

088160300

SENATE BILL NO. 414

Offered January 9, 2008

Prefiled January 8, 2008

A BILL to amend and reenact §§ 46.2-711 and 46.2-2000 of the Code of Virginia and to amend the Code of Virginia by adding a new Article 14 in Chapter 20 of Title 46.2 consisting of sections numbered 46.2-2099.44 through 46.2-2099.46, relating to nonemergency medical transportation.

Patron—Puckett

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-711 and 46.2-2000 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding a new Article 14 in Chapter 20 of Title 46.2 consisting of sections numbered 46.2-2099.44 through 46.2-2099.46 as follows:

§ 46.2-711. Furnishing number and design of plates; displaying on vehicles required.

A. The Department shall furnish one license plate for every registered motorcycle, tractor truck, semitrailer, or trailer, and two license plates for every other registered motor vehicle, except to licensed motor vehicle dealers and persons delivering unladen vehicles who shall be furnished one license plate. The license plates for trailers, semitrailers, commercial vehicles, and trucks, other than license plates for dealers, may be of such design as to prevent removal without mutilating some part of the indicia forming a part of the license plate, when secured to the bracket.

B. The Department shall issue appropriately designated license plates for:

1. Passenger-carrying vehicles for rent or hire for the transportation of passengers for private trips;
2. Taxicabs;
3. Passenger-carrying vehicles operated by common carriers or restricted common carriers;
4. Property-carrying motor vehicles to applicants who operate as private carriers only;
5. Applicants who operate motor vehicles as carriers for rent or hire; ~~and~~
6. Trailers and semitrailers; ~~and~~
7. *Nonemergency medical transportation vehicles as defined in § 46.2-2000.*

C. The Department shall issue appropriately designated license plates for motor vehicles held for rental as defined in § 58.1-2401.

D. No vehicles shall be operated on the highways in the Commonwealth without displaying the license plates required by this chapter. The provisions of this subsection shall not apply to vehicles used to collect and deliver the United States mail to the extent that their rear license plates may be covered by the "CAUTION, FREQUENT STOPS, U.S. MAIL" sign when the vehicle is engaged in the collection and delivery of the United States mail.

E. Pickup or panel trucks are exempt from the provisions of subsection B with reference to displaying for-hire license plates when operated as a carrier for rent or hire. However, this exemption shall not apply to pickup or panel trucks subject to regulation under Chapter 21 (§ 46.2-2100 et seq.) of this title.

§ 46.2-2000. Definitions.

Whenever used in this chapter unless expressly stated otherwise:

"Authorized insurer" means, in the case of an interstate motor carrier whose operations may or may not include intrastate activity, an insurer authorized to transact business in any one state, or, in the case of a solely intrastate motor carrier, an insurer authorized to transact business in the Commonwealth.

"Broker" means any person not included in the term "motor carrier" and not a bona fide employee or agent of any such carrier, who, as principal or agent, sells or offers for sale any transportation subject to this chapter, or negotiates for, or holds himself out by solicitation, advertisement, or otherwise as one who sells, provides, furnishes, contracts, or arranges for such transportation.

"Carrier by motor launch" means a common carrier or contract carrier, which carrier uses one or more motor launches operating on the waters within the Commonwealth to transport passengers.

"Certificate" means a certificate of public convenience and necessity or a certificate of fitness.

"Certificate of fitness" means a certificate issued by the Department to a contract bus carrier.

"Certificate of public convenience and necessity" means a certificate issued by the Department of Motor Vehicles to common carriers, certain restricted common carriers, contract passenger carriers and sight-seeing carriers under this chapter authorizing the transportation of passengers over the public highways or waterways of the Commonwealth; but nothing contained in this chapter shall be construed to mean that the Department can issue any such certificate authorizing intracity transportation.

INTRODUCED

SB414

59 "Charter bus" means a motor vehicle manufactured with a minimum seating capacity of 32
60 passengers or more, excluding the driver.

61 "Common carrier" means any person who undertakes, whether directly or by a lease or any other
62 arrangement, to transport passengers for the general public by motor vehicle for compensation over the
63 highways of the Commonwealth, whether over regular or irregular routes, including such motor vehicle
64 operations of carriers by rail or water under this chapter.

