

VIRGINIA ACTS OF ASSEMBLY -- 2008 SESSION

CHAPTER 836

An Act to amend and reenact §§ 46.2-2801, 46.2-2809, 46.2-2812, 46.2-2814, 46.2-2819, 46.2-2820, and 46.2-2824 of the Code of Virginia, relating to powers, duties, and regulations of the Board of Towing and Recovery Operators.

[S 707]

Approved April 11, 2008

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-2801, 46.2-2809, 46.2-2812, 46.2-2814, 46.2-2819, 46.2-2820, and 46.2-2824 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-2801. The Board of Towing and Recovery Operators.

A. The Board of Towing and Recovery Operators is hereby created. The Board shall consist of 15 members as follows:

1. Two members appointed by the Governor, subject to confirmation by the General Assembly, one who shall be licensed as a Class A operator and one who shall be licensed as a Class B operator;

2. Four members appointed by the Speaker of the House of Delegates, one who shall be licensed as a Class A operator, two of whom shall be licensed as Class A or Class B operators, and one who shall be licensed as a Class B operator;

3. Three members appointed by the Senate Committee on Rules, one who shall be licensed as a Class A operator, one who shall be licensed as Class A or Class B operator, and one who shall be licensed as a Class B operator;

4. Three citizens of the Commonwealth appointed at-large, one appointed by the Governor, one appointed by the Speaker of the House of Delegates, and one appointed by the Senate Committee on Rules, all of whom shall have no direct or indirect interest, other than as consumers, in or relating to the towing and recovery industry;

5. The Commissioner of the Department of Motor Vehicles or his designee;

6. The Commissioner of Agriculture and Consumer Services or his designee; and

7. The Superintendent of the State Police or his designee.

All members shall be voting members.

B. Members shall serve for terms of four years, except that of those members initially appointed by the Governor, one shall be appointed for a one-year term and one for a two-year term. Of those members initially appointed by the Speaker of the House of Delegates, one shall be appointed for a four-year term, one for a three-year term, one for a two-year term, and one for a one-year term. Of those members initially appointed by the Senate Committee on Rules, one shall be appointed for a one-year term, one for a two-year term, and one for a three-year term.

C. Every member shall be a citizen of the United States and a resident of Virginia. ~~Nominations may be made for each operator vacancy from a list of at least three names submitted to the Governor, the Speaker of the House of Delegates, and the Senate Committee on Rules by the Virginia Association of Towing and Recovery Operators and the Major Incident Heavy Recovery Operators Association. The Governor, the Speaker of the House of Delegates, and the Senate Committee on Rules may notify the associations promptly of any operator vacancy other than by expiration and like nominations may be made for the filling of the vacancy. In no case shall the Governor, the Speaker of the House of Delegates, or the Senate Committee on Rules be bound to make any appointment from among the nominations of the associations. Any member may be removed from the Board in the same manner as he was appointed. The members shall be at-large members and, insofar as practical, should reflect fair and equitable statewide representation. No member, other than the Commissioner of the Department of Motor Vehicles or his designee, the Commissioner of Agriculture and Consumer Services or his designee, and the Superintendent of the State Police or his designee, shall serve for more than two full successive terms. Vacancies shall be filled by appointment in the same manner as the original appointment and shall be for the unexpired term. Vacancies filled by appointment by the Governor shall be effective until 30 days after the next meeting of the ensuing General Assembly, and, if confirmed, thereafter for the remainder of the term. Any person appointed to fill a vacancy may serve two additional successive terms. The Commissioner of the Department of Motor Vehicles or his designee, the Commissioner of Agriculture and Consumer Services or his designee, and the Superintendent of the State Police or his designee shall be ex officio voting members.~~

D. The Board shall meet at least quarterly each year. Annually, the members of the Board shall elect from its membership a chairman ~~who shall be a licensed Class A operator~~ and a vice-chairman, each to serve for a one-year term. *In even-numbered years, the chairman shall be a licensed Class A operator and the vice-chairman a licensed Class B operator. In odd-numbered years, the chairman shall be a*

licensed Class B operator and the vice-chairman a licensed Class A operator. Eight members shall constitute a quorum.

E. The Board shall adopt a seal with the words "Board of Towing and Recovery Operators, Commonwealth of Virginia." The executive director of the Board shall have charge, care, and custody of the seal, and shall keep a record of all proceedings of the Board that shall be open to the public for inspection.

