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HOUSE BILL NO. 662

Offered January 8, 2014

Prefiled January 7, 2014

A *BILL to amend and reenact §§ 46.2-341.4, 46.2-341.8, 46.2-341.10, 46.2-341.12, 46.2-341.14, 46.2-341.14:1, 46.2-341.14:2, 46.2-341.14:5, 46.2-341.14:6, 46.2-341.16, 46.2-341.20, 46.2-341.20:2, 46.2-341.20:4, 46.2-341.20:5, 46.2-348, 46.2-379, and 46.2-1078.1 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 46.2-341.14:01 and 46.2-341.20:6, relating to commercial driver's licenses, driver's license examinations, and disclosure of crash reports by Department of Motor Vehicles.*

Patron—Brink

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-341.4, 46.2-341.8, 46.2-341.10, 46.2-341.12, 46.2-341.14, 46.2-341.14:1, 46.2-341.14:2, 46.2-341.14:5, 46.2-341.14:6, 46.2-341.16, 46.2-341.20, 46.2-341.20:2, 46.2-341.20:4, 46.2-341.20:5, 46.2-348, 46.2-379, and 46.2-1078.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 46.2-341.14:01 and 46.2-341.20:6 as follows:

§ 46.2-341.4. Definitions.

The following definitions shall apply to this article, unless a different meaning is clearly required by the context:

"Air brake" means, ~~for the purposes of the skills test and the restriction,~~ any braking system operating fully or partially on the air brake principle.

"Applicant" means an individual who applies to obtain, transfer, upgrade, or renew a commercial driver's license or to obtain or renew a commercial driver's instruction permit.

"Automatic transmission" means, for the purposes of the skills test and the restriction, any transmission other than a manual transmission.

"CDLIS driver record" means the electronic record of the individual commercial driver's status and history stored by the State of Record as part of the Commercial Driver's License Information System (CDLIS).

"Commercial driver's instruction permit" means a permit issued to an individual in accordance with the provisions of this article, or if issued by another state, a permit issued in accordance with the standards contained in the Federal Motor Carrier Safety Regulations, which, when carried with a valid driver's license issued by the same state or jurisdiction, authorizes the individual to operate a class of commercial motor vehicle when accompanied by a holder of a valid commercial driver's license for purposes of behind-the-wheel training. When issued to a commercial driver's license holder, a commercial driver's instruction permit serves as authorization for accompanied behind-the-wheel training in a commercial motor vehicle for which the holder's current commercial driver's license is not valid. For purposes of this article "Commercial driver's instruction permit" shall have the same meaning as "Commercial learner's permit (CLP)" in 49 C.F.R. § 383.5 of the Federal Motor Carrier Safety regulations.

"Commercial driver's license" means any driver's license issued to a person in accordance with the provisions of this article, or if the license is issued by another state, any license issued to a person in accordance with the federal Commercial Motor Vehicle Safety Act, which authorizes such person to drive a commercial motor vehicle of the class and type and with the restrictions indicated on the license.

"Commercial driver's license information system" (CDLIS) means the CDLIS established by the Federal Motor Carrier Safety Administration pursuant to § 12007 of the Commercial Motor Vehicle Safety Act of 1986.

"Commercial motor vehicle" means, except for those vehicles specifically excluded in this definition, every motor vehicle, vehicle or combination of vehicles used to transport passengers or property which either: (i) has a gross vehicle weight rating of 26,001 or more pounds; or (ii) has a gross combination weight rating of 26,001 or more pounds inclusive of a towed vehicle with a gross vehicle weight rating of more than 10,000 pounds; or (iii) is designed to transport 16 or more passengers including the driver; or (iv) is of any size and is used in the transportation of hazardous materials as defined in this section. Every such motor vehicle or combination of vehicles shall be considered a commercial motor vehicle whether or not it is used in a commercial or profit-making activity.

The following shall be excluded from the definition of commercial motor vehicle: any vehicle when

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59 used by an individual solely for his own personal purposes, such as personal recreational activities; or
60 any vehicle which (i) is controlled and operated by a farmer, whether or not it is owned by the farmer,
61 and which is used exclusively for farm use, as defined in § 46.2-698, (ii) is used to transport either
62 agricultural products, farm machinery or farm supplies to or from a farm, (iii) is not used in the
63 operation of a common or contract motor carrier, and (iv) is used within 150 miles of the farmer's farm;
64 or any vehicle operated for military purposes by (a) active duty military personnel, (b) members of the
65 military reserves, (c) members of the national guard on active duty, including personnel on full-time
66 national guard duty, personnel on part-time national guard training, and national guard military
67 technicians (civilians who are required to wear military uniforms), but not U.S. Reserve technicians, and
68 (d) active duty U.S. Coast Guard personnel; or emergency equipment operated by a member of a
69 firefighting, rescue, or emergency entity in the performance of his official duties.

70 "Commercial Motor Vehicle Safety Act" means the federal Commercial Motor Vehicle Safety Act of
71 1986, Title XII of Public Law 99-570, as amended.

72 "Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated
73 or failed to comply with the law in a court of original jurisdiction, an unvacated forfeiture of bond, bail
74 or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere
75 accepted by the court, the payment of a fine or court costs in lieu of trial, a violation of a condition of
76 release without bail, regardless of whether the penalty is rebated, suspended or probated, or, for the
77 purposes of alcohol or drug-related offenses involving the operation of a motor vehicle, a civil or an
78 administrative determination of a violation. For the purposes of this definition, an administrative
79 determination shall include an unvacated certification or finding by an administrative or authorized
80 law-enforcement official that a person has violated a provision of law.

81 "Disqualification" means a prohibition against driving, operating or being in physical control of a
82 commercial motor vehicle for a specified period of time, imposed by a court or a magistrate, or by an
83 authorized administrative or law-enforcement official or body.

84 "Domicile" means a person's true, fixed and permanent home and principal residence, to which he
85 intends to return whenever he is absent.

86 "Employee" means a payroll employee or person employed under lease or contract, or a person who
87 has applied for employment and whose employment is contingent upon obtaining a commercial driver's
88 license.

89 "Employer" means a person who owns or leases commercial motor vehicles and assigns employees to
90 drive such vehicles.

91 "Endorsement" means an authorization to an individual's commercial driver's license or commercial
92 driver's instruction permit required to permit the individual to operate certain types of commercial motor
93 vehicles.

94 "FMCSA" means the Federal Motor Carrier Safety Administration.

95 "Full air brake restriction" means, ~~for the purposes of the skills test and restriction, air over hydraulic~~
96 ~~brakes, including any braking system operating partially fully on the air brake and partially on the~~
97 ~~hydraulic brake principle.~~

98 "Gross combination weight rating" means the value specified by the manufacturers of an articulated
99 vehicle or combination of vehicles as the maximum loaded weight of such vehicles. In the absence of
100 such a value specified by the manufacturer, for law-enforcement purposes, the gross combination weight
101 rating shall be the greater of (i) the gross vehicle weight rating of the power units of the combination
102 vehicle plus the total weight of the towed units, including any loads thereon, or (ii) the gross weight at
103 which the articulated vehicle or combination of vehicles is registered in its state of registration; however,
104 the registered gross weight shall not be applicable for determining the classification of an articulated
105 vehicle or combination of vehicles for purposes of skills testing pursuant to § 46.2-341.14 or
106 46.2-341.16.

