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SENATE BILL NO. 1364

Offered January 11, 2017

Prefiled January 11, 2017

A BILL to amend and reenact §§ 46.2-613.1, 46.2-711, 46.2-2100, 46.2-2101, 46.2-2108.2, 46.2-2108.4 through 46.2-2109, 46.2-2115, 46.2-2118, 46.2-2120, 46.2-2121, 46.2-2122, 46.2-2124, 46.2-2125, 46.2-2126, 46.2-2129 through 46.2-2140, 46.2-2143, 46.2-2143.1, and 46.2-2144 of the Code of Virginia, to amend the Code of Virginia by adding sections numbered 46.2-2121.1 and 46.2-2143.2, and to repeal § 46.2-2108.3 and Article 5 (§§ 46.2-2174, 46.2-2175, and 46.2-2176) of Chapter 21 of Title 46.2 of the Code of Virginia, relating to the Department of Motor Vehicles; regulation of property carriers.

Patrons—Newman, Obenshain and Stanley

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-613.1, 46.2-711, 46.2-2100, 46.2-2101, 46.2-2108.2, 46.2-2108.4 through 46.2-2109, 46.2-2115, 46.2-2118, 46.2-2120, 46.2-2121, 46.2-2122, 46.2-2124, 46.2-2125, 46.2-2126, 46.2-2129 through 46.2-2140, 46.2-2143, 46.2-2143.1, and 46.2-2144 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 46.2-2121.1 and 46.2-2143.2 as follows:

§ 46.2-613.1. Civil penalty for violation of license, registration, and tax requirements and vehicle size limitations.

A. A civil penalty of $250 and a processing fee of $20 shall be levied against any person who while at a permanent weighing station:

1. Operates or permits the operation of a truck or tractor truck with a gross weight greater than 7,500 pounds, a trailer, or a semitrailer owned, leased, or otherwise controlled by him on any highway in the Commonwealth unless (i) it is registered, (ii) a certificate of title therefor has been issued, and (iii) it has displayed on it the license plate or plates and decal or decals required by this title.

2. Operates or causes to be operated on any highway in the Commonwealth any motor vehicle that is not in compliance with the Unified Carrier Registration System authorized under 49 U.S.C. § 14504a, enacted pursuant to the Unified Carrier Registration Act of 2005, and the federal regulations promulgated thereunder.

3. Operates or permits the operation of any truck or tractor truck for which the fee for registration is prescribed by § 46.2-697 on any highway in the Commonwealth (i) without first having paid the registration fee hereinabove prescribed or (ii) if at the time of operation the gross weight of the vehicle or of the combination of vehicles of which it is a part is in excess of the gross weight on the basis of which it is registered. In any case where a pickup truck is used in combination with another vehicle, the civil penalty and processing fee shall be assessed only if the combined gross weight exceeds the combined gross weight on the basis of which each vehicle is registered.

4. (i) Fails to *declare a motor vehicle to be operated for hire when required by § 46.2-2121.1 or* obtain a proper registration card~~,~~ ~~identification marker,~~ or other evidence of registration as required by ~~Chapter 21 (§ 46.2-2100 et seq.)~~ *this chapter*; (ii) operates or causes to be operated on any highway in the Commonwealth any motor vehicle that does not carry the proper registration and identification ~~marker~~ required by ~~Chapter 21 (§ 46.2-2100 et seq.) or any motor vehicle that does not~~ *this title*, display an identification marker *issued for the vehicle by the Department in the manner prescribed by the Department*, or *display any* other identifying information ~~as prescribed by the Department or~~ required by this ~~Title~~ *title*; or (iii) operates or causes to be operated on any highway in the Commonwealth any motor vehicle requiring registration cards or identification markers from the Department after such registration cards or identification markers have been revoked, canceled, or suspended.

