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**HOUSE BILL NO. 1365**

Offered January 22, 2010

A *BILL to amend the Code of Virginia by adding in Title 46.2 a chapter numbered 20.1, consisting of sections numbered 46.2-2099.44 through 46.2-2099.53, relating to transportation of railroad employees by contract carriers.*

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 Patron—Ward
 

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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 Title 46.2 a chapter numbered 20.1, consisting of sections numbered 46.2-2099.44 through 46.2-2099.53, as follows:**

**CHAPTER 20.1.****Contract Carriers of Railroad Employees.****§ 46.2-2099.44. Definitions.**

*As used in this chapter:*

*"Contract carrier" means a passenger contract carrier that, for compensation, transports railroad employees with a vehicle designed or used to transport six or fewer persons, including the driver.*

*"On-duty time" means all time at a terminal, facility, or other property of a contract carrier or on any public property waiting to be dispatched. "On-duty time" includes time spent inspecting, servicing, or conditioning the vehicle, unless the driver has been relieved from duty by the contract carrier.*

**§ 46.2-2099.45. Driver qualification file.**

*A. A contract carrier transporting railroad employees shall maintain a driver qualification file for each driver it employs. The driver qualification file may be combined with the personnel file of the employee.*

*The driver qualification file shall include:*

*1. A certificate of physical examination conducted by a physician at least every two years that certifies the physical ability of the driver to operate a commercial motor vehicle;*

*2. Documentation that establishes that the driver's driving record has been reviewed at least once per year;*

*3. Documentation related to the driver's violation of motor vehicle laws or ordinances, if applicable;*

*4. Other documentation related to the driver's qualification or ability to drive a motor vehicle; and*

*5. The driver's application for employment.*

*B. No person shall drive a commercial motor vehicle to transport railroad employees unless he has completed and furnished the motor carrier that employs him with an application for employment that meets the requirements of this section.*

*The driver's application for employment shall be made on a form furnished by the motor carrier. Each application form must be completed and signed by the applicant and must contain the following information:*

*1. The name and address of the employing motor carrier;*

*2. The applicant's name, address, date of birth, and social security number;*

*3. The addresses at which the applicant has resided during the three years preceding the date on which the application is submitted;*

*4. The date on which the application is submitted;*

*5. A copy of the applicant's vehicle operator's license and certificate of the driver's road test conducted by the motor carrier and signed by the individual giving the road test;*

*6. The nature and extent of the applicant's experience in the operation of motor vehicles;*

*7. A list of all motor vehicle accidents in which the applicant was involved during the three years preceding the date the application is submitted, specifying the date and nature of each accident and any fatalities or personal injuries it caused;*

*8. A list of all violations of motor vehicle laws or ordinances, other than violations involving only parking, of which the applicant was convicted or forfeited bond or collateral during the three years preceding the date the application is submitted;*

*9. A statement setting forth in detail the facts and circumstances of any denial, revocation, or suspension of any license, permit, or privilege to operate a motor vehicle that has been issued to the applicant or a statement that no such denial, revocation, or suspension has occurred;*

*10. A list of the names and addresses of the applicant's employers during the three years preceding the date the application is submitted, dates the applicant was employed by each employer; and*

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59 11. The reason for leaving the employ of that employer together with responses from previous  
60 employers, if required by the current employer.

61 § 46.2-2099.46. Driver disqualification and limitations.

62 A. A driver is disqualified from driving for a contract carrier under this chapter if the driver has  
63 committed two or more serious traffic violations, as defined in § 46.2-341.20, within a three-year period.  
64 A contract carrier shall not allow or require a driver to drive or remain on duty for more than:

65 1. Ten hours after eight consecutive undisturbed hours off duty;

66 2. Fifteen hours of combined on-duty time and drive time since last obtaining eight consecutive  
67 undisturbed hours of off-duty time; or

68 3. Seventy hours of on-duty and drive time in any period of eight consecutive days.

69 B. After 24 hours of undisturbed rest off-duty, a driver begins a new seven-consecutive-day period  
70 and on-duty time is reset to zero.

71 C. A transport vehicle driver who encounters an emergency and cannot, because of that emergency,  
72 safely complete a transportation assignment within the 10-hour maximum driving time permitted under  
73 this section may drive and be permitted or required to drive a transport motor vehicle for not more than  
74 two additional hours in order to complete that transportation assignment or to reach a place offering  
75 safety for the occupants of the transport motor vehicle and security for the transport motor vehicle if the  
76 transportation assignment reasonably could have been completed within the 10-hour period absent the  
77 emergency.