107 "Gross vehicle weight rating" means the value specified by the manufacturer of the vehicle as the
108 maximum loaded weight of a single vehicle. In the absence of such a value specified by the
109 manufacturer, for law-enforcement purposes, the gross vehicle weight rating shall be the greater of (i)
110 the actual gross weight of the vehicle, including any load thereon; or (ii) the gross weight at which the
111 vehicle is registered in its state of registration; however, the registered gross weight of the vehicle shall
112 not be applicable for determining the classification of a vehicle for purposes of skills testing pursuant to
113 § 46.2-341.14 or 46.2-341.16.

114 "Hazardous materials" means materials designated to be hazardous in accordance with § 103 of the
115 federal Hazardous Materials Transportation Act, as amended, (49 U.S.C. § 5101 et seq.) and which
116 require placarding when transported by motor vehicle as provided in the federal Hazardous Materials
117 Regulations (49 C.F.R. Part 172, Subpart F); it also includes any quantity of any material listed as a
118 select agent or toxin in federal Public Health Service Regulations at 42 C.F.R. Part 73.

119 "Manual transmission" (also known as a stick shift, stick, straight drive, or standard transmission)
120 means a transmission utilizing a driver-operated clutch that is activated by a pedal or lever and a

121 gear-shift mechanism operated by either hand or foot.

122 "Non-commercial driver's license" means any other type of motor vehicle license, such as an
123 automobile driver's license, a chauffeur's license, or a motorcycle license.

124 "Out-of-service order" or "out-of-service declaration" means an order by a judicial officer pursuant to
125 § 46.2-341.26:2 or 46.2-341.26:3 or an order or declaration by an authorized law-enforcement officer
126 under § 46.2-1001 or regulations promulgated pursuant to § 52-8.4 relating to Motor Carrier Safety, and
127 including similar actions by authorized judicial officers or enforcement officers acting pursuant to similar
128 laws of other states, the United States, the Canadian Provinces, Canada, Mexico, and localities within
129 them, and also including actions by federal or other jurisdictions' officers pursuant to federal Motor
130 Carrier Safety Regulations, that a driver, a commercial motor vehicle, or a motor carrier is out of
131 service. Such order or declaration as to a driver means that the driver is prohibited from operating a
132 commercial motor vehicle for the duration of the out-of-service period. Such order or declaration as to a
133 vehicle means that such vehicle cannot be operated until the hazardous condition that resulted in the
134 order or declaration has been removed and the vehicle has been cleared for further operation. Such order
135 or declaration as to a motor carrier means that no vehicle may be operated for or on behalf of such
136 carrier until the out-of-service order or declaration has been lifted. For purposes of this article, the
137 provisions of the federal Motor Carrier Safety Regulations (49 C.F.R. Parts 390 through 397), including
138 such regulations or any substantially similar regulations as may have been adopted by any state of the
139 United States, the Provinces of Canada, Canada, Mexico, or any locality shall be considered laws similar
140 to the Virginia laws referenced herein.

141 "Person" means a natural person, firm, partnership, association, corporation, or a governmental entity
142 including a school board.

143 "Restriction" means a prohibition on a commercial driver's license or commercial driver's instruction
144 permit that prohibits the holder from operating certain commercial motor vehicles.

145 "Seasonal restricted commercial driver's license" means a commercial driver's license issued, under
146 the authority of the waiver promulgated by the federal Department of Transportation (49 C.F.R. § 383.3)
147 by Virginia or any other jurisdiction, to an individual who has not passed the knowledge or skills tests
148 required of other commercial driver's license holders. This license authorizes operation of a commercial
149 motor vehicle only on a seasonal basis, stated on the license, by a seasonal employee of a farm service
150 business, within 150 miles of the place of business or the farm currently being served.

151 "State" means one of the 50 states of the United States or the District of Columbia.

152 "Tank vehicle" means any commercial motor vehicle that is designed to transport any liquid or
153 gaseous materials within a tank or tanks having an individual rated capacity of more than 119 gallons
154 and an aggregate rated capacity of 1,000 gallons or more that is either permanently or temporarily
155 attached to the vehicle or the chassis. Such vehicles include, but are not limited to, cargo tanks and
156 portable tanks, as defined in 49 C.F.R. Part 171. However, this definition does not include portable
157 tanks having a rated capacity under 1,000 gallons as provided in 49 C.F.R. Part 383. A commercial
158 motor vehicle transporting an empty storage container tank, not designed for transportation, with a rated
159 capacity of 1,000 gallons or more that is temporarily attached to a flatbed trailer is not considered a tank
160 vehicle.

161 "Third party examiner" means an individual who is an employee of a third party tester and who is
162 certified by the Department to administer ~~the skills test~~ tests required for a commercial driver's license.

163 "Third party tester" means a person (including, but not limited to, another state, a motor carrier, a
164 private institution, *the military*, or a department, agency, or instrumentality of a local government)
165 certified by the Department to employ third party examiners to administer a ~~skills test~~ program for
166 testing commercial driver's license applicants in accordance with this article.

167 "VAMCSR" means the Virginia Motor Carrier Safety Regulations (~~49 VAC 30-20-10 et seq.~~)
168 (*19VAC30-20*) adopted by the Department of State Police pursuant to § 52-8.4.

169 **§ 46.2-341.8. Nonresidents and new residents.**

170 Any person who is not domiciled in the Commonwealth, who has been duly issued a commercial
171 driver's license or commercial driver's instruction permit by his state of domicile, who has such license
172 or permit in his immediate possession, whose privilege or license to drive any motor vehicle is not
173 suspended, revoked, or cancelled, and who has not been disqualified from driving a commercial motor
174 vehicle, shall be permitted without further examination or licensure by the Commonwealth, to drive a
175 commercial motor vehicle in the Commonwealth.

176 Within 30 days after becoming domiciled in this Commonwealth, any person who has been issued a
177 commercial driver's license ~~or commercial driver's instruction permit~~ by another state and who intends to
178 drive a commercial motor vehicle shall apply to the Department for a Virginia commercial driver's
179 license ~~or commercial driver's instruction permit~~. If the Commissioner determines that such applicant is
180 otherwise eligible for a commercial driver's license ~~or commercial driver's instruction permit~~, the
181 Department will issue him a Virginia commercial driver's license ~~or commercial driver's instruction~~

182 permit with the same classification and endorsements as his commercial driver's license or commercial
 183 driver's instruction permit from another state, without requiring him to take the knowledge or skills test
 184 required for such commercial driver's license or commercial driver's instruction permit in accordance
 185 with § 46.2-330. The Commissioner may establish, by regulation, the criteria by which the test
 186 requirements for a commercial driver's license may be waived for any such applicant. However, any
 187 such applicant seeking to transfer his commercial driver's license and to retain a hazardous materials
 188 endorsement shall have, within the two-year period preceding his application for a Virginia commercial
 189 driver's license, either (i) passed the required test for such endorsement specified in 49 C.F.R. § 383.121
 190 or (ii) successfully completed a hazardous materials test or training that is given by a third party and
 191 that is deemed to substantially cover the same knowledge base as described in 49 C.F.R. § 383.121.

