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HOUSE BILL NO. 1304

Offered January 11, 2006

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A BILL to amend and reenact §§ 46.2-703, 46.2-2011.6, 46.2-2053, 46.2-2121, and 46.2-2143 of the Code of Virginia, relating to the federal Unified Carrier Registration Act of 2005.

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Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-703, 46.2-2011.6, 46.2-2053, 46.2-2121, and 46.2-2143 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-703. Reciprocal agreement with other states; assessment and collection of fees on an apportionment or allocation basis; registration of vehicles and reporting of road tax; violations; vehicle seizures; penalties.

A. Notwithstanding any other provision of this title, the Governor may, on the advice of the Department, enter into reciprocal agreements on behalf of the Commonwealth with the appropriate authorities of any state of the United States or a state or province of a country providing for the assessing and collecting of license fees for motor vehicles, tractor trucks, trucks, trailers, and semitrailers on an apportionment or allocation basis, as outlined in the International Registration Plan developed by the International Registration Plan, Inc.

The Commissioner is authorized to audit the records of any owner, lessor, or lessee to verify the accuracy of any information required by any jurisdiction to determine the registration fees due. Based on this audit, the Commissioner may assess any owner, lessor, or lessee for any license fees due this Commonwealth, including interest and penalties as provided in this section. In addition to any other penalties prescribed by law, the Commissioner or the Reciprocity Board may deny the owner, lessor, or lessee the right to operate any motor vehicle on the highways in the Commonwealth until the assessment has been paid.

Trip permit registration may be issued for any vehicle or combination of vehicles that could be lawfully operated in the jurisdiction if full registration or proportional registration were obtained. The fee for this permit shall be \$15 and the permit shall be valid for 10 days.

Any person who operates or permits the operation of any motor vehicle, trailer, or semitrailer over any highway in the Commonwealth without first having paid to the Commissioner the fees prescribed and payable under this section shall be guilty of a Class 2 misdemeanor. Failure to display a license plate indicating that the vehicle is registered on an apportionment or allocation basis or carry a trip permit, as outlined in the International Registration Plan, shall constitute prima facie evidence the apportioned or allocated fee has not been paid.

If the Commissioner ascertains that any fees that he is authorized to assess any owner, lessor, or lessee for any license year have not been assessed or have been assessed for less than the law required for the year because of failure or refusal of any owner, lessor, or lessee to make his records available for audit as provided herein, or if any owner, lessor, or lessee misrepresents, falsifies, or conceals any of these records, the Commissioner shall determine from any information obtainable the lawful fees at the rate prescribed for that year, plus a penalty of five percent and interest at the rate of six percent per year, which shall be computed on the fees and penalty from the date the fees became due to the date of assessment, and is authorized to make an assessment therefor against the owner, lessor, or lessee. If the assessment is not paid within 30 days after its date, interest at the rate of six percent per year shall accrue thereon from the date of such assessment until the fees and penalty are paid. The notice of the assessment shall be forthwith sent to the owner, lessor, or lessee by registered or certified mail to the address of the owner, lessor, or lessee as it appears on the records in the office of the Department. The notice, when sent in accordance with these requirements, shall be sufficient regardless of whether it was received.

If any owner, lessor, or lessee fails to pay the fees, penalty, and interest, or any portion thereof, assessed pursuant to this section, in addition to any other provision of law, the Attorney General or the Commissioner shall bring an appropriate action before the Circuit Court of the City of Richmond for the recovery of the fees, penalty, and interest, and judgment shall be rendered for the amount found to be due together with costs. If it is found that the failure to pay was willful on the part of the owner, lessor or lessee, judgment shall be rendered for double the amount of the fees found to be due, plus costs.

B. Notwithstanding any other provision of this title or Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1,

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59 the Governor, on the advice of the Department, may enter into reciprocal agreements on behalf of the
60 Commonwealth with the duly authorized representatives of other jurisdictions providing for the road tax
61 registration of vehicles, establishing periodic road tax reporting and road tax payment requirements from
62 owners of such vehicles, and disbursement of funds collected due to other jurisdictions based on mileage
63 traveled and fuel used in those jurisdictions as outlined in the International Fuels Tax Agreement.