5. (i) Fails to obtain a proper registration card, identification marker, or other evidence of registration required by Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1 or the terms and provisions of the International Fuel Tax Agreement, as amended by the International Fuel Tax Association, Inc.; (ii) operates or causes to be operated on any highway in the Commonwealth any motor vehicle that does not carry the proper registration and identification marker required by Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1 or the terms and provisions of the International Fuel Tax Agreement, as amended by the International Fuel Tax Association, Inc., or any motor vehicle that does not display an identification marker or other identifying information as prescribed by the Department or required by Title 58.1 or the terms of the International Fuel Tax Agreement, as amended by the International Fuel Tax Association,

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Inc.; or (iii) operates or causes to be operated on any highway in the Commonwealth any motor vehicle requiring registration cards or identification markers from the Department after such registration cards or identification markers have been revoked, canceled, or suspended.

6. Operates or causes to be operated on any highway in the Commonwealth any truck or tractor truck or combination of vehicles exceeding the size limitations of Articles 14 (§ 46.2-1101 et seq.), 15 (§ 46.2-1105 et seq.), 16 (§ 46.2-1112 et seq.), and 18 (§ 46.2-1139 et seq.) of Chapter 10.

B. Upon collection by the Department, civil penalties levied pursuant to subdivisions A 1 and A 3 through ~~A~~ 5 shall be paid into the Commonwealth Transportation Fund, but civil penalties levied pursuant to subdivisions A 2 and ~~A~~ 6 and all processing fees levied pursuant to this section shall be paid into the state treasury and shall be set aside as a special fund to meet the expenses of the Department of Motor Vehicles.

C. The penalties and fees specified in this section shall be in addition to any other penalty, fee, tax, or liability that may be imposed by law.

§ 46.2-711. Furnishing number and design of plates; displaying on vehicles required.

A. The Department shall furnish one license plate for every registered moped, motorcycle, autocycle, tractor truck, semitrailer, or trailer, and two license plates for every other registered motor vehicle, except to licensed motor vehicle dealers and persons delivering unladen vehicles who shall be furnished one license plate. The license plates for trailers, semitrailers, commercial vehicles, and trucks, other than license plates for dealers, may be of such design as to prevent removal without mutilating some part of the indicia forming a part of the license plate, when secured to the bracket.

B. The Department shall issue appropriately designated license plates for:

1. Passenger-carrying vehicles for rent or hire for the transportation of passengers for private trips, other than TNC partner vehicles as defined in § 46.2-2000 and emergency medical services vehicles pursuant to clause (iii) of § 46.2-649.1:1;

2. Taxicabs;

3. Passenger-carrying vehicles operated by common carriers or restricted common carriers;

4. Property-carrying motor vehicles ~~to applicants who operate as private carriers only~~ *registered pursuant to § 46.2-697 except pickup or panel trucks as defined in § 46.2-100*;

5. Applicants, other than TNC partners as defined in § 46.2-2000 and emergency medical services vehicles pursuant to clause (iii) of § 46.2-649.1:1, who operate motor vehicles as *passenger* carriers for rent or hire;

6. Vehicles operated by nonemergency medical transportation carriers as defined in § 46.2-2000; and

7. Trailers and semitrailers.

C. The Department shall issue appropriately designated license plates for motor vehicles held for rental as defined in § 58.1-1735.

D. The Department shall issue appropriately designated license plates for low-speed vehicles.

E. No vehicles shall be operated on the highways in the Commonwealth without displaying the license plates required by this chapter. The provisions of this subsection shall not apply to vehicles used to collect and deliver the Unites States mail to the extent that their rear license plates may be covered by the "CAUTION, FREQUENT STOPS, U.S. MAIL" sign when the vehicle is engaged in the collection and delivery of the United States mail.

~~F. Pickup or panel trucks are exempt from the provisions of subsection B with reference to displaying for-hire license plates when operated as a carrier for rent or hire. However, this exemption shall not apply to pickup or panel trucks subject to regulation under Chapter 21 (§ 46.2-2100 et seq.).~~

§ 46.2-2100. Definitions.

Whenever used in this chapter, unless expressly stated otherwise:

"Authorized insurer" means, in the case of an interstate motor carrier whose operations may or may not include intrastate activity, an insurer authorized to transact business in any one state, or, in the case of a solely intrastate motor carrier, an insurer authorized to transact business in the Commonwealth.