192 **§ 46.2-341.10. Special provisions relating to commercial driver's instruction permit.**

193 A. The Department, upon receiving an application on forms prescribed by the Commissioner and
 194 upon the applicant's satisfactory completion of the vision and knowledge tests required for the class and
 195 type of commercial motor vehicle to be driven by the applicant may, in its discretion, issue to such
 196 applicant a commercial driver's instruction permit. Such permit shall ~~expire one year after issuance and~~
 197 ~~be valid for no more than 180 days from the date of issuance.~~ The Department may renew the
 198 commercial driver's instruction permit for an additional 180 days without requiring the commercial
 199 driver's instruction permit holder to retake the general and endorsement knowledge tests. No additional
 200 renewals are permitted. A commercial driver's instruction permit shall entitle the applicant to drive a
 201 commercial motor vehicle of the class and type designated on the permit, but only when accompanied
 202 by a person licensed to drive the class and type of commercial motor vehicle driven by the applicant.
 203 The person accompanying the permit holder shall occupy the seat closest to the driver's seat for the
 204 purpose of giving instruction to the permit holder in driving the commercial motor vehicle.

205 B. No person shall be issued a commercial driver's instruction permit unless he possesses a valid
 206 Virginia driver's license or has satisfied all the requirements necessary to obtain such a license.

207 C. A commercial driver's instruction permit holder with a passenger (P) endorsement (i) must have
 208 taken and passed the P endorsement knowledge test and (ii) is prohibited from operating a commercial
 209 motor vehicle carrying passengers, other than federal or state auditors and inspectors, test examiners,
 210 other trainees, and the commercial driver's license holder accompanying the commercial driver's
 211 instruction permit holder. The P endorsement must be class specific.

212 D. A commercial driver's instruction permit holder with a school bus (S) endorsement (i) must have
 213 taken and passed the S endorsement knowledge test and (ii) is prohibited from operating a school bus
 214 with passengers other than federal or state auditors and inspectors, test examiners, other trainees, and the
 215 commercial driver's license holder accompanying the commercial driver's instruction permit holder. No
 216 person shall be issued a commercial driver's instruction permit to drive school buses or to drive any
 217 commercial vehicle to transport children to or from activities sponsored by a school or by a child day
 218 care facility licensed, regulated, or approved by the Virginia Department of Social Services during any
 219 period in which he is a person for whom registration with the Sex Offender and Crimes Against Minors
 220 Registry is required pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1.

221 E. A commercial driver's instruction permit holder with a tank vehicle (N) endorsement (i) must have
 222 taken and passed the N endorsement knowledge test and (ii) may only operate an empty tank vehicle
 223 and is prohibited from operating any tank vehicle that previously contained hazardous materials that has
 224 not been purged of any residue.

225 F. The issuance of a commercial driver's instruction permit is a precondition to the initial issuance of
 226 a commercial driver's license and to the upgrade of a commercial driver's license if the upgrade requires
 227 a skills test. The commercial driver's instruction permit holder is not eligible to take the commercial
 228 driver's license skills test until he has held the permit for the required period of time specified in
 229 § 46.2-324.1.

230 G. Any instruction permit holder who operates a commercial motor vehicle without being
 231 accompanied by a licensed driver as provided in this section is guilty of a Class 2 misdemeanor.

232 H. The Department shall charge a fee of ~~three dollars~~ \$3 for each instruction permit issued under the
 233 provisions of this section.

234 **§ 46.2-341.12. Application for commercial driver's license or commercial driver's instruction**
 235 **permit.**

236 A. Every application to the Department for a commercial driver's license or commercial driver's
 237 instruction permit shall be made upon a form approved and furnished by the Department, and the
 238 applicant shall write his usual signature in ink in the space provided. The applicant shall provide the
 239 following information:

- 240 1. Full legal name;
- 241 2. Current mailing and residential addresses;
- 242 3. Physical description including sex, height, weight and eye and hair color;
- 243 4. Year, month and date of birth;

244 5. Social Security number; and
 245 6. Any other information required on the application form.
 246 The applicant's Social Security number shall be provided to the Commercial Driver's License
 247 Information System as required by 49 C.F.R. § 383.153.
 248 B. Every applicant for a commercial driver's license or commercial driver's instruction permit shall
 249 also submit to the Department the following:
 250 1. A consent to release driving record information;
 251 2. Certifications that:
 252 a. He either meets the federal qualification requirements of 49 C.F.R. ~~Part~~ *Parts 383 and 391*, or he
 253 is exempt from or is not subject to such federal requirements;
 254 b. He either meets the state qualification requirements established pursuant to § 52-8.4, or he is
 255 exempt from or is not subject to such requirements;
 256 c. The motor vehicle in which the applicant takes the skills test is representative of the class and, if
 257 applicable, the type of motor vehicle for which the applicant seeks to be licensed;
 258 d. He is not subject to any disqualification, suspension, revocation or cancellation of his driving
 259 privileges;
 260 e. He does not have more than one driver's license;
 261 3. Other certifications required by the Department;
 262 4. Any evidence required by the Department to establish proof of identity, legal presence, residency,
 263 and social security number; and
 264 5. A statement indicating whether (i) the applicant has previously been licensed to drive any type of
 265 motor vehicle during the previous 10 years and, if so, all states that licensed the applicant and the dates
 266 he was licensed, and (ii) whether or not he has ever been disqualified, or his license suspended, revoked
 267 or cancelled and, if so, the date of and reason therefor.
 268 C. Every application for a commercial driver's license shall include a photograph of the applicant
 269 supplied under arrangements made therefor by the Department in accordance with § 46.2-323.
 270 D. The Department shall disqualify any commercial driver for a period of one year when the records
 271 of the Department clearly show to the satisfaction of the Commissioner that such person has made a
 272 material false statement on any application or certification made for a commercial driver's license or
 273 commercial driver's instruction permit. The Department shall take such action within 30 days after
 274 discovering such falsification.
 275 E. The Department shall review the driving record of any person who applies for a Virginia
 276 commercial driver's license or commercial driver's instruction permit, for the renewal or reinstatement of
 277 such license or permit or for an additional commercial classification or endorsement, including the
 278 driving record from all jurisdictions where, during the previous 10 years, the applicant was licensed to
 279 drive any type of motor vehicle. Such review shall include checking the photograph on record whenever
 280 the applicant or holder appears in person to renew, upgrade, transfer, reinstate, or obtain a duplicate
 281 commercial driver's license or *to renew, upgrade, reinstate, or obtain a duplicate* commercial driver's
 282 instruction permit. If appropriate, the Department shall incorporate information from such other
 283 jurisdictions' records into the applicant's Virginia driving record, and shall make a notation on the
 284 applicant's driving record confirming that such review has been completed and the date it was
 285 completed. The Department's review shall include research through the Commercial Driver License
 286 Information System established pursuant to the Commercial Motor Vehicle Safety Act and the National
 287 Driver Register Problem Driver Pointer System in addition to the driver record maintained by the
 288 applicant's previous jurisdictions of licensure. This research shall be completed prior to the issuance,
 289 renewal, *transfer*, or reinstatement of a commercial driver's license or additional commercial
 290 classification or endorsement.
 291 The Department shall verify the name, date of birth, and Social Security number provided by the
 292 applicant with the information on file with the Social Security Administration for initial issuance of a
 293 commercial driver's instruction permit, transfer of a commercial driver's license from another state or for
 294 drivers renewing a commercial driver's license for the first time after July 8, 2011, who have not
 295 previously had their Social Security number information verified. The Department shall make a notation
 296 in the driver's record confirming that the necessary verification has been completed and noting the date
 297 it was done.
 298 F. On and after January 30, 2012, every new applicant for a commercial driver's license or
 299 commercial driver's instruction permit, including any person applying for a commercial driver's license
 300 or permit after revocation of his driving privileges, who certifies that he will operate a commercial
 301 motor vehicle in non-excepted interstate or intrastate commerce shall provide the Department with an
 302 original or certified copy of a medical examiner's certificate prepared by a medical examiner as defined
 303 in 49 C.F.R. ~~Part~~ § 390.5. *Upon receipt of an appropriate medical examiner's certificate, the*
 304 *Department shall post a certification status of "certified" on the record of the driver on the Commercial*

305 *Driver's License Information System.* Any new applicant for a commercial driver's license *or commercial*
 306 *driver's instruction permit* who fails to comply with the requirements of this subsection shall be denied
 307 the issuance of a commercial driver's license *or commercial driver's instruction permit* by the
 308 Department.

