

VIRGINIA ACTS OF ASSEMBLY -- 2000 SESSION

CHAPTER 179

An Act to amend and reenact § 46.2-1705 of the Code of Virginia, relating to licensure of driver training schools; penalties.

[H 1256]

Approved March 24, 2000

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-1705 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-1705. Suspension, revocation, cancellation or refusal to renew license; limitations on operations; imposition of monetary penalties.

A. Except as otherwise provided in this section, no license issued under this chapter ~~may~~ *shall* be suspended, revoked, or cancelled or renewal thereof denied, *no limitation on operations shall be imposed pursuant to subsection F of this section*, and no monetary penalty ~~may~~ *shall* be imposed pursuant to § 46.2-1706, unless the licensee has been furnished a written copy of the complaint against him and the grounds upon which the action is taken and has been offered an opportunity for an administrative hearing to show cause why such action should not be taken.

B. The order suspending, revoking, cancelling, or denying renewal of a license, *imposing a limitation on operation*, or imposing a monetary penalty, except as otherwise provided in subsection E of this section, shall not become effective until the licensee has had thirty days after notice of the opportunity for a hearing to make a written request for such a hearing. If no hearing has been requested within such thirty-day period, the order shall become effective and no hearing shall thereafter be held. A timely request for a hearing shall automatically stay operation of the order until after the hearing.

C. Notice of an order suspending, revoking, cancelling or denying renewal of a license, *imposing a limitation on operation*, or imposing a monetary penalty and advising the licensee of the opportunity for a hearing shall be mailed to the licensee by registered mail to the school address and the licensee's residence address as shown on the licensee's application for license and shall be considered served when mailed.

D. No licensee whose license has been revoked or cancelled or who has been denied renewal shall apply for a new license within 180 days of such action.

E. Notwithstanding the provisions of subsection B of this section, an order suspending, revoking, or denying renewal of an instructor license shall be effective immediately if the order is based upon a finding by the Commissioner that the instructor's driving record is such that he is not presently qualified to act as an instructor. Such finding by the Commissioner shall be based on records of driver's license suspension or revocation, upon records of conviction of serious motor vehicle related offenses punishable as a misdemeanor or felony including driving under the influence or reckless driving, and upon such other criteria as the Commissioner may establish by regulation.

F. *If the Commissioner makes a finding that the conduct of a licensee is in violation of this chapter or regulations adopted pursuant to this chapter, he may order the licensee, in accordance with subsections A, B and C of this section, to limit the types of driver education training provided, restrict the use of the licensee's training vehicles, or both. Whenever the Commissioner takes action under this subsection, the Commissioner shall require the licensee to post conspicuous notice of the Commissioner's action under this subsection at the same location as the licensee's license was issued under this chapter, as soon as the Commissioner's order becomes effective. Orders of the Commissioner limiting operations and requiring posting of notices shall remain in effect until the Commissioner makes a finding that the violations causing the imposition of such limitations have been remedied by the licensee or the Commissioner's order is lifted as the result of an appeal under § 46.2-1704 or by a court of competent jurisdiction.*

G. *If the Commissioner makes a finding, after conducting a preliminary investigation, that the conduct of a licensee (i) is in violation of this chapter or regulations adopted pursuant to this chapter and (ii) such violation constitutes a danger to public safety, the Commissioner may issue an order suspending the licensee's license to operate a commercial driver training school. Notice of the suspension shall be in writing and mailed in accordance with subsection C of this section. Upon receipt of a request for a hearing appealing the suspension, the licensee shall be afforded the opportunity for a hearing within 30 days. The suspension shall remain in effect pending the outcome of the hearing.*