

# VIRGINIA ACTS OF ASSEMBLY -- 2013 SESSION

## CHAPTER 226

*An Act to amend and reenact §§ 46.2-649, 46.2-1190, 46.2-1190.3, 46.2-1190.5, and 46.2-1192 of the Code of Virginia, relating to evidence of payment of taxes, registration, or exemption from registration of certain vehicles.*

[H 2080]

Approved March 12, 2013

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

**1. That §§ 46.2-649, 46.2-1190, 46.2-1190.3, 46.2-1190.5, and 46.2-1192 of the Code of Virginia are amended and reenacted as follows:**

**§ 46.2-649. Certain vehicles required to show evidence of payment of taxes and of registration or exemption from registration with Department of Motor Vehicles.**

A. Before the Commissioner registers or reregisters any motor vehicle, trailer, or semitrailer under §§ 46.2-697, 46.2-698, 46.2-700, or § 46.2-703, the applicant shall furnish evidence satisfactory to the Commissioner that all state, local, and federal taxes levied on that motor vehicle, trailer, or semitrailer have been paid and that the motor vehicle, trailer, or semitrailer either (i) is registered with the Department as required by law, or (ii) is not required so to register.

B. The Commissioner, in consultation with local commissioners of the revenue and directors of finance, and with appropriate federal officials, ~~by regulation~~ shall provide for the kinds of evidence required to satisfy the provisions of subsection A ~~of this section~~.

C. The provisions of this section shall not apply to (i) pickup trucks, (ii) panel trucks, or (iii) trucks having a registered gross weight less than 33,000 pounds.

D. The State Corporation Commission may notify the Department that a motor carrier (i) has not filed an annual report as required by § 58.1-2654 or (ii) has not paid taxes due as required by the State Corporation Commission. Upon receiving the notice, the Department shall not register or reregister motor vehicles, trailers, or semitrailers owned by the motor carrier until such requirements have been met.

**§ 46.2-1190. Regional motorcycle rider safety training centers; requirements.**

A. Any public or private agency, organization, school, institution of higher education, partnership, corporation, or individual that meets the program requirements set forth in this article shall be eligible for participation in the program and may organize a regional motorcycle rider safety training center and offer motorcycle rider safety training courses.

B. No such agency, organization, business or individual shall operate a motorcycle rider safety training center without a license. Such agencies, organizations, businesses and individuals shall apply to the Department for a license pursuant to § 46.2-1192. The applications for training center licenses shall include, but not be limited to:

1. The address and detailed description of the facility or facilities where the course shall be conducted;

2. The name, address, federal identification number, and telephone number of the agency, organization, school, institution of higher education, partnership, or corporation organized as a training center;

3. The name, address, social security number, and telephone number of the individual who is authorized to obligate the training center;

4. The names, addresses, social security numbers, and telephone numbers of the administrator and the instructors;

5. For those agencies, organizations, businesses, and individuals that apply to receive reimbursement, the names, addresses, social security numbers, and telephone numbers of all individuals who are to receive reimbursement;

6. A planned course schedule including course type, dates, and hours of course conduct;

7. The projected number of students to be trained in the program during the calendar year;

8. Detailed specifications of the curricula intended for use;

9. For those agencies, organizations, businesses, and individuals that apply to receive reimbursement, a planned course budget to include all estimated costs for course operation, administration, instructors' salaries, insurance, advertising, purchase of test books, equipment and materials, and other course-related expenses;

10. For those agencies, organizations, businesses, and individuals that apply to receive reimbursement, estimated course fees to be charged to participants;

11. Verification of adequate insurance coverage to protect both the Commonwealth and the training center and all instructors, aides, and participants in any course conducted under the program, including

the following:

- a. Minimum employers liability - \$100,000;
- b. Minimum commercial general liability - \$500,000 combined single limit;
- c. Minimum automobile liability - \$500,000 combined single limit; and
- d. Workers' compensation insurance in accordance with § 2.2-4332 and Chapter 8 (§ 65.2-800 et seq.)