309 G. On and after January 30, 2012, but no later than January 30, 2014, every existing holder of a
 310 commercial driver's license or commercial driver's instruction permit who certifies that he will operate a
 311 commercial motor vehicle in non-excepted interstate or intrastate commerce shall provide the
 312 Department with an original or certified copy of a medical examiner's certificate prepared by a medical
 313 examiner as defined in 49 C.F.R. ~~Part~~ § 390.5. *Upon receipt of an appropriate medical examiner's*
 314 *certificate, the Department shall post a certification status of "certified" and any other necessary*
 315 *information on the record of the driver on the Commercial Driver's License Information System.* If an
 316 existing holder of a commercial driver's license fails to provide the Department with a medical
 317 certificate as required by this subsection, the Department shall post a certification status of "noncertified"
 318 on the record of the driver on the Commercial Driver's License Information System and initiate a
 319 downgrade of his commercial driver's license as defined in 49 C.F.R. ~~Part~~ § 383.5.

320 H. Any person who provides a medical certificate to the Department pursuant to the requirements of
 321 subsections F and G shall keep the medical certificate information current and shall notify the
 322 Department of any change in the status of the medical certificate. If the Department determines that the
 323 medical certificate is no longer valid, the Department shall initiate a downgrade of the driver's
 324 commercial driver's license as defined in 49 C.F.R. ~~Part~~ § 383.5.

325 I. If the Department receives notice that the holder of a commercial driver's license has been issued a
 326 medical variance as defined in 49 C.F.R. ~~Part~~ § 390.5, the Department shall indicate the existence of
 327 such medical variance on the commercial driver's license document of the driver and on the record of
 328 the driver on the Commercial Driver's License Information System using the restriction code "V."

329 J. Any holder of a commercial driver's license who has been issued a medical variance shall keep the
 330 medical variance information current and shall notify the Department of any change in the status of the
 331 medical variance. If the Department determines that the medical variance is no longer valid, the
 332 Department shall initiate a downgrade of the driver's commercial driver's license as defined in 49 C.F.R.
 333 ~~Part~~ § 383.5.

334 K. Any applicant applying for a hazardous materials endorsement must comply with Transportation
 335 Security Administration requirements in 49 C.F.R. Part 1572. A lawful permanent resident of the United
 336 States requesting a hazardous materials endorsement must additionally provide his U.S. Citizenship and
 337 Immigration Services (USCIS) alien registration number.

338 **§ 46.2-341.14. Testing requirements for commercial driver's license; behind-the-wheel and**
 339 **knowledge examinations.**

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

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

350 C. Prior to April 1, 1992, the Commissioner may waive the skills test for applicants licensed at the
 351 time they apply for a commercial driver's license if:

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

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

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

358 c. Had any convictions involving any kind of motor vehicle for the offenses listed in § 46.2-341.18,
 359 46.2-341.19, or 46.2-341.20; and

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

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

364 a. Has previously taken and successfully completed a skills test which was administered by a state
 365 with a classified licensing and testing system and that test was behind the wheel in a vehicle
 366 representative of the class and, if applicable, the type of commercial motor vehicle for which the

367 applicant seeks to be licensed; or

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

371 D. The Commissioner may, in his discretion, designate such persons as he deems fit, including
372 private or governmental entities, to administer the *knowledge and skills* tests required of applicants for a
373 commercial driver's license. Any person so designated shall comply with all statutes and regulations with
374 respect to the administration of such *skills* tests.

375 The Commissioner shall require all state ~~knowledge and skills~~ *third party* test examiners to
376 successfully complete a formal commercial driver's license test examiner training course and examination
377 before certifying them to administer commercial driver's license knowledge and skills tests. ~~State All~~
378 ~~state and third party~~ test examiners shall complete a refresher training course and examination every
379 four years to maintain their commercial driver's license test examiner certification. The refresher training
380 course shall comply with 49 C.F.R. § 384.228. At least once every two years, the Department shall
381 conduct covert and overt monitoring of examinations performed by state ~~and third party~~ commercial
382 driver's license ~~skills~~ test examiners.

383 *The Commissioner shall require a nationwide criminal background check of all test examiners at the*
384 *time of hiring or prior to certifying them to administer commercial driver's license testing. The*
385 *Commissioner shall complete a nationwide criminal background check for any state or third party test*
386 *examiners who are current examiners and who have not had a nationwide criminal background check.*

387 *The Commissioner shall revoke the certification to administer commercial driver's license tests for*
388 *any test examiner who (i) does not successfully complete the required refresher training every four years*
389 *or (ii) does not pass the required nationwide criminal background check. Criteria for not passing the*
390 *criminal background check include but are not limited to having a felony conviction within the past 10*
391 *years or any conviction involving fraudulent activities.*

392 E. Every applicant for a commercial driver's license who is required by the Commissioner to take a
393 vision test shall either (i) appear before a license examiner of the Department of Motor Vehicles to
394 demonstrate his visual acuity and horizontal field of vision; or (ii) submit with his application a copy of
395 the vision examination report which was used as the basis for such examination made within 90 days of
396 the application date by an ophthalmologist or optometrist. The Commissioner may, by regulation,
397 determine whether any other visual tests will satisfy the requirements of this title for commercial drivers.

398 F. No person who fails the behind-the-wheel examination for a commercial driver's license
399 administered by the Department three times shall be permitted to take such examination a fourth time
400 until he successfully completes, subsequent to the third examination failure, the in-vehicle component of
401 driver instruction at a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) or a
402 comparable course approved by the Department or the Department of Education. In addition, no person
403 who fails the general knowledge examination for a commercial driver's license administered by the
404 Department three times shall be permitted to take such examination a fourth time until he successfully
405 completes, subsequent to the third examination failure, the knowledge component of driver instruction at
406 a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) or a comparable course
407 approved by the Department or the Department of Education.

408 The provisions of this subsection shall not apply to persons placed under medical control pursuant to
409 § 46.2-322.

410 G. Knowledge tests may be administered in written form, verbally, or in automated format and can
411 be administered in a foreign language, provided no interpreter is used in administering the test.

412 H. Interpreters are prohibited during the administration of the skills tests. Applicants must be able to
413 understand and respond to verbal commands and instructions in English by a skills test examiner.
414 Neither the applicant nor the examiner may communicate in a language other than English during the
415 skills test.

416 **§ 46.2-341.14:01. Military third party testers and military third party examiners; substitute for**
417 **driving skills tests for drivers with military commercial motor vehicle experience.**

418 A. Pursuant to § 46.2-341.14, the Commissioner shall permit military bases that have entered into an
419 agreement with the Department to serve as third party testers in administering state knowledge and
420 skills tests for issuing commercial driver's licenses. Military third party testers and military third party
421 examiners shall comply with the requirements set forth in §§ 46.2-341.14:1 through 46.2-341.14:9 with
422 respect to knowledge and skills tests.

