty to try to lease the property to someone else. The landlord can also seek recovery for any damages to the property above ordinary wear and tear.

How does a landlord terminate a lease for nonpayment of rent?

A landlord may terminate a lease for nonpayment of rent by giving notice to the tenant to either pay what is owed or leave the property. If the tenant pays within five days of receiving that notice, the tenant may remain. If payment is not made, the landlord may begin proceedings to evict the tenant by filing an “unlawful detainer” (eviction) action with the local court. In the event the lease calls for it, Landlord may also recover reasonable attorney’s fees in the event of breach of lease.

When can my landlord enter the space I’ve rented?

A landlord may only enter in case of emergency or after giving you reasonable notice.

What can I do if a landlord refuses to make repairs to the premises?

If the condition for which the repairs are needed threatens your health and safety, you should send the landlord a written request that the repairs be made within 21 days. If the landlord refuses, you may terminate the lease not less than 30 days after receipt of the notice, provided the tenancy is one covered by the VRLTA. Alternatively, you may file an assertion (notice) in the local court, stating that the landlord has been notified and has failed to comply with the lease; you must then pay your rent directly into the court. You should never simply withhold rent, because the landlord may then terminate the tenancy for non-payment.

If your tenancy is not covered by VRLTA, you should see if the lease provides remedies for the failure of the landlord to make repairs.

Am I liable for rent under the lease if I am in the military and am transferred somewhere else?

If your lease is covered by the VRLTA, there are certain circumstances in which you may terminate the lease. Certain notice is required and you should contact the legal services office at your base for advice on how to proceed. It is best, however, to address your possible transfer in the lease at the time the lease is signed.

Are there laws that govern the rental of mobile home lots in mobile home parks?

Yes. The Virginia Manufactured Home Lot Rental Act seeks to protect landlords and tenants of mobile home lots. The law has very specific provisions, and if you have a dispute involving the rental of a mobile home lot, you should contact an attorney for advice.

Marriage/Divorce/Children

When can I get married?

You must be 18 years old to get married without your parents' consent unless you have been married before. The minimum age to get married with the consent of your parent or guardian is 16, except in cases of pregnancy verified by a doctor's certificate.

What does it mean in legal terms to get married?

Marriage is a contract and a married couple has duties and responsibilities toward one another until one of them dies or the relationship is legally terminated. In a marriage, it is the duty of each spouse to provide support to the other spouse for necessities, and this duty often continues for one spouse if the marriage results in separation or divorce. Getting married changes your life in so many ways, it is difficult to set out a list. However, some legal considerations are: changing your last name, making additions or changes to your insurance, changing your tax status, writing a will and buying a home.



How do I get a marriage license and do I have to get a blood test?

You and your fiancé must go to the Clerk of the Circuit Court in the city or county where you live, sign an application and be issued a marriage license within 60 days before your wedding date. You do not have to get a blood test in Virginia.

What does it mean in legal terms to get divorced?

A divorce is a method of dissolving the legal contract that binds a couple together in marriage. The couple must have “grounds” or legal reasons that allow the court to grant a divorce. To get a divorce in Virginia, one of the following must be shown:

1. Sexual intercourse or sodomy with someone outside the marriage;
2. Conviction of a felony by the spouse;
3. Willful desertion or abandonment;
4. Cruelty or the infliction of reasonable apprehension of bodily harm; or
5. The couple has lived separate and apart for one year with the intent to get a divorce, or six months if there are no minor children, and the couple has a written settlement agreement.

● **Marriage/Divorce/Children**

Does the mother always get custody of the children?

No. In Virginia, both parents stand on equal footing in a custody dispute, and there is no preference for a mother over a father. A judge considers a number of factors in deciding a custody case, but the overriding concern is the best interests of the child.

If I have a child when I am not married, what are my legal obligations to that child?

