

VIRGINIA ACTS OF ASSEMBLY -- 2017 SESSION

CHAPTER 232

An Act to amend and reenact § 46.2-341.14 of the Code of Virginia, relating to commercial driver's license instruction; comprehensive community colleges.

[H 2075]

Approved February 23, 2017

Be it enacted by the General Assembly of Virginia:

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

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

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

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

C. The Commissioner may designate such persons as he deems fit, including private or governmental entities, including comprehensive community colleges in the Virginia Community College System, to administer the knowledge and skills tests required of applicants for a commercial driver's license. Any person so designated shall comply with all statutes and regulations with respect to the administration of such tests.

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

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

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

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

E. No person who fails the behind-the-wheel examination for a commercial driver's license administered by the Department three times shall be permitted to take such examination a fourth time until he successfully completes, subsequent to the third examination failure, the in-vehicle component of driver instruction at a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) *or a comprehensive community college in the Virginia Community College System*, or a comparable course approved by the Department or the Department of Education. In addition, no person who fails the general knowledge examination for a commercial driver's license administered by the Department three times shall be permitted to take such examination a fourth time until he successfully completes, subsequent to the third examination failure, the knowledge component of driver instruction at a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) *or a comprehensive community college in the Virginia Community College System*, or a comparable course approved by the Department or the

Department of Education. *All persons required to attend a driver training school, a comprehensive community college, or a comparable course pursuant to this section shall be required, after successful completion of necessary courses, to have the applicable examination administered by the Department.*

Comprehensive community colleges offering courses pursuant to this section shall meet course curriculum requirements established and made available by the Department and be comparable to the curriculum offered by Class A licensed schools. A course curriculum meeting the established requirements shall be submitted to the Department and shall be approved by the Department prior to the beginning of course instruction.

The Department shall provide and update the list of course curriculum requirements from time to time, as deemed appropriate and necessary by the Department. The Department shall notify the affected schools and comprehensive community colleges if new relevant topics are added to the course curriculum. Schools and comprehensive community colleges shall have 45 calendar days after such notice is issued to update their course curriculum and to certify to the Department in a format prescribed by the Department that the school or comprehensive community college has added the new topics to the course curriculum.

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

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

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

H. Skills tests may be administered to an applicant who has taken training in the Commonwealth *at a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) or a comprehensive community college in the Virginia Community College System, or a comparable course approved by the Department or the Department of Education*, and is to be licensed in another state. Such test results shall be electronically transmitted directly from the Commonwealth to the licensing state in an efficient and secure manner. The Department may charge a fee of not more than \$85 to any such applicant.

I. The Department shall accept the results of skills tests administered to applicants by any other state in fulfillment of the applicant's testing requirements for commercial licensure in the Commonwealth.