423 B. Pursuant to 49 C.F.R. § 383.77, the Commissioner may waive the driving skills test as specified in
424 49 C.F.R. § 383.113 for a commercial motor vehicle driver with military commercial motor vehicle
425 experience who is currently licensed at the time of his application for a commercial driver's license and
426 substitute an applicant's driving record in combination with certain driving experience for the skills test.

427 C. To obtain a skills test waiver, the following conditions and limitations must be met:

428 1. An applicant must certify that, during the two-year period immediately prior to applying for a
429 commercial driver's license, he:

430 a. Has not had more than one license except for a military license;

431 b. Has not had any license suspended, revoked, canceled, or disqualified;

432 c. Has not had any convictions for any type of motor vehicle for the disqualifying offenses contained
433 in this article;

434 d. Has not had more than one conviction for any type of motor vehicle for serious traffic violations
435 contained in this article; and

436 e. Has not had any conviction for a violation of military, state, or local law relating to motor vehicle
437 traffic control, other than a parking violation, arising in connection with any traffic crash and has no
438 record of a crash in which he was at fault; and

439 2. An applicant must provide evidence and certify that he:

440 a. Is regularly employed or was regularly employed within the last 90 days in a military position
441 requiring operation of a commercial motor vehicle;

442 b. Was exempted from the commercial driver's license requirements in 49 C.F.R. § 383.3(c); and

443 c. Was operating a vehicle representative of the commercial motor vehicle the driver applicant
444 operates, or expects to operate, for at least the two years immediately preceding discharge from the
445 military.

446 **§ 46.2-341.14:1. Requirements for third party testers.**

447 A. Pursuant to § 46.2-341.14, third party testers will be authorized to issue skills test certificates,
448 which will be accepted by the Department as evidence of satisfaction of the skills test component of the
449 commercial driver's license examination. Authority to issue skills test certificates will be granted only to
450 third party testers certified by the Department.

451 B. To qualify for certification, a third party tester shall:

452 1. Make application to and enter into an agreement with the Department as provided in
453 § 46.2-341.14:3;

454 2. Maintain a place of business in Virginia;

455 3. Have at least one certified third party examiner in his employ;

456 4. Ensure that all third party examiners in his employ are certified and comply with the requirements
457 of §§ 46.2-341.14:2 and 46.2-341.14:7;

458 5. Permit the Department and the FMCSA of the U.S. Department of Transportation to ~~examine~~
459 *conduct random examinations, inspections, and audits of its records, facilities, and operations* that relate
460 to the third party testing program ~~and to audit his testing program without prior notice~~;

461 6. Maintain at the principal place of business a copy of the state certificate authorizing the third party
462 tester to administer a commercial driver's license ~~skills testing program and current third party~~
463 agreement;

464 7. Maintain at a Virginia location, for a minimum of two years after a skills test is conducted, a
465 record of each driver for whom the third party tester conducts a skills test, whether the driver passes or
466 fails the test. Each such record shall include:

467 a. The complete name of the driver;

468 b. The driver's Social Security number or other driver's license number and the name of the state or
469 jurisdiction that issued the license held by the driver at the time of the test;

470 c. The date the driver took the skills test;

471 d. The test score sheet or sheets showing the results of the skills test and a copy of the skills test
472 certificate, if issued;

473 e. The name and certification number of the third party examiner conducting the skills test; and

474 f. Evidence of the driver's employment with the third party tester at the time the test was taken. If
475 the third party tester is a school board that tests drivers who are trained but not employed by the school
476 board, evidence that (i) the driver was employed by a school board at the time of the test and (ii) the
477 third party tester trained the driver in accordance with the Virginia School Bus Driver Training
478 Curriculum Guide;

479 8. Maintain at a Virginia location a record of each third party examiner in the employ of the third
480 party tester. Each record shall include:

481 a. Name and Social Security number;

482 b. Evidence of the third party examiner's certification by the Department;

483 c. A copy of the third party examiner's current *training and driving record*, which must be updated
484 annually;

485 d. Evidence that the third party examiner is an employee of the third party tester; and

486 e. If the third party tester is a school board, a copy of the third party examiner's certification of
487 instruction issued by the Virginia Department of Education;

488 9. Retain the records required in subdivision 8 for at least two years after the third party examiner
489 leaves the employ of the third party tester;

490 10. Ensure that skills tests are conducted, and that skills test certificates are issued in accordance
 491 with the requirements of §§ 46.2-341.14:8 and 46.2-341.14:9 and the instructions provided by the
 492 Department; ~~and~~

493 11. Maintain compliance with all applicable provisions of this article and the third party tester
 494 agreement executed pursuant to § 46.2-341.14:3; *and*

495 12. *Maintain a copy of the third party tester's road test route or routes approved by the Department.*

496 C. In addition to the requirements listed in subsection B, all third party testers who are not
 497 governmental entities shall:

498 1. Be engaged in a business involving the use of commercial motor vehicles, which business has
 499 been in operation in Virginia for a minimum of one year;

500 2. Employ at least 75 Virginia-licensed drivers of commercial motor vehicles, during the 12-month
 501 period preceding the application, including part-time and seasonal drivers. This requirement may be
 502 waived by the Department pursuant to § 46.2-341.14:10;

503 3. If subject to the FMCSA regulations and rated by the U.S. Department of Transportation, maintain
 504 a rating of "satisfactory"; and

505 4. Comply with the Virginia Motor Carrier Safety Regulations.

506 **§ 46.2-341.14:2. Requirements for third party examiners.**

507 A. Third party examiners may be certified to conduct skills tests on behalf of only one third party
 508 tester at any given time. If a third party examiner leaves the employ of a third party tester, he must be
 509 recertified in order to conduct skills tests on behalf of a new third party tester.

510 B. To qualify for certification as a third party examiner, an individual must:

511 1. Make application to the Department as provided in § 46.2-341.14:3 *and pass the required*
 512 *nationwide criminal background check;*

513 2. Be an employee of the third party tester;

514 3. Possess a valid Virginia commercial driver's license with the classification and endorsements
 515 required for operation of the class and type of commercial motor vehicle used in skills tests conducted
 516 by the examiner;

517 4. Satisfactorily complete any third party examiner training course required by the Department;

518 5. Within three years prior to application, have had no driver's license suspensions, revocations, or
 519 disqualifications;

520 6. At the time of application, have no more than six demerit points on his driving record and not be
 521 on probation under the Virginia Driver Improvement Program;

522 7. Within three years prior to application, have had no conviction for any offense listed in
 523 § 46.2-341.18 or 46.2-341.19, whether or not such offense was committed in a commercial motor
 524 vehicle;

525 8. If the examiner is employed by a school board, be certified by the Virginia Department of
 526 Education as a school bus training instructor;

527 9. Conduct skills tests on behalf of the third party tester in accordance with this article and in
 528 accordance with current instructions provided by the Department; and

529 10. Successfully complete a training course and examination every four years to maintain the
 530 commercial driver's license test examiner certification.

531 **§ 46.2-341.14:5. Terminating certification of third party tester or examiner.**

532 A. Any third party tester or examiner may relinquish certification upon 30 days' notice to the
 533 Department. Relinquishment of certification by a third party tester or examiner shall not release such
 534 tester or examiner from any responsibility or liability that arises from his activities as a third party tester
 535 or examiner.

536 B. The Department reserves the right to cancel the third party testing program established by this
 537 article, in its entirety.

