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## HOUSE BILL NO. 1201

Offered January 13, 2010

Prefiled January 13, 2010

A *BILL to amend and reenact §§ 46.2-325 and 46.2-341.14 of the Code of Virginia, relating to driver instruction classes; payment.*

Patrons—McQuinn, Herring, McClellan and Ward

Referred to Committee on Transportation

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 46.2-325 and 46.2-341.14 of the Code of Virginia are amended and reenacted as follows:**

§ 46.2-325. Examination of applicants; waiver of Department's examination under certain circumstances; behind-the-wheel and knowledge examinations.

A. The Department shall examine every applicant for a driver's license before issuing any license to determine (i) his physical and mental qualifications and his ability to drive a motor vehicle without jeopardizing the safety of persons or property and (ii) if any facts exist which would bar the issuance of a license under §§ 46.2-311 through 46.2-316, 46.2-334 or § 46.2-335. The examination, however, shall not include investigation of any facts other than those directly pertaining to the ability of the applicant to drive a motor vehicle with safety, or other than those facts declared to be prerequisite to the issuance of a license under this chapter. No applicant otherwise competent shall be required to demonstrate ability to park any motor vehicle except in an adequate parking space between horizontal markers, and not between flags or sticks simulating parked vehicles. Except as provided for in § 46.2-337, applicants for licensure to drive motor vehicles of the classifications referred to in § 46.2-328 shall submit to examinations which relate to the operation of those vehicles.

Except for applicants subject to § 46.2-312, if the Commissioner is satisfied that an applicant has demonstrated the same proficiency as required by the Department's examination through successful completion of either (i) the driver education course approved by the Department of Education or (ii) a driver training course offered by a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) of this title, he may waive those parts of the Department's examination provided for in this section that require the applicant to drive and park a motor vehicle.

B. No person who fails the behind-the-wheel examination for a driver's license administered by the Department three times shall be permitted to take such examination a fourth time until he successfully completes, subsequent to the third examination failure, the in-vehicle component of driver instruction at a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) or a comparable course approved by the Department or the Department of Education. In addition, no person who fails the driver knowledge examination for a driver's license administered by the Department three times shall be permitted to take such examination a fourth time until he successfully completes, subsequent to the third examination failure, the classroom component of driver instruction at a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) or a comparable course approved by the Department or the Department of Education. *The Department shall provide by regulation for the offering of such instruction at a reduced or sliding fee scale or without charge to any person unable to pay the full cost of the program.*

The provisions of this subsection shall not apply to persons placed under medical control by the Department pursuant to § 46.2-322.

§ 46.2-341.14. Testing requirements for commercial driver's license; behind-the-wheel and knowledge examinations.

A. The Department shall conduct an examination of every applicant for a commercial driver's license, which examination shall comply with the minimum federal standards established pursuant to the federal Commercial Motor Vehicle Safety Act. The examination shall be designed to test the vision, knowledge, and skills required for the safe operation of the class and type of commercial motor vehicle for which the applicant seeks a license.

B. An applicant's skills test shall be conducted in a vehicle that is representative of or meets the description of the class of vehicle for which the applicant seeks to be licensed. In addition, applicants who seek to be licensed to drive vehicles with air brakes, passenger-carrying vehicles, or school buses must take the skills test in a vehicle that is representative of such vehicle type. Such vehicle shall be furnished by the applicant and shall be properly licensed, inspected and insured.

C. Prior to April 1, 1992, the Commissioner may waive the skills test for applicants licensed at the

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59 time they apply for a commercial driver's license if:

60 1. The applicant has not, and certifies that he has not, at any time during the two years immediately  
61 preceding the date of application:

62 a. Had more than one driver's license, except during the ten-day period beginning on the date such  
63 person is issued a driver's license, or unless, prior to December 31, 1989, such applicant was required to  
64 have more than one license by a state law enacted before June 1, 1986;

65 b. Had any driver's license or driving privilege suspended, revoked or canceled;

66 c. Had any convictions involving any kind of motor vehicle for the offenses listed in § 46.2-341.18,  
67 46.2-341.19, or 46.2-341.20; and

68 d. Been convicted of a violation of state or local laws relating to motor vehicle traffic control, other  
69 than a parking violation, which violation arose in connection with any reportable traffic accident; and

70 2. The applicant certifies and provides evidence satisfactory to the Commissioner that he is regularly  
71 employed in a job requiring the operation of a commercial motor vehicle, and either:

72 a. Has previously taken and successfully completed a skills test which was administered by a state  
73 with a classified licensing and testing system and that test was behind the wheel in a vehicle  
74 representative of the class and, if applicable, the type of commercial motor vehicle for which the  
75 applicant seeks to be licensed; or

76 b. Has operated, for at least two years immediately preceding the application date, a vehicle  
77 representative of the class and, if applicable, the type of commercial motor vehicle for which the  
78 applicant seeks to be licensed.

79 D. The Commissioner may, in his discretion, designate such persons as he deems fit, including  
80 private or governmental entities, to administer the skills tests required of applicants for a commercial  
81 driver's license. Any person so designated shall comply with all regulations promulgated by the  
82 Commissioner with respect to the administration of such skills tests.

83 E. Every applicant for a commercial driver's license who is required by the Commissioner to take a  
84 vision test shall either (i) appear before a license examiner of the Department of Motor Vehicles to  
85 demonstrate his visual acuity and horizontal field of vision; or (ii) submit with his application a report  
86 of such examination made within ninety days of the application date by an ophthalmologist or  
87 optometrist. The Commissioner may, by regulation, determine whether any other visual tests will satisfy  
88 the requirements of this title for commercial drivers.

89 F. No person who fails the behind-the-wheel examination for a commercial driver's license  
90 administered by the Department three times shall be permitted to take such examination a fourth time  
91 until he successfully completes, subsequent to the third examination failure, the in-vehicle component of  
92 driver instruction at a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) or a  
93 comparable course approved by the Department or the Department of Education. In addition, no person  
94 who fails the general knowledge examination for a commercial driver's license administered by the  
95 Department three times shall be permitted to take such examination a fourth time until he successfully  
96 completes, subsequent to the third examination failure, the knowledge component of driver instruction at  
97 a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) or a comparable course  
98 approved by the Department or the Department of Education. *The Department shall provide by*  
99 *regulation for the offering of such instruction at a reduced or sliding fee scale or without charge to any*  
100 *person unable to pay the full cost of the program.*

101 The provisions of this subsection shall not apply to persons placed under medical control pursuant to  
102 § 46.2-322.