010496736

HOUSE BILL NO. 2143

Offered January 10, 2001

Prefiled January 10, 2001

A BILL to amend the Code of Virginia by adding in Chapter 10 of Title 46.2 an article numbered 24, consisting of sections numbered 46.2-1193 through 46.2-1199, relating to intermodal vehicle safety.

Patron—Drake

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 10 of Title 46.2 an article numbered 24, consisting of sections numbered 46.2-1193 through 46.2-1199 as follows:

Article 24.

Intermodal Vehicle Safety.

§ 46.2-1193. Definitions.

The following words and phrases when used in this article shall have the following meanings, except where the context clearly indicates a different meaning:

"Equipment interchange agreement" means a written document exchanging care, custody, and control of a vehicle between a tenderor and an operator.

"Tenderor" means the party, as identified on an equipment interchange agreement as either owner or lessor, who assigns or causes avehicleto be delivered to an operator.

"Major damage criteria" means industry-accepted standards for inspection of vehicles under an equipment interchange agreement.

"Operator" means a motor carrier licensed to operator on the public highways.

"Vehicle" means an intermodal chassis or container intended for use on the public highways.

§ 46.2-1194. Certification on tender or interchange of certain vehicles; inspections and repairs.

A tenderor of a vehicle certifies that the vehicle is in compliancewith and will have no elements that fail to meet the major damage criteria upon interchange.

Any person whotendersorinterchangesanyvehicle for use on any public highway, before he tenders or interchanges the vehicle, shall:

1. Inspect the vehicle and, if the vehicle has any elements that fail to meet the major damage criteria, promptly repair the vehicle to bring it into compliance; and

2. Provide the operator to whom the vehicle will be tendered the opportunity and facilities to perform an inspection of the vehicle and, if the operator determines that the vehicle has any elements that fail to meet the major damage criteria: (i) promptly repair the vehicle to bring it into compliance or (ii) promptly provide the operator with a replacement vehicle that complies with the major damage criteria or (iii) reimburse the operator for reasonable costs of extraordinary delay caused by the need to repair the vehicle.

§ 46.2-1195. Certain defects presumed to have existed at time of tender or interchange.

If, within five days of the date of tender or interchange as indicated on the equipment interchange agreement applicable to the vehicle, a defect in the vehicle in violation of the federal motor carrier safety regulations or the regulations adopted pursuant to § 52-8.4 is discovered, it shall be presumed that the major defect existed at the time of the tender or interchange.

§ 46.2-1196. Tenderor to reimburse operatorsfor certain fines, penalties, and costs.

If an operator finds it reasonably necessary to repair the vehicle or receives a summons for a violation of the federal motor carrier safety regulations or the regulations adopted pursuant to § 52-8.4, due to a vehicle defect, the vehicle tenderor shall reimburse the operator for any (i) cost incurred by the operator to repairthe defect or defects, includingtowing and reasonable cost of delay in excess of two hours and (ii) fines and penalties paid by the operator as required by the summons, unless such fines, penalties, or costs are due to actions or missions of the operator after the vehicle was tendered or interchanged.

§ 46.2-1197. Operator relieved of responsibility for condition of certain vehicles.

If an operator interchanges a vehicle to another mode of transportation or a warehouse in substantially the same condition as it was when tendered to the operator, the operator is relieved of any responsibility for the condition of the vehicle.

§ 46.2-1198. Exception.

Nothing in this articleshall prevent a railroad or a rail intermodal carrier and a motor carrier operator from agreeing to a different allocation of responsibility for compliance of a vehicle with the

INTRODUCED

9/13/22 18:51

requirements of this section when the vehicle is ownedor has been in the possession of or under the control of a railroad or rail intermodal carrier. Theprovisions of this section shall not apply to § 46.2-1197.

§ 46.2-1199. Statement of public policy.

Any provisioncontainedin a contract covering vehicles defined in § 46.2-1193 providing for a hold harmless or indemnity agreement, or both, between the operator and the tenderor of a vehicle shall be considered contrary to public policy and shall be void as it pertains to violations of the federal motor carrier safety regulations or the regulations adoptedpursuant to § 52-8.4.