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HOUSE BILL NO. 176

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Transportation
on January 28, 2014)

(Patron Prior to Substitute—Delegate Farrell)

A *BILL to amend and reenact § 46.2-116 of the Code of Virginia, relating to towing and recovery operators; requirements for registration.*

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-116 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-116. Registration with Department of Criminal Justice Services required for tow truck drivers; penalty.

A. As used in this section and §§ 46.2-117, 46.2-118, and 46.2-119:

"Consumer" means a person who (i) has vested ownership, dominion, or title to the vehicle; (ii) is the authorized agent of the owner as defined in clause (i); or (iii) is an employee, agent, or representative of an insurance company representing any party involved in a collision that resulted in a police-requested tow who represents in writing that the insurance company had obtained the oral or written consent of the title owner or his agent or the lessee of the vehicle to obtain possession of the vehicle.

"Department" means the Department of Criminal Justice Services.

"Tow truck driver" means an individual who drives a tow truck as defined in § 46.2-100.

"Towing and recovery operator" means any person engaging in the business of providing or offering to provide services involving the use of a tow truck and services incidental to use of a tow truck. "Towing and recovery operator" shall not include a franchised motor vehicle dealer as defined in § 46.2-1500 using a tow truck owned by a dealer when transporting a vehicle to or from a repair facility owned by the dealer when the dealer does not receive compensation from the vehicle owner for towing of the vehicle or when transporting a vehicle in which the dealer has an ownership or security interest.

B. On and after January 1, 2013, no tow truck driver shall drive any tow truck without being registered with the Department, except that this requirement shall not apply to any holder of a tow truck driver authorization document issued pursuant to former § 46.2-2814 until the expiration date of such document. Every applicant for an initial registration or renewal of registration pursuant to this section shall submit his registration application, fingerprints, and personal descriptive information to the Department and a nonrefundable application fee of \$100. The Department shall forward the personal descriptive information 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 record 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 Department. If an applicant is denied registration as a tow truck driver because of the information appearing in his criminal history record, the Department 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.

C. No registration shall be issued to any person who (i) is 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; (ii) has been convicted of a violent crime as defined in subsection C of § 17.1-805 *unless such person held a valid tow truck driver authorization document on January 1, 2013, issued by the Board of Towing and Recovery Operators pursuant to former Chapter 28 (§ 46.2-2800 et seq.), and has not been convicted of a violent crime as defined in subsection C of § 17.1-805 subsequent to the abolition of the Board;* or (iii) has been convicted of any crime involving the driving of a tow truck, including drug or alcohol offenses, but not traffic infraction convictions. Any person registered pursuant to this section shall report to the Department within 10 days of conviction any convictions for felonies or misdemeanors that occur while he is registered with the Department.

D. Any tow truck driver failing to register with the Department as required by this section is guilty of a Class 3 misdemeanor. A tow truck driver registered with the Department shall have such registration in his possession whenever driving a tow truck on the highways.

E. Registrations issued by the Department pursuant to this section shall be valid for a period not to exceed 24 months, unless revoked or suspended by the Department in accordance with § 46.2-117.

2. That an emergency exists and this act is in force from its passage.