F. Members of the Board shall be reimbursed their actual and necessary expenses incurred in carrying out their duties, such reimbursement to be paid from the Towing and Recovery Operators Board Fund established pursuant to § 46.2-2804, subject to review and approval by the executive director and chairman of the Board.

§ 46.2-2809. Regulations.

The Board may promulgate regulations requiring persons licensed under this chapter to keep and maintain records reasonably required for the enforcement of provisions of this chapter, and any other regulations, not inconsistent with the provisions of this chapter, as it shall consider necessary for the effective administration and enforcement of this chapter. A copy of any regulation promulgated under this section shall be mailed to each licensee 30 days prior to its effective date. *No regulation of the Board pertaining to public safety towing and recovery services, as provided in § 46.2-2826, shall become effective prior to July 1, 2010.*

§ 46.2-2812. Licenses required.

On and after ~~July 1, 2008~~ *January 1, 2009*, it shall be unlawful for any person to engage in business in the Commonwealth as a towing and recovery operator without first obtaining a license as a Class A or Class B operator as provided in this chapter. ~~Violation~~ *Any violation* of any provision of this section *on or after January 1, 2009*, shall constitute a Class 1 misdemeanor.

§ 46.2-2814. Drivers to have tow truck driver authorization document.

The Board shall issue to tow truck drivers who meet such qualifications as the Board shall have established a document authorizing the holder to drive a tow truck. Such documents shall be valid for such period of time as the Board shall provide by regulation. The Board may also provide by regulation for the issuance of temporary tow truck driver authorization documents, valid for less than five years, to non-Virginia residents.

On and after ~~July 1, 2008~~ *January 1, 2009*, no tow truck shall be operated in the Commonwealth by any person who does not have such tow truck driver authorization document. Such document shall be in addition to whatever driver's license or commercial driver's license is required for operation of the vehicle under Chapter 3 (§ 46.2-300 et seq.) of this title. No driver shall be deemed by the Board to be qualified to drive a tow truck unless he provides to the Board a written statement that he is employed by or engaged to be employed by the licensed operator and is not required to register as a sex offender as provided in § 9.1-901 or in a substantially similar law of any other state, the United States, or any foreign jurisdiction. The Board may charge a reasonable fee for the issuance of such document in an amount calculated to cover its actual and necessary expenses.

The Board shall require every applicant for a tow truck driver authorization document to submit to fingerprinting and provide personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining a national criminal history record check regarding such applicant. The cost of the fingerprinting and criminal history records check shall be paid by the applicant.

The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no record exists, shall make a report to the Board. If an applicant is denied a tow truck driver authorization document because of the information appearing in his criminal history record, the Board shall notify the applicant that information obtained from the Central Criminal Records Exchange contributed to such denial. The information shall not be disseminated except as provided in this section.

§ 46.2-2819. License to be displayed.

On and after ~~July 1, 2008~~ *January 1, 2009*, every person engaged in towing and recovery services shall display his license in a conspicuous place in the principal office in which he operates.

§ 46.2-2820. Prohibited acts.

On and after ~~July 1, 2008~~ *January 1, 2009*, it shall be unlawful for any person:

1. To engage in the towing and recovery of vehicles without holding a license as an operator issued by the Board;
2. To impersonate a licensed operator of a like or different name;
3. To do any act for which, if he were a licensed operator, could be revoked as provided by this chapter or regulations of the Board;
4. To publish or cause to be published in any manner an advertisement that is false, deceptive, or misleading, or violates regulations of the Board governing advertising by towing and recovery operators; or
5. To provide any towing and recovery services for vehicles of a gross vehicle weight over 26,000 pounds unless licensed as a Class A operator.

§ 46.2-2824. License required.

On and after ~~July 1, 2008~~ *January 1, 2009*, no person shall offer to engage in or engage in the towing and recovery of vehicles without a valid license from the Board.

2. Prior to proceeding further with drafting of any public safety towing regulations, the Board of Towing and Recovery Operators shall hold four public meetings to receive comments and recommendations regarding the appropriate equipment, standards, training, safety and other factors related to providing public safety towing and recovery services. The public meetings shall be held in Southwest Virginia, Northern Virginia, Richmond and Hampton Roads prior to the 2009 Session of the General Assembly.