538 C. The Department shall revoke the skills testing certification of any examiner:

539 1. Who does not conduct skills test examinations of at least 10 different applicants per calendar year.
 540 However, examiners who do not meet the 10-test minimum must either take a refresher commercial
 541 driver's license training that complies with 49 C.F.R. § 384.228 or have a Department examiner ride
 542 along to observe the third party examiner successfully administer at least one skills test; or

543 2. Who does not successfully complete the required refresher training every four years pursuant to 49
 544 C.F.R. § 384.228.

545 D. The Department may cancel the certification of an individual third party tester or examiner upon
 546 the following grounds:

547 1. Failure to comply with or satisfy any of the provisions of this article, federal standards for the
 548 commercial driver's license testing program, the Department's instructions, or the third party tester
 549 agreement;

550 2. Falsification of any record or information relating to the third party testing program; ~~or~~

551 3. Commission of any act that compromises the integrity of the third party testing program; *or*
 552 4. *Failure to pass the required nationwide criminal background check. Criteria for not passing the*
 553 *criminal background check include but are not limited to having a felony conviction within the past 10*
 554 *years or any conviction involving fraudulent activities.*

555 E. If the Department determines that grounds for cancellation exist for failure to comply with or
 556 satisfy any of the requirements of this chapter or the third party tester agreement, the Department may
 557 postpone cancellation and allow the third party tester or examiner 30 days to correct the deficiency.

558 **§ 46.2-341.14:6. Onsite inspections and audits.**

559 A. Each applicant for certification as a third party tester shall permit the Department *or FMCSA* to
 560 conduct random examinations ~~and to inspect, inspections, and audit audits~~ of its operations, facilities,
 561 and records as they relate to its third party testing program, for the purpose of determining whether the
 562 applicant is qualified for certification. Each person who has been certified as a third party tester shall
 563 permit the Department to periodically inspect and audit his third party testing program to determine
 564 whether it remains in compliance with certification requirements.

565 B. The Department *or FMCSA* will perform its random examinations, inspections, and audits of third
 566 party testers during regular business hours with or without prior notice to the third party tester.

567 C. Inspections and audits of third party testers will occur at a minimum once every two years and
 568 include, at a minimum, an examination of:

- 569 1. Records relating to the third party testing program;
- 570 2. Evidence of compliance with the FMCSA regulations and Virginia Motor Carrier Safety
 571 Regulations;
- 572 3. Skills testing procedures, practices, and operations;
- 573 4. Vehicles used for testing;
- 574 5. Qualifications of third party examiners;
- 575 6. Effectiveness of the skills test program by either (i) testing a sample of drivers who have been
 576 issued skills test certificates by the third party tester to compare pass/fail results, (ii) having Department
 577 employees covertly take the skills tests from a third party examiner, or (iii) having Department
 578 employees co-score along with the third party examiner during commercial driver's license applicant's
 579 skills tests to compare pass/fail results;

580 7. A comparison of the commercial driver's license skills test results of applicants who are issued
 581 commercial driver's licenses with the commercial driver's license scoring sheets that are maintained in
 582 the third party testers' files; and

583 8. Any other aspect of the third party tester's operation that the Department determines is necessary
 584 to verify that the third party tester meets or continues to meet the requirements for certification.

585 D. The Department will prepare a written report of the results of each inspection and audit of third
 586 party testers. A copy of the report will be provided to the third party tester.

587 **§ 46.2-341.16. Vehicle classifications, restrictions, and endorsements.**

588 A. A commercial driver's license or commercial driver's instruction permit shall authorize the licensee
 589 or permit holder to operate only the classes and types of commercial motor vehicles designated thereon.
 590 The classes of commercial motor vehicles for which such license may be issued are:

- 591 1. Class A-Combination heavy vehicle. - Any combination of vehicles with a gross combination
 592 weight rating of 26,001 or more pounds, provided the gross vehicle weight rating of the vehicles being
 593 towed is in excess of 10,000 pounds;
- 594 2. Class B-Heavy straight vehicle or other combination. - Any single motor vehicle with a gross
 595 vehicle weight rating of 26,001 or more pounds, or any such vehicle towing a vehicle with a gross
 596 vehicle weight rating that is not in excess of 10,000 pounds; and
- 597 3. Class C-Small vehicle. - Any vehicle that does not fit the definition of a Class A or Class B
 598 vehicle and is either (i) designed to transport 16 or more passengers including the driver or (ii) is used
 599 in the transportation of hazardous materials.

600 B. Commercial driver's licenses shall be issued with endorsements authorizing the driver to operate
 601 the types of vehicles identified as follows:

- 602 1. Type T-Vehicles with double or triple trailers;
- 603 2. Type P-Vehicles carrying passengers;
- 604 3. Type N-Vehicles with cargo tanks;
- 605 4. Type H-Vehicles required to be placarded for hazardous materials;
- 606 5. Type S-School buses carrying 16 or more passengers, including the driver;
- 607 6. Type X-combination of tank vehicle and hazardous materials endorsements for commercial driver's
 608 licenses issued on or after July 1, 2014; and

609 7. At the discretion of the Department, any additional codes for groupings of endorsements with an
 610 explanation of such code appearing on the front or back of the license.

611 C. Commercial driver's licenses shall be issued with restrictions limiting the driver to the types of
 612 vehicles identified as follows:

613 1. L for no air brake equipped commercial motor vehicles for licenses issued on or after July 1,
614 2014. *An applicant is restricted from operating a commercial motor vehicle with any type of air brake if*
615 *he does not take or fails the air brake component of the knowledge test or performs the skills test in a*
616 *vehicle not equipped with air brakes;*

617 2. Z for no full air brake equipped commercial motor vehicles. *If an applicant performs the skills test*
618 *in a vehicle equipped with air over hydraulic brakes, the applicant is restricted from operating a*
619 *commercial motor vehicle equipped with any braking system operating fully on the air brake principle;*

620 3. E for no manual transmission equipped commercial motor vehicles for commercial driver's licenses
621 issued on or after July 1, 2014;

622 4. O for no tractor-trailer commercial motor vehicles;

623 5. M for no class A passenger vehicles;

624 6. N for no class A and B passenger vehicles;

625 7. K for vehicles not equipped with air brakes for commercial driver's licenses issued before July 1,
626 2014. *An applicant is restricted from operating a commercial motor vehicle with any type of air brakes*
627 *if he does not take or fails the air brake component of the knowledge test or performs the skills test in a*
628 *vehicle not equipped with air brakes;*

629 8. K for intrastate only for commercial driver's licenses issued on or after July 1, 2014;

630 9. V for medical variance; and

631 10. At the discretion of the Department, any additional codes for groupings of restrictions with an
632 explanation of such code appearing on the front or back of the license.

633 D. Commercial driver's instruction permits shall be issued with endorsements authorizing the driver
634 to operate the types of vehicles identified as follows:

635 1. Type P-Vehicles carrying passengers as provided in § 46.2-341.10;

636 2. Type N-Vehicles with cargo tanks as provided in § 46.2-341.10; and

637 3. Type S-School buses carrying 16 or more passengers, including the driver as provided in
638 § 46.2-341.10.