~~"Broker" means any person not included in the term "motor carrier" and not a bona fide employee or agent of any such carrier, who, as principal or agent, sells or offers for sale any transportation subject to this chapter, or negotiates for, or holds himself out by solicitation, advertisement, or otherwise as one who sells, provides, furnishes, contracts, or arranges for such transportation.~~

~~"Bulk commodity" means any non-liquid, non-gaseous commodity shipped loose or in mass/aggregate and which in the loading and unloading thereof is ordinarily shoveled, scooped, forked, or mechanically conveyed or which is not in containers or in units of such size to permit piece by piece loading and unloading.~~

~~"Bulk property carrier" means any person, not herein exempted, who undertakes either directly or by lease, to transport exclusively bulk commodities, as defined, for compensation including for purposes of this section for-hire tow truck operations.~~

"Certificate of fitness" means a certificate issued by the Department to certain "household goods carriers" under this chapter.

"Constructive weight" means a measurement of seven pounds per cubic foot of properly loaded van space.

~~"Courier service" means a motor carrier that engages, directly or by lease, exclusively in the transportation of letters, envelopes, negotiable or nonnegotiable instruments, or other documents or papers for compensation.~~

"Department" means the Department of Motor Vehicles.

"Financial responsibility" means the ability to respond in damages for liability thereafter incurred arising out of the ownership, maintenance, use, or operation of a motor vehicle, in the amounts provided for in this chapter.

"Gross weight" means the weight of a truck after a shipment has been loaded.

"Highway" means every public highway or place of whatever nature open to the use of the public for purposes of vehicle travel in this Commonwealth, excluding the streets and alleys in towns and cities.

"Household goods" means personal effects and property used or to be used in a dwelling, when ~~a part of the equipment or supplies of such dwelling, and similar property if the transportation of such effects or property is (i) arranged and paid for by the householder, including transportation of the property from a factory or store when the property is purchased by the householder with intent to use it in his dwelling or (ii) arranged and paid for by another party~~ *transported or arranged to be transported (i) between residences or (ii) between a residence and a storage facility with the intent to later transport to a residence. Transportation of such goods must be arranged and paid for by, or on behalf of, the householder*.

"Household goods carrier" means a ~~restricted common~~ carrier who undertakes, whether directly or by a lease or other arrangement, to transport "household goods," as herein defined, by motor vehicle for compensation, on any highway in this Commonwealth, between two or more points in this Commonwealth, whether over regular or irregular routes.

~~"Identification marker" means a decal or other visible identification issued by the Department to show (i) that the operator of the vehicle has registered with the Department for the payment of the road tax imposed under Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1, (ii) proof of the possession of a certificate or permit issued pursuant to Chapter 21 (§ 46.2-2100 et seq.) of this title, and/or (iii) proof of compliance with the insurance requirements of this chapter.~~

"Interstate" means the transportation of property between states.

"Intrastate" means the transportation of property solely within a state.

~~"License" means a license issued by the Department to a broker.~~

"Motor carrier" means any person who undertakes whether directly or by a lease, to transport property, including household goods, as defined by this chapter, for compensation over the highways of the Commonwealth.

"Motor vehicle" means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of property, but does not include any vehicle, locomotive or car operated exclusively on a rail or rails.

"Net weight" means the tare weight subtracted from the gross weight.

"Permit" means a permit issued by the Department authorizing the transportation of property, excluding household goods transported for a distance greater than 30 road miles.

"Person" means any individual, firm, copartnership, corporation, company, association or joint-stock association, and includes any trustee, receiver, assignee, or personal representative thereof.

"Property carrier" means any person, not herein exempted, who undertakes either directly or by a lease, to transport property for compensation.

~~"Restricted common carrier" means any person who undertakes, whether directly or by a lease or other arrangement, to transport household goods by motor vehicle for compensation whether over regular or irregular routes.~~

"Services" and "transportation" includes the services of, and all transportation by, all vehicles operated by, for, or in the interest of any motor carrier, irrespective of ownership or contract, express or implied, together with all facilities and property operated or controlled by any such carrier or carriers and used in the transportation of property or in the performance of any service in connection therewith.