65 "Contract bus carrier" means a motor carrier that operates solely charter buses, as defined in this
66 section, to transport groups of passengers under a single contract made with one person for an agreed
67 charge for such transportation regardless of the number of passengers transported, and for which
68 transportation no individual or separate fares are solicited, charged, collected, or received by the carrier.

69 "Contract carrier" means any person who, under special and individual contracts or agreements, and
70 whether directly or by a lease or any other arrangement, transports passengers for compensation.

71 "Contract passenger carrier" means a motor carrier that transports groups of passengers under a single
72 contract made with one person for an agreed charge for such transportation, regardless of the number of
73 passengers transported, and for which transportation no individual or separate fares are solicited,
74 charged, collected, or received by the carrier.

75 "Department" means the Department of Motor Vehicles.

76 "Employee hauler" means a motor carrier operating for compensation and exclusively transporting
77 only bona fide employees directly to and from the factories, plants, office or other places of like nature
78 where the employees are employed and accustomed to work.

79 "Excursion train" means any steam-powered train that carries passengers for which the primary
80 purpose of the operation of such train is the passengers' experience and enjoyment of this means of
81 transportation, and does not, in the course of operation, carry (i) freight other than the personal luggage
82 of the passengers or crew or supplies and equipment necessary to serve the needs of the passengers and
83 crew, (ii) passengers who are commuting to work, or (iii) passengers who are traveling to their final
84 destination solely for business or commercial purposes.

85 "Financial responsibility" means the ability to respond in damages for liability thereafter incurred
86 arising out of the ownership, maintenance, use, or operation of a motor vehicle, in the amounts provided
87 for in this chapter.

88 "Highway" means every public highway or place of whatever nature open to the use of the public for
89 purposes of vehicular travel in the Commonwealth, including the streets and alleys in towns and cities.

90 "Identification marker" means a decal or other visible identification issued by the Department to
91 show (i) that the operator of the vehicle has registered with the Department for the payment of the road
92 tax imposed under Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1, (ii) proof of the possession of a
93 certificate or permit issued pursuant to Chapter 20 (§ 46.2-2000 et seq.) of this title, and/or (iii) proof of
94 compliance with the insurance requirements of this chapter.

95 "Interstate" means transportation of passengers between states.

96 "Intrastate" means transportation of passengers solely within a state.

97 "License" means a license issued by the Department to a broker.

98 "Minibus" means any motor vehicle having a seating capacity of not less than seven nor more than
99 31 passengers, including the driver, and used in the transportation of passengers.

100 "Motor carrier" means any person who undertakes, whether directly or by lease, to transport
101 passengers for compensation over the highways of the Commonwealth.

102 "Motor launch" means a motor vessel that meets the requirements of the U.S. Coast Guard for the
103 carriage of passengers for compensation, with a capacity of six or more passengers, but not in excess of
104 fifty passengers. Motor launch, as defined herein, shall not include sight-seeing vessels, special or
105 charter party vessels within the provisions of this chapter. A carrier by motor launch shall not be
106 regarded as a steamship company.

107 *"Nonemergency medical transportation vehicle" means any motor vehicle designed or manufactured*
108 *to transport not more than 15 passengers, including the driver, used exclusively to transport passengers*
109 *for compensation on a pre-arranged basis, whether over regular or irregular routes, for visits to*
110 *providers of compensable services under the state plan for medical assistance services pursuant to Title*
111 *XIX of the Social Security Act and any amendments thereto, commonly known as the Family Access to*
112 *Medical Insurance Security (FAMIS) Plan, pursuant to the terms of and in compliance with the*
113 *contractual obligations set forth in the Virginia Department of Medical Assistance Services Medicaid*
114 *Non-Emergency Transportation Program, including nonemergency transportation services for the FAMIS*
115 *Plan.*

116 "Nonprofit/tax-exempt passenger carrier" means a bona fide nonprofit corporation organized or
117 existing under Chapter 10 (§ 13.1-801 et seq.) of Title 13.1, or a tax-exempt organization as defined in
118 §§ 501 (c) (3) and 501 (c) (4) of the United States Internal Revenue Code, as from time to time
119 amended, who undertakes, whether directly or by lease, to control and operate minibuses exclusively in
120 the transportation, for compensation, of members of such organization if it is a membership corporation,

or of elderly, disabled, or economically disadvantaged members of the community if it is not a membership corporation.