639 E. Commercial driver's instruction permits shall be issued with restrictions limiting the driver to the
640 types of vehicles identified as follows:

641 1. P for no passengers in commercial motor vehicles bus;

642 2. X for no cargo in commercial motor vehicles tank vehicle;

643 3. L for no air brake equipped commercial motor vehicles for commercial driver's instruction permits
644 issued on or after July 1, 2014. *An applicant is restricted from operating a commercial motor vehicle*
645 *with any type of air brake if he does not take or fails the air brake component of the knowledge test;*

646 4. M for no class A passenger vehicles;

647 5. N for no class A and B passenger vehicles;

648 6. K for vehicles not equipped with air brakes for commercial driver's instruction permits issued
649 before July 1, 2014. *An applicant is restricted from operating a commercial motor vehicle with any type*
650 *of air brake if he does not take or fails the air brake component of the knowledge test;*

651 7. K for intrastate only for commercial driver's instruction permits issued on or after July 1, 2014;

652 8. V for medical variance; and

653 9. Any additional jurisdictional restrictions that apply to the commercial driver's instruction permit.

654 F. Persons authorized to drive Class A vehicles are also authorized to drive Classes B and C
655 vehicles, provided such persons possess the requisite endorsements for the type of vehicle driven.

656 G. Persons authorized to drive Class B vehicles are also authorized to drive Class C vehicles,
657 provided such persons possess the requisite endorsements for the type of vehicle driven.

658 H. Any licensee who seeks to add a classification or endorsement to his commercial driver's license
659 must submit the application forms, certifications and other updated information required by the
660 Department and shall take and successfully complete the tests required for such classification or
661 endorsement.

662 I. If any endorsement to a commercial driver's license is canceled by the Department and the licensee
663 does not appear in person at the Department to have such endorsement removed from the license, then
664 the Department may cancel the commercial driver's license of the licensee.

665 **§ 46.2-341.20. Disqualification for multiple serious traffic violations.**

666 A. For the purposes of this section, the following offenses, if committed in a commercial motor
667 vehicle, are serious traffic violations:

668 1. Driving at a speed 15 or more miles per hour in excess of the posted speed limits;

669 2. Reckless driving;

670 3. A violation of a state law or local ordinance relating to motor vehicle traffic control arising in
671 connection with a fatal traffic accident;

672 4. Improper or erratic traffic lane change;

673 5. Following the vehicle ahead too closely;

674 6. Driving a commercial motor vehicle without obtaining a commercial driver's license or
675 *commercial driver's instruction permit*;

676 7. Driving a commercial motor vehicle without a commercial driver's license or *commercial driver's*
677 *instruction permit* in the driver's immediate possession;

678 8. Driving a commercial motor vehicle without the proper class of commercial driver's license and/or
679 endorsements for the specific vehicle group being operated or for the passengers or type of cargo being
680 transported; and

681 9. A violation of a state law, including §§ 46.2-341.20:5 and 46.2-919.1 or a local ordinance relating
682 to motor vehicle traffic control prohibiting texting while driving; and

683 10. A violation of a state law, including §§ 46.2-341.20:5 and 46.2-919.1, or a local ordinance
684 relating to motor vehicle traffic control restricting or prohibiting the use of a handheld mobile telephone
685 while driving a commercial motor vehicle.

686 For the purposes of this section, parking, vehicle weight, and vehicle defect violations shall not be
687 considered traffic violations.

688 B. Beginning September 30, 2005, the following offenses shall be treated as serious traffic violations
689 if committed while operating a noncommercial motor vehicle, but only if (i) the person convicted of the
690 offense was, at the time of the offense, the holder of a commercial driver's license or *commercial*
691 *driver's instruction permit*; (ii) the offense was committed on or after September 30, 2005; and (iii) the
692 conviction, by itself or in conjunction with other convictions that satisfy the requirements of this section,
693 resulted in the revocation, cancellation, or suspension of such person's driver's license or privilege to
694 drive.

695 1. Driving at a speed 15 or more miles per hour in excess of the posted speed limits;

696 2. Reckless driving;

697 3. A violation of a state law or local ordinance relating to motor vehicle traffic control arising in
698 connection with a fatal traffic accident;

699 4. Improper or erratic traffic lane change; or

700 5. Following the vehicle ahead too closely.

701 C. The Department shall disqualify for the following periods of time, any person whose record as
702 maintained by the Department shows that he has committed, within any three-year period, the requisite
703 number of serious traffic violations:

704 1. A 60-day disqualification period for any person convicted of two serious traffic violations; or

705 2. A 120-day disqualification period for any person convicted of three serious traffic violations.

706 D. Any disqualification period imposed pursuant to this section shall run consecutively, and not
707 concurrently, with any other disqualification period imposed hereunder.

708 **§ 46.2-341.20:2. Employer penalty; railroad/highway grade crossing violations; out-of-service**
709 **order violation.**

710 Any employer who knowingly allows, permits, authorizes, or requires an employee to operate a
711 commercial motor vehicle in violation of any law or regulation pertaining to railroad/highway grade
712 crossings, or in violation of an out-of-service order, shall be subject to a civil penalty of ~~not less than~~
713 ~~\$3,000 nor more than~~ \$15,000 for each violation pursuant to 49 C.F.R. Part 383, which shall be
714 imposed by the Commissioner upon receipt of notification from federal or state motor carrier officials
715 that an employer may have violated this provision, and upon notice to the employer of the charge and a
716 hearing conducted as provided under the Administrative Process Act (§ 2.2-4000 et seq.), to determine
717 whether such employer has violated this provision. Civil penalties collected under this section shall be
718 deposited into the Transportation Trust Fund.

719 **§ 46.2-341.20:4. Disqualification of driver convicted of fraud related to the testing and issuance**
720 **of a commercial driver's instruction permit or commercial driver's license.**

721 A person who has been convicted of fraud pursuant to § 46.2-348 related to the issuance of a
722 commercial driver's instruction permit or commercial driver's license shall be disqualified for a period of
723 one year. The application of a person so convicted who seeks to renew, transfer, or upgrade the
724 fraudulently obtained ~~commercial driver's instruction permit~~ or commercial driver's license or *seeks to*
725 *renew or upgrade the fraudulently obtained commercial driver's instruction permit* must also, at a
726 minimum, be disqualified. Any disqualification must be recorded in the person's driving record. The
727 person may not reapply for a new commercial driver's license for at least one year.

728 If a *the* Department receives credible information that a commercial driver's instruction permit holder
729 or commercial driver's license holder is suspected, but has not been convicted, of fraud related to the
730 issuance of his commercial driver's instruction permit or commercial driver's license, the Department
731 shall require the driver to retake the skills test or knowledge test, or both. Within 30 days of receiving
732 notification from the Department that re-testing is necessary, the affected commercial driver's instruction
733 permit holder or commercial driver's license holder must make an appointment or otherwise schedule to
734 take the next available test. If the commercial driver's instruction permit holder or commercial driver's
735 license holder fails to make an appointment within 30 days, the Department shall disqualify his

736 commercial driver's instruction permit or commercial driver's license. If the driver fails either the
 737 knowledge or skills test or does not take the test, the Department shall disqualify his commercial driver's
 738 instruction permit or commercial driver's license. Once a commercial driver's instruction permit holder's
 739 or commercial driver's license holder's commercial driver's instruction permit or commercial driver's
 740 license has been disqualified, he must reapply for a commercial driver's instruction permit or commercial
 741 driver's license under Department procedures applicable to all commercial driver's instruction permit and
 742 commercial driver's license applicants.