~~"Single state insurance receipt" means any receipt issued pursuant to 49 C.F.R. Part 367 evidencing that the carrier has the required insurance and paid the requisite fees to the Commonwealth and other qualified jurisdictions.~~

"Tare weight" means the weight of a truck before being loaded at a shipper's residence or place of business, including the pads, dollies, hand-trucks, ramps and other equipment normally used in the transportation of household goods shipments.

§ 46.2-2101. Exemptions from chapter.

The following are exempt from this chapter:

1. Motor vehicles owned and operated by the United States, District of Columbia, any state,

municipality, or any other political subdivision of the Commonwealth.

2. Transportation of property between any point in this Commonwealth and any point outside this Commonwealth or between any points wholly within the limits of any city or town in the Commonwealth. This exemption shall not apply to the *requirement to declare for-hire operation pursuant to § 46.2-2121.1 or the* insurance requirement imposed on motor carriers pursuant to § 46.2-2143.1.

3. Motor vehicles controlled and operated by a bona fide cooperative association as defined in the Federal Marketing Act, approved June 15, 1929, as amended, or organized or existing under Article 2 (§ 13.1-312 et seq.) of Chapter 3 of Title 13.1, while used exclusively in the conduct of the business of such association. *This exemption shall not apply to the requirement to declare for-hire operation pursuant to § 46.2-2121.1.*

4. Motor vehicles while used exclusively in (i) carrying newspapers, water, livestock, poultry, poultry products, buttermilk, fresh milk and cream, meats, butter and cheese produced on a farm, fish (including shellfish), slate, horticultural or agricultural commodities (not including manufactured products thereof), and forest products, including lumber and staves (but not including manufactured products thereof), (ii) transporting farm supplies to a farm or farms, (iii) hauling for the Department of Transportation, (iv) carrying fertilizer to any warehouse or warehouses for subsequent distribution to a local area farm or farms, or (v) collecting and disposing of trash, garbage and other refuse. *This exemption shall not apply to the requirement to declare for-hire operation pursuant to § 46.2-2121.1.*

5. Motor vehicles used for transporting property by an air carrier or carrier affiliated with a direct air carrier whether or not such property has had or will have a prior or subsequent air movement. *This exemption shall not apply to the requirement to declare for-hire operation pursuant to § 46.2-2121.1.*

6. Motor carriers exclusively operating ~~vehicles with a registered gross weight of 7,500 pounds or less for the sole purpose of providing courier service~~ *passenger cars, motorcycles, autocycles, mopeds, and vehicles with a gross vehicle weight rating of 10,000 pounds or less. This exemption shall not apply to the insurance requirements imposed on motor carriers pursuant to § 46.2-2143.1 or 46.2-2143.2.*

§ 46.2-2108.2. Necessity of a permit or certificate.

It shall be unlawful for any person to operate, offer, advertise, provide, procure, furnish, or arrange ~~by contract, agreement or arrangement~~ to transport property for compensation on an intrastate basis as a motor carrier ~~or broker~~ without first obtaining from the Department a license, permit, or certificate of fitness as required by this chapter.

§ 46.2-2108.4. Application; notice requirements.

A. Applications for a ~~license,~~ permit~~,~~ or certificate of fitness or renewal of a ~~license,~~ permit~~,~~ or certificate of fitness under this chapter shall be made to the Department and contain such information as the Department shall require. Such information shall include, in the application or otherwise, the matters set forth in §§ 46.2-2133 and 46.2-2134 as grounds for denying ~~licenses,~~ permits~~,~~ and certificates.

B. The applicant for a certificate of fitness issued under this chapter shall cause a notice of such application, on the form and in the manner prescribed by the Department, to be served on every affected person who has requested notification.

§ 46.2-2108.5. Registered for fuels tax; business, professional, and occupational license taxes.

~~License, permit,~~ *Permit* and certificate of fitness holders shall be licensed and registered in accordance with the road tax requirements of Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1 and licensed for payment of local business, professional, and occupational license taxes of Chapter 37 (§ 58.1-3700 et seq.) of Title 58.1 as required.

§ 46.2-2108.6. Considerations for determination of issuance of license, permit, or certificate.

In determining whether a ~~license,~~ permit~~,~~ or certificate of fitness required by this chapter shall be issued, the Department may, among other things, consider compliance with financial responsibility, bonding, and other requirements of this chapter.