64 Notwithstanding any statute contrary to the provisions of any reciprocal agreement entered into by
65 the Governor or his duly authorized representative as authorized by this title, the provisions of the
66 reciprocal agreement shall govern and apply to all matters relating to administration and enforcement of
67 the road tax. In the event the language of any reciprocal agreement entered into by the Governor as
68 authorized by this title is later amended so that it conflicts with or is contrary to any statute, the
69 Department shall consider the amended language of the reciprocal agreement controlling and shall
70 administer and enforce the road tax in accordance with the amended language of the reciprocal
71 agreement.

72 An agreement may provide for determining the base state for motor carriers, records requirements,
73 audit procedures, exchange of information, persons eligible for tax licensing, defining qualified motor
74 vehicles, determining if bonding is required, specifying reporting requirements and periods, including
75 defining uniform penalties and interest rates for late reporting, determining methods for collecting and
76 forwarding of motor fuel taxes and penalties to another jurisdiction, and other provisions as will
77 facilitate the administration of the agreement.

78 The Governor may, as required by the terms of the agreement, forward to officers of another member
79 jurisdiction any information in the Department's possession relative to the use of motor fuels by any
80 motor carrier. The Department may disclose to officers of another state the location of offices, motor
81 vehicles, and other real and personal property of motor carriers.

82 An agreement may provide for each state to audit the records of motor carriers based in the state to
83 determine if the road taxes due each member jurisdiction are properly reported and paid. Each member
84 jurisdiction shall forward the findings of the audits performed on motor carriers based in the member
85 jurisdiction to each jurisdiction in which the carrier has taxable use of motor fuels. For motor carriers
86 not based in the Commonwealth and which have taxable use of motor fuel in the Commonwealth, the
87 Department may serve the audit findings received from another jurisdiction, in the form of an
88 assessment, on the carrier as though an audit had been conducted by the Department.

89 Any agreement entered into pursuant to this chapter does not preclude the Department from auditing
90 the records of any motor carrier covered by the provisions of this chapter.

91 The Department shall not enter into any agreement that would affect the motor fuel road tax rate.

92 The Department may adopt and promulgate such rules, regulations, and procedures as may be
93 necessary to effectuate and administer this title. Nothing in this title shall be construed to affect the tax
94 rate provisions found in Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1.

95 C. Notwithstanding any other provision in this title or Title 56, the Governor, on the advice of the
96 Department, may participate in the ~~reciprocal standards for single state registration with states system~~ as
97 authorized under 49 U.S.C. § ~~14506~~ 14504 and 49 C.F.R. Part ~~1023~~ 367, and the *Unified Carrier*
98 *Registration Act of 2005 and the federal regulations promulgated thereunder.*

99 D. Notwithstanding any other provision of this title or Title 58.1, the following violations of laws
100 shall be punished as follows:

101 1. Any person who operates or causes to be operated on any highway in the Commonwealth any
102 motor vehicle that does not carry the proper registration, identification marker, or other evidence of
103 registration as required by reciprocal standards or agreements entered into by the Department pursuant to
104 this section or § 58.1-2712.1 shall be guilty of a Class 4 misdemeanor.

105 2. Any person who knowingly displays or uses on any vehicle operated by him any identification
106 marker or other identification that has not been issued to the owner or operator thereof for such vehicle
107 and any person who knowingly assists him to do so shall be guilty of a Class 3 misdemeanor.

108 E. An officer charging a violation under subsection D shall serve a citation on the operator of the
109 vehicle in violation. Such citation shall be directed to the owner, operator or other person responsible for
110 the violation as determined by the officer. Service of the citation on the vehicle operator shall constitute
111 service of process upon the owner, operator, or other person charged with the violation under this
112 article, and shall have the same legal force as if served within the Commonwealth personally upon the
113 owner, operator, or other person charged with the violation, whether such owner, operator, or other
114 person charged is a resident or nonresident.