of Title 65;

12. Verification of proper safety equipment and a sufficient number of training motorcycles for novice rider courses;

13. Verification that the designated classrooms, ranges, and motorcycle and equipment storage areas are available for all training courses offered by the training center at that site and that they comply with all necessary zoning, health, and safety codes;

14. Criminal background checks on all corporate officers, owners, administrators, and all individuals authorized to obligate the training center; and

15. A statement as to the ability and willingness to meet all requirements set forth in this article.

The Department shall issue licenses to applicants whose curricula, facilities, equipment, corporate officers, administrators, instructors, and all individuals authorized to obligate the training center meet the requirements established by the Department and set forth in this article, subject to the provisions of § 46.2-1192.

C. The Commissioner shall act on any application for a license under this article within 30 days after receipt by either granting or denying the application. The Commissioner may, as may be necessary during the initial review and evaluation of an application, request additional information from an applicant, thereby extending the period for granting or denying a license by not more than 30 days from the receipt of such additional information. Any applicant denied a license shall, on his written request made within 30 days of the Commissioner's action, be given a hearing at a time and place determined by the Commissioner or his designee. All hearings under this section shall be public and shall be held as soon as practicable, but in no case later than 30 days from receipt of the hearing request. The applicant may be represented by counsel. Any applicant denied a license may not apply again for the same type of license for 180 calendar days from the date of denial of the application.

D. The facilities, equipment, curriculum, accreditation, and geographic areas in which each training center may offer courses shall be approved by the Department. The location of the training centers shall be in accordance with the Department's administrative districts. No training center shall change its location without the approval of the Department. Training centers shall provide courses for either novice, experienced or sidecar and three-wheeled motorcyclists or any of the three, depending upon the curricula used. Training centers shall maintain such records and provide such reports as determined by the Department. Training centers shall submit all reports required by the Department for evaluation. The Department shall monitor and evaluate the performance of the training centers and the effectiveness of the program in training motorcyclists.

E. Training centers shall ensure that instructors maintain the minimum qualifications and meet any other instructor requirements established in this article ~~or otherwise established by the Department~~. The Department may, pursuant to subsection C of § 46.2-1190.5, terminate a training course if it finds an instructor in violation of any provision of this article.

Instructors shall meet the requirements of this article, the Department and the public or private agency, organization, school, institution of higher education, partnership, corporation or individual offering the program.

#### **§ 46.2-1190.3. Instructor qualifications.**

A. Training centers shall employ only motorcycle safety instructors who meet the following minimum qualifications:

1. Have a current, valid driver's license, endorsed for motorcycle operation, that is neither suspended, revoked, cancelled, nor under probation, with less than six demerit points in a 12-month period and no conviction for any of the offenses enumerated in subsection E of § 18.2-270;

2. Be a valid training course instructor, as approved by the Department, which includes:

a. Having instructor certification to teach the current curriculum approved by the Department;

b. Attending all required program clinics offered by the Department that provide continuously updated course instructor and motorcycle safety education; and

c. Avoiding putting course participants or others associated with course instruction in physical danger during periods of instruction through the use of appropriate instruction techniques and methods;

3. Conduct themselves in a professional manner, including, but not limited to, using appropriate language and having interactions with participants and others involved in the course that are free from threat and intimidation; and

4. Comply with other requirements specified in this article ~~or otherwise established by the Department~~.

B. The requirements of subsection A of this section shall not apply to those persons who are valid training course instructors prior to being stationed outside the United States, during the period of such person's service, if any, in the armed services of the United States, and 60 days thereafter. However, no

such temporary exemption granted under this section shall exceed five years. Any person who receives a temporary exemption under this section shall provide documentary or other proof that he is entitled to the benefits of this section, and shall be required to meet the requirements of subsection A of this section prior to being eligible to provide course instruction.