§ 46.2-2109. Action on applications; hearings on denials and protests.

A. The Department may act upon any application required under this chapter without a hearing, unless such application is protested by any party based upon fitness allegations. Parties may protest an application by submitting written grounds to the Department setting forth (i) a precise statement of the party's objections to the application being granted; (ii) a full and clear statement of the facts that the person is prepared to provide by competent evidence; (iii) the case number assigned to the application; and (iv) a certification that a copy of the protest was sent to the applicant. The Department shall have full discretion as to whether a hearing is warranted based on the merits of any protest filed.

B. Any applicant denied without a hearing an original ~~license or~~ certificate of fitness under subsection A~~, or any request for a transfer for such license or certificate,~~ shall be given a hearing at a time and place determined by the Commissioner or his designee upon the applicant's written request for such hearing made within thirty days of denial.

§ 46.2-2115. Determination for issuance of permit or certificate.

If the Department finds the applicant has met all requirements of this chapter, it shall issue a ~~license,~~

permit~~,~~ or certificate of fitness to the applicant, subject to such terms, limitations and restrictions as the Department may deem proper.

§ 46.2-2118. Issuance, expiration, and renewal of permit and certificate.

All ~~licenses,~~ permits~~,~~ and certificates of fitness issued under this chapter shall be issued for a period of ~~twelve~~ *12* consecutive months except, at the discretion of the Department, the periods may be adjusted as necessary. Such ~~licenses,~~ permits~~,~~ and certificates shall expire if not renewed annually. Such expiration shall be effective ~~thirty~~ *30* days after the Department has provided the ~~licensee,~~ permittee~~,~~ or certificate holder notice of ~~non-renewal~~ *nonrenewal*. If the ~~license,~~ permit~~,~~ or certificate is renewed within ~~thirty~~ *30* days after notice of ~~non-renewal~~ *nonrenewal*, then the ~~license,~~ permit~~,~~ or certificate shall not expire.

§ 46.2-2120. Filing and application fees.

Every applicant for an original ~~license~~ ~~or~~ certificate of fitness issued under this chapter ~~and transfer of a license or certificate of fitness under this chapter~~ shall, upon the filing of an application, deposit with the Department, as a filing fee, a sum in the amount of ~~fifty dollars~~ *$50*. The Department shall collect a fee of ~~three dollars~~ *$3* for the issuance of a duplicate ~~license or~~ certificate of fitness.

§ 46.2-2121. Vehicle fees.

Every person who operates a ~~property carrying~~ *property-carrying* vehicle for compensation over the highways of the Commonwealth~~, unless such operation is exempted from this chapter,~~ shall be required to pay an annual fee of $10 for each such vehicle so operated, unless *(i) such operation is exempted from this chapter; (ii) the property-carrying vehicle is a passenger car, motorcycle, autocycle, moped, or vehicle with a gross vehicle weight rating of 10,000 pounds or less; (iii)* a vehicle identification marker fee has been paid to the Department as to such vehicle for the current year under the provisions of Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1~~. Such fee shall be paid through the single state registration system established pursuant to 49 U.S.C. § 14504 and 49 CFR Part 367~~*;* or *(iv) a fee has been paid for the vehicle* through the unified carrier registration system established pursuant to 49 U.S.C. § 14504a and the regulations promulgated thereunder for carriers registered pursuant to those provisions. No more than one vehicle fee shall be charged or paid as to any vehicle in any one year under Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1 and this chapter, including payments made pursuant to the ~~single state registration system or the~~ unified carrier registration system.

§ 46.2-2121.1. Declaration of for-hire operation; presumption of nonbusiness use.

Before any motor vehicle is used by a motor carrier to transport property for compensation over the highways of the Commonwealth, the owner of the vehicle shall declare to the Department that the operation of such vehicle is for hire.