115 F. Any police officer of the Commonwealth authorized to serve process may hold a motor vehicle
116 owned by a person against whom an order or penalty has been entered, but only for such time as is
117 reasonably necessary to promptly petition for a writ of fieri facias. The Commonwealth shall not be
118 required to post bond in order to hold and levy upon any vehicle held pursuant to this section. Upon
119 notification of the judgment or penalty entered against the owner of the vehicle and notice to such
120 person of the failure to satisfy the judgment or penalty, any investigator, special agent, or officer of the

Commonwealth shall thereafter deny the offending person the right to operate the motor vehicle on the highways of the Commonwealth.

§ 46.2-2011.6. Vehicle fees.

Every person who operates a passenger vehicle for compensation over the highways of the Commonwealth, unless such operation is exempted from this chapter, shall be required to pay an annual fee of \$3 for each such vehicle so operated, unless a vehicle identification marker fee has been paid to the Department as to such vehicle for the current year under the provisions of Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1. Such fee shall be paid through the single state registration system established pursuant to 49 U.S.C. § 14504 and 49 CFR Part 367 *or through the unified carrier registration system established pursuant to 49 U.S.C. § 14504a and the federal regulations promulgated thereunder* for carriers registered pursuant to those provisions. No more than one vehicle fee shall be charged or paid as to any vehicle in any one year under Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1 and this chapter, including payments made pursuant to the single state registration system *or the unified carrier registration system*.

§ 46.2-2053. Surety bonds, insurance, letter of credit, or securities required prior to issuance of registration; amounts.

A. No certificate, permit, identification marker, registration card, or license plate shall be issued by the Department to any vehicle operated by a motor carrier until the motor carrier certifies to the Department that the vehicle is covered by:

1. An insurance policy or bond;

2. A certificate of insurance in lieu of the insurance policy or bond, certifying that such policy or bond covers the liability of such motor carrier in accordance with the provisions of this article, is issued by an authorized insurer, or in the case of bonds, is in an amount approved by the Department. The bonds may be issued by the Commonwealth of Virginia, the United States of America, or any municipality in the Commonwealth. Such bonds shall be deposited with the State Treasurer and the surety shall not be reduced except in accordance with an order of the Department;

3. An unconditional letter of credit, issued by a bank doing business in Virginia, for an amount approved by the Department. The letter of credit shall be in effect so long as the motor carrier operates motor vehicles in the Commonwealth; or

4. In the case of a lessor who acts as a registrant for purposes of consolidating lessees' vehicle registration applications, a statement that the registrant has, before leasing a vehicle, obtained from the lessee an insurance policy, bond, or certificate of insurance in lieu of the insurance policy or bond and can make available said proof of insurance coverage upon demand.

Vehicles operated by carriers who have filed proof of financial responsibility in accordance with the provisions of ~~§ 14504 of Title 49 of the United States Code~~ *single state registration system authorized by 49 U.S.C. § 14504a* are deemed to have fulfilled the requirements of this article for insurance purposes, provided there is on board the vehicle a copy of a ~~single state~~ *an insurance receipt issued pursuant to 49 C.F.R. Part 367 the federal regulations promulgated pursuant to 49 U.S.C. §§ 14504 or 14504a*. The Department is further authorized to issue single state registration *system or unified carrier registration system* receipts to any qualified carrier as well as to collect and disperse the fees for and to qualified jurisdictions.

B. All motor carriers shall keep in force at all times insurance, a bond or bonds, in an amount required by this section. Except for taxicabs, the minimum financial responsibility requirements for motor carriers operating intrastate shall be based on the number of passengers a vehicle is designed or manufactured to transport, including the driver, and shall be as follows: one to six passengers - \$350,000; seven to 15 passengers - \$1,500,000; 16 or more passengers - \$5,000,000. All motor carriers operating exclusively taxicabs or other motor vehicles performing a taxicab service shall maintain liability insurance of at least \$125,000.

C. The minimum insurance for motor carriers operating in interstate commerce shall equal the minimum required by federal law, rule, or regulation. Any motor carrier that meets the minimum federal financial responsibility requirements and also operates in intrastate commerce may submit, in lieu of a separate filing for its intrastate operation, proof of the minimum federal limits, provided that both interstate and intrastate operations are insured.