743 **§ 46.2-341.20:5. Prohibition on texting and use of handheld mobile telephone; penalties.**

744 A. No person driving a commercial motor vehicle shall text *or use a handheld mobile telephone*
 745 while driving such vehicle. A driver who violates this section is subject to a civil penalty not to exceed
 746 \$2,750. Civil penalties collected under this section shall be deposited into the Transportation Trust Fund.
 747 Pursuant to 49 C.F.R. § 386.81, the determination of the actual civil penalties assessed is based on
 748 consideration of information available at the time the claim is made concerning the nature and gravity
 749 of the violation and, with respect to the violator, the degree of culpability, history of prior offenses,
 750 ability to pay, effect on ability to continue to do business, and such other matters as justice and public
 751 safety may require.

752 B. Notwithstanding the definition of commercial motor vehicle in § 46.2-341.4, this section shall
 753 apply to any driver who drives a vehicle designed or used to transport between nine and 15 passengers,
 754 including the driver, not for direct compensation.

755 C. The provisions of this section shall not apply to drivers who are texting *or using a handheld*
 756 *mobile telephone* when necessary to communicate with law-enforcement officials or other emergency
 757 services.

758 D. The following words and phrases when used in this section only shall have the meanings
 759 respectively ascribed to them in this section except in those instances where the context clearly indicates
 760 a different meaning:

761 "Driving" means operating a commercial motor vehicle on a highway, including while temporarily
 762 stationary because of traffic, a traffic control device, or other momentary delays. Driving does not
 763 include operating a commercial motor vehicle when the driver has moved the vehicle to the side of or
 764 off a highway and has halted in a location where the vehicle can safely remain stationary.

765 "*Mobile telephone*" means a mobile communication device that falls under or uses any commercial
 766 mobile radio service, as defined in regulations of the Federal Communications Commission, 47 C.F.R.
 767 § 20.3. "*Mobile telephone*" does not include two-way or citizens band radio services.

768 "Texting" means manually entering alphanumeric text into, or reading text from, an electronic device.
 769 This action includes, but is not limited to, short message service, emailing, instant messaging, a
 770 command or request to access a website, pressing more than a single button to initiate or terminate a
 771 voice communication using a mobile telephone, or engaging in any other form of electronic text retrieval
 772 or entry for present or future communication. "Texting" does not include inputting, selecting, or reading
 773 information on a global positioning system or navigation system; pressing a single button to initiate or
 774 terminate a voice communication using a telephone; or using a device capable of performing multiple
 775 functions (e.g., fleet management systems, dispatching devices, smartphones, citizens band radios, music
 776 players, etc.) for a purpose that is not otherwise prohibited in this section.

777 "*Use a handheld mobile telephone*" means using at least one hand to hold a mobile telephone to
 778 conduct a voice communication; dialing or answering a mobile telephone by pressing more than a
 779 single button; or reaching for a mobile telephone in a manner that requires a driver to maneuver so
 780 that he is no longer in a seated driving position, restrained by a seat belt that is installed in accordance
 781 with 49 C.F.R. § 393.93 and adjusted in accordance with the vehicle manufacturer's instructions.

782 **§ 46.2-341.20:6. Prohibition on requiring use of handheld mobile telephone or texting; motor**
 783 **carrier penalty.**

784 No motor carrier shall allow or require its drivers to use a handheld mobile telephone or to text
 785 while driving a commercial motor vehicle. Motor carriers violating this section are subject to a civil
 786 penalty not to exceed \$11,000. Civil penalties collected under this section shall be deposited into the
 787 Transportation Trust Fund. Pursuant to 49 C.F.R. § 386.81, the determination of the actual civil
 788 penalties assessed is based on consideration of information available at the time the claim is made
 789 concerning the nature and gravity of the violation and, with respect to the violator, the degree of
 790 culpability, history of prior offenses, ability to pay, effect on ability to continue to do business, and such
 791 other matters as justice and public safety may require. "Driving," "mobile telephone," "texting," and
 792 "use a handheld mobile telephone" have the same meanings as assigned to them in § 46.2-341.20:5.

793 **§ 46.2-348. Fraud or false statements in applications for license; penalties.**

794 Any person who uses a false or fictitious name or gives a false or fictitious address in any
 795 application for a driver's license or escort vehicle driver certificate, or any renewal or duplicate thereof,
 796 or knowingly makes a false statement or conceals a material fact or otherwise commits a fraud during

797 the driver's license examination, *including for a commercial driver's license or commercial driver's*
798 *instruction permit*, or in his application is guilty of a Class 2 misdemeanor. However, where the license
799 is used, or the fact concealed, or fraud is done, with the intent to purchase a firearm or use as proof of
800 residency under § 9.1-903, a violation of this section shall be punishable as a Class 4 felony.

801 **§ 46.2-379. Use of crash reports made by investigating officers.**

802 All ~~accident~~ *crash* reports made by investigating officers shall be for the confidential use of the
803 Department and of other state agencies for accident prevention purposes and shall not be used as
804 evidence in any trial, civil or criminal, arising out of any accident. ~~The~~ *If otherwise authorized by law,*
805 *the* Department shall *may* disclose from the reports, on request of any person, the date, time, and
806 location of the accident, and the names and addresses of the drivers, the owners of the vehicles
807 involved, the injured persons, the witnesses, and one investigating officer.

808 **§ 46.2-1078.1. Use of handheld personal communications devices in certain motor vehicles;**
809 **exceptions; penalty.**

810 A. It is unlawful for any person to operate a moving motor vehicle on the highways in the
811 Commonwealth while using any handheld personal communications device to:

812 1. Manually enter multiple letters or text in the device as a means of communicating with another
813 person; or

814 2. Read any email or text message transmitted to the device or stored within the device, provided
815 that this prohibition shall not apply to any name or number stored within the device nor to any caller
816 identification information.

817 B. The provisions of this section shall not apply to:

818 1. The operator of any emergency vehicle while he is engaged in the performance of his official
819 duties;

820 2. An operator who is lawfully parked or stopped;

821 3. The use of factory-installed or aftermarket global positioning systems (GPS) or wireless
822 communications devices used to transmit or receive data as part of a digital dispatch system; or

823 4. Any person using a handheld personal communications device to report an emergency.

824 C. A violation of this section is a traffic infraction punishable, for a first offense, by a fine of \$125
825 and, for a second or subsequent offense, by a fine of \$250.

826 For the purposes of this section, "emergency vehicle" means:

827 1. Any law-enforcement vehicle operated by or under the direction of a federal, state, or local
828 law-enforcement officer;

829 2. Any regional detention center vehicle operated by or under the direction of a correctional officer
830 responding to an emergency call or operating in an emergency situation;

831 3. Any vehicle used to fight fire, including publicly owned state forest warden vehicles, when
832 traveling in response to a fire alarm or emergency call;

833 4. Any ambulance, rescue, or life-saving vehicle designed or used for the principal purpose of
834 supplying resuscitation or emergency relief where human life is endangered;

835 5. Any Department of Emergency Management vehicle or Office of Emergency Medical Services
836 vehicle, when responding to an emergency call or operating in an emergency situation;

837 6. Any Department of Corrections vehicle designated by the Director of the Department of
838 Corrections, when (i) responding to an emergency call at a correctional facility, (ii) participating in a
839 drug-related investigation, (iii) pursuing escapees from a correctional facility, or (iv) responding to a
840 request for assistance from a law-enforcement officer; and

841 7. Any vehicle authorized to be equipped with alternating, blinking, or flashing red or red and white
842 secondary warning lights pursuant to § 46.2-1029.2.

843 *D. Distracted driving shall be included as a part of the driver's license knowledge examination.*