**§ 46.2-1190.5. Penalties and remedies for violations of article.**

A. The Department shall impose the following penalties on any training center for violations of the requirements established by the Department or of this article:

1. Limit the type of instruction provided by the training center;
2. Suspend or revoke the license of the training center;
3. Impose a civil penalty as set forth in § 46.2-1190.7; or
4. Impose any combination of the penalties set forth in this subsection.

B. When violations occur that are not found by the Department to pose a threat to the health, safety or welfare of the public or the course participants, instructors or others associated with the course, the Department shall (i) notify the training center of the violations that have occurred, (ii) direct corrective action to be completed by the training center within 30 calendar days, and (iii) require a formal written response documenting that corrections have been made as directed. Such violations shall typically be associated with, but not limited to, training center administration and operations. If corrections are not completed as directed, the Department shall notify the training center and may impose any or all of the sanctions set forth in subsection A of this section. Such penalties shall continue until all required corrections are made and the Department receives formal documentation confirming compliance.

The Department shall suspend the license of any training center that receives three or more notices under this subsection within any 12-month period. Such suspensions shall be for an initial 90-day period and shall continue until all required corrections are made and the Department receives formal documentation confirming compliance.

C. When violations occur that are found by the Department to pose a threat to the health, safety or welfare of the public or the course participants, instructors or others associated with the course, the Department shall (i) notify the training center of the violations that have occurred and immediately limit all types of instruction provided by the training center, (ii) direct corrective action to be completed by the training center within 30 calendar days of receipt of notice of such violations and (iii) shall require a formal written response documenting that corrections have been made as directed. If corrections are not completed as directed, the Department shall suspend the license of the training center and impose a civil penalty as set forth in § 46.2-1190.7. The period of such license suspension shall continue until all required corrections are made and the Department receives formal documentation confirming compliance. If the required corrections are not made within 30 calendar days of the suspension, the Department shall revoke the license.

D. Once a training center license is revoked, the Department shall not renew or reissue the license until (i) it receives formal documentation confirming compliance with the required corrective actions, and (ii) the training center applies for renewal or reissuance. Such training centers shall not be eligible to apply for a license again until 180 calendar days after the Department receives formal documentation confirming compliance with the required corrective actions.

E. Notice of an order suspending or revoking a license, imposing a limitation on training center operations or imposing a civil penalty, and advising the licensee of the opportunity for a hearing as a result of such order, shall be in writing and mailed to the licensee by registered mail to the training center address as shown on the most recent licensee's application for license and shall be considered served when mailed.

Upon receipt of a request for a hearing appealing the order, the licensee shall be afforded the opportunity for a hearing as soon as practicable, but in no case later than 30 days from receipt of the hearing request. The order shall remain in effect pending the outcome of the hearing.

**§ 46.2-1192. Issuance and renewal of licenses by Department; payments to regional training centers.**

The Department of Motor Vehicles is authorized to issue or renew licenses for regional motorcycle rider safety training centers for the conducting of motorcycle rider safety training courses, and to make payments in fulfillment of those licenses requiring reimbursement from funds appropriated from the Motorcycle Rider Safety Training Program Fund. The Department shall determine the number of such reimbursed licenses issued or renewed based on (i) the training centers meeting the requirements established by the Department and set forth in this article, (ii) regional demand for such training, and (iii) availability of funding. Costs eligible for reimbursement, method of payment, and required documentation associated with such payment shall be specified by the Department at the time the license is issued or renewed. Such licenses shall be valid for the period specified, but shall not exceed three years.

Those licenses issued or renewed for providers of such training courses that do not require reimbursement shall be awarded based on the training centers meeting the requirements established by the Department and set forth in this article. Such licenses shall be valid for the period specified, but shall not exceed three years.

No license shall be transferred or assigned as a result of any change in (i) the individual who is authorized to obligate the training center, (ii) ownership or (iii) officers in a corporation or other business entity without the approval of the Department. Such approval shall be based on the licensing requirements established by the Department and set forth in this article.