78 D. A contract carrier shall maintain and retain for a period of six months accurate time records that  
79 show (i) the time the driver reports for duty each day, (ii) the total number of hours of on-duty time for  
80 each driver for each day, (iii) the time the driver is released from duty each day, and (iv) the total  
81 number of hours driven each day.

82 § 46.2-2099.47. Driver testing.

83 Before a driver performs any duties for a contract carrier, the driver shall undergo the same testing  
84 and requirements for alcohol and controlled substances as are required for a commercial driver's  
85 license pursuant to Article 6.1 (§ 46.2-341.1 et seq.) of Chapter 3.

86 § 46.2-2099.48. Vehicle inspection.

87 A contract carrier shall inspect or cause to be inspected a motor vehicle that it operates for  
88 passenger transportation in the Commonwealth as required by Article 21 (§ 46.2-1157 et seq.) of  
89 Chapter 10. A contract carrier shall require each of its drivers to complete a written motor vehicle  
90 report on each motor vehicle that the driver operated upon completion of each day's work.

91 § 46.2-2099.49. Maintenance and repair program.

92 A. A contract carrier shall establish a maintenance and repair program, to include at least weekly  
93 inspections for each vehicle, including but not limited to checking parts and accessories for safety and  
94 proper operation, restoring the cleanliness of the motor vehicle, and ensuring that the vehicle is  
95 equipped with:

96 1. A spare tire that is fully inflated;

97 2. A secured location for personal baggage, including proper restraints;

98 3. Fully operational seatbelts for all passenger seats;

99 4. A heater and an air conditioner that are properly working with properly working fans; and

100 5. An emergency road kit that contains at least a first aid kit, flares, reflective triangles, jumper  
101 cables, and a fire extinguisher.

102 No motor vehicle shall be operated in a condition that is likely to cause an accident or mechanical  
103 breakdown.

104 B. A contract carrier shall maintain records for its maintenance and repair program for each motor  
105 vehicle. The records shall include:

106 1. Identifying information for the motor vehicle to include the vehicle identification number, make,  
107 year manufactured, and company identification number if one is provided;

108 2. Owner information if the contract carrier is not the owner of the vehicle; and

109 3. A history of inspections, repairs, and maintenance that describes each activity and the date the  
110 activity was performed.

111 The records under this subsection shall be maintained by the contract carrier at its place of business  
112 for one year. If the motor vehicle leaves the contract carrier's control, the records under this subsection  
113 shall be maintained by the contract carrier at its place of business for six months.

114 C. A contract carrier and its officers, drivers, agents, and employees who are required to inspect or  
115 maintain motor vehicles shall comply with and be knowledgeable of the contract carrier's maintenance  
116 and repair program.

117 § 46.2-2099.50. Access to facilities and records.

118 A contract carrier shall allow an employee of the Virginia State Police and a representative or  
119 employee of the Department of Transportation access to a facility to determine compliance with this  
120 chapter and to records or information related to an accident investigation under this chapter.

121 § 46.2-2099.51. *Liability protection.*

122 A contract carrier shall obtain and maintain an insurance policy of \$5 million for each motor  
123 vehicle that transports railroad employees.

124 § 46.2-2099.52. *Penalties.*

125 Any person who knowingly violates a provision of this chapter shall be subject to a civil penalty not  
126 to exceed \$1,000 for each violation. Each day that a violation continues is a separate offense. The  
127 Virginia State Police and Department of Transportation shall provide written notice of each violation to  
128 the violator. In determining the amount of the penalty, the court shall evaluate (i) the nature,  
129 circumstances, extent, and gravity of the violation; (ii) the degree of culpability; (iii) the history of prior  
130 offenses, if any; (iv) the violator's ability to pay; (v) the effect of the penalty on the ability of the  
131 violator to continue to do business; and (vi) other circumstances as justice may require.

132 § 46.2-2099.53. *Right of railroad to contract.*

133 This chapter is not intended to limit, and shall not be construed as limiting, the right of a railroad  
134 to contract with a contract carrier that certifies to the railroad that it is in compliance with the  
135 provisions of this chapter or any applicable federal requirements. The railroad is entitled to rely on a  
136 contract carrier's certification that it is operating in compliance with this chapter without further  
137 inquiry.