"Operation" or "operations" includes the operation of all motor vehicles, whether loaded or empty, whether for compensation or not, and whether owned by or leased to the motor carrier who operates them or causes them to be operated.

"Operator" means the employer or person actually driving a motor vehicle or combination of vehicles.

"Permit" means a permit issued by the Department to carriers operating as employee haulers or nonprofit/tax-exempt passenger carriers or to operators of taxicabs or other vehicles performing taxicab service under this chapter *or to operators of nonemergency medical transportation vehicles.*

"Person" means any individual, firm, copartnership, corporation, company, association or joint-stock association, and includes any trustee, receiver, assignee, or personal representative thereof.

"Restricted common carrier" means any person who undertakes, whether directly or by a lease or other arrangement, to transport passengers for compensation, whereby such transportation service has been restricted.

"Route," when used in connection with or with respect to a certificate of public convenience and necessity, means the road or highway, or segment thereof, operated over by the holder of a certificate of public convenience and necessity or proposed to be operated over by an applicant therefor, whether such road or highway is designated by one or more highway numbers.

"Services" and "transportation" include the service of, and all transportation by, all vehicles operated by, for, or in the interest of any motor carrier irrespective of ownership or contract, expressed or implied, together with all facilities and property operated or controlled by any such carrier or carriers and used in the transportation of passengers or the performance of any service in connection therewith.

"Sight-seeing carrier" means a restricted common carrier authorized to transport passengers under the provisions of this chapter, whereby the primary purpose of the operation is the passengers' experience and enjoyment and/or the promotion of tourism.

"Sight-seeing carrier by boat" means a restricted common carrier, which restricted common carrier uses a boat or boats operating on waters within the Commonwealth to transport passengers, and whereby the primary purpose of the operation is the passengers' experience and enjoyment and/or the promotion of tourism. Sight-seeing carriers by boat shall not be regarded as steamship companies.

"Single state insurance receipt" means any receipt issued pursuant to 49 C.F.R. Part 367 evidencing that the carrier has the required insurance and paid the requisite fees to the Commonwealth and other qualified jurisdictions.

"Special or charter party carrier by boat" for purposes of this chapter shall mean a restricted common carrier which transports groups of persons under a single contract made with one person for an agreed charge for such movement regardless of the number of persons transported. Special or charter party carriers by boat shall not be regarded as steamship companies.

"Taxicab or other motor vehicle performing a taxicab service" means any motor vehicle having a seating capacity of not more than six passengers, excluding the driver, not operating on a regular route or between fixed terminals used in the transportation of passengers for hire or for compensation, and not a common carrier or restricted common carrier as defined in this chapter.

Article 14.

Nonemergency Medical Transportation.

§ 46.2-2099.44. Permit required for nonemergency medical transportation service.

It shall be unlawful for any nonemergency medical transportation vehicle to operate on an intrastate basis on any public highway in the Commonwealth without first obtaining from the Department a permit authorizing such operation.

§ 46.2-2099.45. Article does not make nonemergency transportation service providers common carriers.

Nothing in this Article shall be construed to make operators of nonemergency medical transportation vehicles common carriers or to require such operators to obtain a certificate of public convenience and necessity.

§ 46.2-2099.46. Grounds for denying or revoking permit.

The Department may deny a permit to operate nonemergency medical transportation vehicles if it determines that the applicant has not obtained authority to provide transportation services under the Medicaid Non-Emergency Transportation Program from the Virginia Department of Medical Assistance Services or its agent. If the Department is notified by the Virginia Department of Medical Assistance Services or its agent, or otherwise makes a determination that such authority previously granted by the Virginia Department of Medical Assistance Services has been terminated, the Department may issue an order revoking the permit held by that operator. These grounds for denial or revocation of a permit shall be in addition to those described in § 46.2-2011.24, as applicable, and subject to the terms and

182 *conditions prescribed by § 46.2-2011.26.*