

## July 1 Brings Toughened State Laws in VA

By Sally Voth Starting today, Virginia gets tougher on certain crimes. New laws adopted by the General Assembly and signed by Gov. Bob McDonnell this year go into effect July 1. Among the new legislation are laws relating to texting while driving, drunken driving, mopeds and impersonating a police officer. Eugene Oliver III is a senior associate with the Northern Virginia law firm of Tully Rinckey PLLC, where he practices criminal defense. He's also a former prosecutor, having served as assistant commonwealth's attorney in Mecklenburg County. One of the new laws is a driving under the influence enhancement. It makes a DUI conviction a class 6 felony if the driver had previously been convicted of involuntary manslaughter or maiming related to DUI, or if it is a third offense or subsequent conviction, Oliver said. "I think this one sort of is a big deal," he said. "I think it continues a trend that we have seen sort of with laws in Virginia, that the DUI laws are getting stricter and stricter. I think it's a trend, and I think it's a trend we're going to keep seeing." The penalty for the enhanced DUI charge is a mandatory minimum sentence of one year in jail, and a maximum sentence of five years, according to Derek Aston, Winchester's senior assistant commonwealth's attorney. Aston said that before the law changed, if it had been more than 10 years since a third-offense DUI conviction, the person would be charged with a misdemeanor, but now it's considered a felony. Legislators also made impersonating police officers, firefighters, emergency medical services, personnel or special forest wardens more serious offenses. It's now a class 1 misdemeanor — up from class 3 — to impersonate a law enforcement officer, Oliver said. On a second offense, it's a class 6 felony. Class 1 misdemeanors can result in jail time, whereas a class 3 can only generate a fine, Oliver said. "No one benignly impersonates the [police officers]," he said. Anyone convicted of assault and battery on EMS personnel, volunteer or paid, is now guilty of a class 6 felony and will get a six-month mandatory minimum sentence. The same penalty applies to someone convicted of assault and battery on a jail officer. "I used to be a prosecutor, and that's actually a crime that you see a fair amount of," Oliver said of correction officers being assaulted. Some of the new laws appear to be targeted at combating violent street gang members. State law has increased sentencing ranges for certain crimes by designating them as violent felonies. These include forceful gang recruitment, assaults related to a hate crime, sexually assaulting someone when the assailant knows he has a sexually transmitted disease, making bombs, brandishing a machete and other blades near a school, wearing body armor while committing some crimes, and treason. "Those are things that you definitely see more and more of," Oliver said. "Gang-related issues, I know that's something that a number of folks definitely [see] among sheriff's and police officers. I have noticed that there's pretty much gang activity everywhere in Virginia." Designating something a violent felony triggers a much more severe sentence for that crime and any future crimes, he said. A new law that makes soliciting a minor under 16 for prostitution a class 5 felony, and a minor 16 and older a class 6 felony also likely stems from gang activity, Oliver said. "Some of the local gangs are involved with sort of pimping out young women," he said. "I would expect more legislation and actions to try to combat criminal gang activity. I think it's definitely a higher priority both on the local and state level." Also starting today, texting while driving is a primary offense, meaning a police officer can pull over a driver for that offense alone, Aston said. The fine is \$125 for the first offense and \$250 for

the second. Additionally, moped drivers are now required to carry government-issued photo identification and wear a helmet and face shield, according to a news release from Winchester police. Riders must also wear safety glasses or goggles if the moped doesn't have a windshield. And the Department of Motor Vehicles has started to title the vehicles today, the release states. In a year, all mopeds will require title and registration, which will help police track scooters that have been stolen or used in a crime, according to the release.