§ 46.2-2121. Vehicle fees.

Every person who operates a property carrying vehicle for compensation over the highways of the Commonwealth, unless such operation is exempted from this chapter, shall be required to pay an annual fee of \$10 for each such vehicle so operated, unless a vehicle identification marker fee has been paid to the Department as to such vehicle for the current year under the provisions of Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1. Such fee shall be paid through the single state registration system established pursuant to 49 U.S.C. § 14504 and 49 CFR Part 367 *or through the unified carrier registration system established pursuant to 49 U.S.C. § 14504a and the regulations promulgated thereunder* for carriers

182 registered pursuant to those provisions. No more than one vehicle fee shall be charged or paid as to any
183 vehicle in any one year under Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1 and this chapter, including
184 payments made pursuant to the single state registration system *or the unified carrier registration system*.
185 § 46.2-2143. Surety bonds, insurance, letter of credit or securities required prior to issuance of
186 registration; amounts.

187 A. No certificate of public convenience and necessity, permit, identification marker, registration card,
188 or license plate shall be issued by the Department to any vehicle operated by a motor carrier until the
189 motor carrier certifies to the Department that the vehicle is covered by:

190 1. An insurance policy or bond;

191 2. A certificate of insurance in lieu of the insurance policy or bond, certifying that such policy or
192 bond covers the liability of such motor carrier in accordance with the provisions of this article, is issued
193 by an authorized insurer, or in the case of bonds, is in an amount approved by the Department. The
194 bonds may be issued by the Commonwealth of Virginia, the United States of America, or any
195 municipality in the Commonwealth. Such bonds shall be deposited with the State Treasurer and the
196 surety shall not be reduced except in accordance with an order of the Department;

197 3. An unconditional letter of credit, issued by a bank doing business in Virginia, for an amount
198 approved by the Department. The letter of credit shall be in effect so long as the motor carrier operates
199 motor vehicles in the Commonwealth; or

200 4. In the case of a lessor who acts as a registrant for purposes of consolidating lessees' vehicle
201 registration applications, a statement that the registrant has, before leasing a vehicle, obtained from the
202 lessee an insurance policy, bond, or certificate of insurance in lieu of the insurance policy or bond and
203 can make available said proof of insurance coverage upon demand.

204 Vehicles belonging to carriers who have filed proof of financial responsibility in accordance with the
205 provisions of ~~§ 14504 of Title 49 of the United States Code~~ *single state registration system authorized*
206 *by 49 U.S.C. § 14504 or the unified carrier registration system authorized by 49 U.S.C. § 14504a* are
207 deemed to have fulfilled the requirements of this article for insurance purposes, provided there is on
208 board the vehicle a copy of a ~~single state~~ *an* insurance receipt issued pursuant to ~~49 C.F.R. Part 367 the~~
209 *federal regulations promulgated pursuant to 49 U.S.C. §§ 14505 or 14504a*. The Department is further
210 authorized to issue *single state registration system or unified carrier registration system* receipts to any
211 qualified carrier as well as to collect and disperse the fees for and to qualified jurisdictions.

212 B. All motor carriers shall keep in force at all times insurance, a bond or bonds, in an amount
213 required by this section.

214 C. The minimum public liability financial responsibility requirements for motor carriers operating in
215 intrastate commerce shall be \$750,000. The minimum insurance for motor carriers operating in interstate
216 commerce shall equal the minimum required by federal law, rule, or regulation. The minimum cargo
217 insurance required for motor carriers operating in intrastate commerce shall be \$50,000. Motor carriers
218 engaged exclusively in the transportation of bulk commodities shall not be required to file any cargo
219 insurance, bond or bonds for cargo liability. Any motor carrier that meets the minimum federal financial
220 responsibility requirements and also operates in intrastate commerce may submit, in lieu of a separate
221 filing for its intrastate operation, proof of the minimum federal limits, provided that (i) both interstate
222 and intrastate operations are insured, (ii) the public liability filed is at least \$750,000, and (iii) any cargo
223 insurance requirements of this section have been met.