If paternity is established, your legal obligations are the same regardless of whether you are married to the child's other parent. If you do not voluntarily take financial responsibility for your child, the court may order you to pay support in a fixed amount. This responsibility generally continues until your child graduates from high school. If you refuse to pay support, your wages could be garnished and you could even face imprisonment. If a man denies that he is a child's father, the court could order blood tests to prove paternity.

What are my legal rights and where can I turn for help if I find myself in an abusive relationship?

Both married and unmarried people who find themselves in abusive relationships can seek help from the court system in Virginia. The court may try to alleviate the abusive situation by prohibiting further contact or abuse between you and your abuser, granting you sole possession of the marital residence or forcing your abuser to provide you suitable housing, or even requiring you both to attend counseling. There are stiff legal and financial penalties if your abuser violates a court order. You may also bring criminal charges against your abuser by filing a complaint for assault and battery.

Domestic or relationship abuse is a very serious issue, and the first step is to seek help from an outside resource, which may be the police or an advocacy group in your area that addresses domestic violence. Check your local Yellow Pages or call the local police department for the number of a resource group that can provide you with further information on your options. The Virginia Family Violence Hotline at 800/838-8238 for family violence and sexual assault; 800/552-7096 for child abuse; or 800/83-ADULT (832-3858) for elder and disabled adult abuse, as well as the National Domestic Violence Hotline (800/799-SAFE (7233) may also give you assistance.



Wills

What is a will?

A will is a legal document in which a person directs what is to be done with his or her property after death. Although it may be depressing to think about, a little planning can help your family and friends later on. It is important to note that Virginia law requires that a will be drafted in a particular way with certain formalities.

Why should I have a will and what happens if I don't make one?

If you don't have a will, state law determines to whom your property is distributed—who gets what. A will allows you to make different choices and to specifically direct how you want your property divided after your death. This includes the distribution of your personal property (e.g., cars, jewelry, or furniture). You may also name the person you want to handle your affairs after your death. In addition, a will is one of the best ways to make special provisions for your children and others who depend on you.

Who should draft a will?

A will should be drafted by a person familiar with Virginia law. There are specific legal requirements which would even effect a simple will in your own handwriting. States have different laws about wills, so “will kits” that can be purchased at your local book store may create problems. Only a lawyer is qualified to give advice about writing a will and properly signing it.

Welfare Benefits

What welfare benefits are available to me?

There are a variety of benefits available to you and your minor children through the Virginia Department of Social Services. Some of the benefits available are: family planning, nutritious foods for eligible women and children, Medicaid, job training skills, temporary financial assistance to eligible families with children and food stamps. Contact your local Virginia Department of Social Services for details on certain programs.

Welfare Benefits

How do I determine whether I am eligible for benefits?

To be eligible for assistance provided by the Virginia Department of Social Services, you must live in Virginia, be a U.S. citizen (or meet certain requirements if you are an alien), apply at the agency serving the city or county in which you live and meet the specific requirements (e.g., financial need) of each program for which you are applying.

Persons with Disabilities

Does the law protect the civil rights of individuals with disabilities?

Yes. The Virginians With Disabilities Act (VWDA) assures equal opportunity to persons with disabilities in Virginia. The VWDA prohibits discrimination by public and private agencies, businesses and educational institutions against otherwise qualified persons with disabilities. The Americans With Disabilities Act (ADA) provides federal civil rights protection to individuals with disabilities that are similar to those provided to individuals on the basis of race, sex and religion. The ADA addresses equal opportunities in the areas of employment, public accommodations, transportation, state and local government and telecommunications.

For information on the VWDA contact the Department for Rights of Virginians with Disabilities at 800/552-3962 or the Virginia Office for Protection and Advocacy at 800/562-3962 or 804/225-2042. For information on the ADA contact the Equal Employment Opportunity Commission at 800/669-EEOC (3302).

Who is someone with a disability?

Anyone who has a physical or mental impairment that substantially limits one or more “major life activities” or has a record of such impairment and meets other requirements. This includes people who test positive with HIV.

Hiring a Lawyer

When should I seek a lawyer?

Although it involves a cost to you, the best time to seek a lawyer is before you get into a legal dispute. You should think about consulting with a lawyer when:

- You are planning to enter into a verbal or written contract that has financial consequences.
- You are thinking about trying to get out of a verbal or written contract which is still in effect.

Hiring a Lawyer

- You are involved in an accident involving either an injury to yourself or another person or damage to property.
- You are involved in a domestic controversy such as paternity, child support or divorce.
- You want to draft a will or plan for the support of someone after your death.
- You are not sure of your legal position on any given matter.

How do I find a lawyer to represent me?

There are many ways to go about finding a lawyer. By talking to friends and family, you are likely to find someone who has hired a lawyer with whom they were pleased. The Virginia State Bar has a Lawyer Referral Service that can give you the name of a lawyer who practices in the area of law in which you need help. Lawyers in this service have agreed to consult with those referred for 1/2 hour for a fee of \$35.00. If more time is needed the Lawyer and client will have to agree on terms. The phone number is 800/552-7977 (or 804/775-0502 for the hearing-impaired). Some local bar associations have similar referral services, and the Yellow Pages are also a source of information.

800-552-7977
Virginia Lawyer
Referral Service

How do I decide which lawyer to hire?

Some lawyers have a general practice which means they deal with many types of legal issues. You will also find lawyers who specialize their practice in one field of law. The nature of your legal problem and the amount in controversy may have an impact on the lawyer you want to hire to do the job. Most lawyers will readily answer questions about their legal training and experience, and there are several directories in your local law library that rate lawyers.



How do lawyers charge for their services?

There are several common fee arrangements offered by lawyers. With regard to the initial meeting, some lawyers charge their hourly rate, some charge a reduced rate and some offer free initial consultations. During the initial meeting, discuss the

Hiring a Lawyer

legal fees and costs (e.g., filings, expert witnesses, phone and copying charges) that will be charged by your lawyer while he or she is representing you. Sometimes an up-front flat fee is charged; sometimes your lawyer will bill you for each hour worked. In a case such as personal injury, your lawyer may charge a contingency fee which is a percentage of any money you win in the case. You should not hesitate to ask for a written fee agreement so that you are clear about how you will be charged.

Is the relationship of a lawyer and client confidential?

With a few exceptions, your lawyer has an ethical obligation to keep secret any information you give as a client. Therefore, you should feel free to tell your lawyer all the facts in your case—whether or not they are favorable to you. However, your lawyer may be required by law or by court order to discuss information you have confided. (For example, if you tell your lawyer you intend to commit a crime or if your lawyer finds out you have been dishonest in the case.)

What if I believe that my lawyer is not handling my case properly?

You should first raise all questions or concerns about the handling of your case with your lawyer. If you and your lawyer still cannot resolve your differences, you have several options: consider hiring a new lawyer, filing a complaint, mediating or arbitrating a fee dispute or suing for malpractice.

The Virginia State Bar (VSB) provides all citizens with the opportunity to file inquiries concerning lawyers whom they believe have failed to meet the rules of ethical conduct. To receive an inquiry form from the VSB Intake Department, call 804/775-0570 (Richmond); toll free at 866/548-0873 or visit the VSB Web site at www.vsb.org/inquiry.html.

If you are having a dispute with your lawyer over the fee you've been charged, the VSB provides a voluntary, mediation and/or binding arbitration service. For more information, call 804/775-0521, or for a copy of the rules and regulations regarding fee mediation and/or arbitration, visit the VSB Web site at www.vsb.org/feedisputes.html. The VSB's Web site (www.vsb.org) provides public information concerning lawyers licensed in Virginia.

If you feel your attorney has committed malpractice, you may sue your attorney for damages to recover your losses.



Virginia State Bar

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The Conference of Local Bar Associations
of the Virginia State Bar