Any passenger car, motorcycle, autocycle, or pickup or panel truck, as defined in § 46.2-100, required to make the declaration required by this section and determined pursuant to § 58.1-3523 to be (i) privately owned, (ii) leased pursuant to a contract requiring the lessee to pay the tangible personal property tax on such vehicle, or (iii) held in a private trust for nonbusiness purposes and registered with the Department as a personal vehicle shall be presumed to be used for nonbusiness purposes in determining whether such vehicle is a qualifying vehicle under § 58.1-3523 absent clear and convincing evidence to the contrary. Any declaration given pursuant to this section shall not create any presumption of business or commercial use of the vehicle or of business activity on the part of the vehicle owner, lessee, or operator for purposes of any state or local requirement.

§ 46.2-2122. Bond and letter of credit requirements of applicants for certificate.

A. Every applicant for an original certificate of fitness under this chapter shall obtain and file with the Department, along with the application, a surety bond or an irrevocable letter of credit, in addition to any other bond or letter of credit required by law, in the amount of $50,000, which shall remain in effect for the first five years of licensure. The bond or letter of credit shall be in a form and content acceptable to the Department. The bond or letter of credit shall be conditioned on a statement by the applicant that the applicant will not practice fraud, make any fraudulent representation, or violate any provision of this chapter in the conduct of the applicant's business. The Department may, without holding a hearing, suspend the certificate of fitness during the period that the certificate holder does not have a sufficient bond or letter of credit on file.

~~B. Every applicant for an original license pursuant to Article 5 (§ 46.2-2174 et seq.) shall obtain and file with the Department, along with the application, a surety bond or an irrevocable letter of credit, in addition to any other bond or letter of credit required by law, in the amount of $25,000. The bond or letter of credit shall be in a form and content acceptable to the Department. The bond or letter of credit shall be conditioned on a statement by the applicant that the applicant will not practice fraud, make any fraudulent representation, or violate any provision of this chapter in the conduct of the applicant's business. The Department may, without holding a hearing, suspend the license during the period that the licensee does not have a sufficient bond or letter of credit on file.~~

~~C.~~ *B.* If a person suffers any of the following: (i) loss or damage in connection with the

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transportation service by reason of fraud practiced on him or fraudulent representation made to him by a ~~licensee or~~ certificate holder or his agent or employee acting within the scope of employment; (ii) loss or damage by reason of a violation by a ~~licensee or~~ certificate holder or his agent or employee of any provision of this chapter in connection with the transportation service; or (iii) loss or damage resulting from a breach of a contract entered into on or after the effective date of this act, that person shall have a claim against the ~~licensee or~~ certificate holder's bond or letter of credit, and may recover from such bond or letter of credit the amount awarded to such person by final judgment of a court of competent jurisdiction against the ~~licensee or~~ certificate holder as a result of such loss or damage up to, but not exceeding, the amount of the bond or letter of credit.

~~D.~~ *C.* The ~~licensee or~~ certificate holder's surety shall notify the Department when a claim is made against a ~~licensee or~~ certificate holder's bond, when a claim is paid and/or when the bond is canceled. Such notification shall include the amount of a claim and the circumstances surrounding the claim. Notification of cancellation shall include the effective date and reason for cancellation.

~~E.~~ *D.* The surety on any bond filed by a ~~licensee or~~ certificate holder shall be released and discharged from all liability accruing on such bond after the expiration of 60 days from the date on which the surety files with the Department a written request to be released and discharged. Such request shall not operate to relieve, release, or discharge the surety from any liability already accrued or that shall accrue before the expiration of the 60-day period.

§ 46.2-2124. Notice of discontinuance of service.

Every motor carrier ~~or broker~~ who ceases operation or abandons his rights under a ~~license,~~ permit~~,~~ or certificate of fitness issued shall notify the Department within ~~thirty~~ *30* days of such cessation or abandonment.

§ 46.2-2125. Reports, records, etc.

A. The Department is hereby authorized to require annual, periodical, or special reports from motor carriers, except such as are exempted from the operation of the provisions of this chapter; to prescribe the manner and form in which such reports shall be made; and to require from such carriers specific answers to all questions upon which the Department may deem information to be necessary. Such reports shall be under oath whenever the Department so requires. The Department may also require any motor carrier to file with it a true copy of each or any contract, agreement, or arrangement between such carrier and any other carrier or person in relation to the provisions of this chapter.

B. The Department may~~, in its discretion,~~ prescribe (i) the forms of any and all accounts, records, and memoranda to be kept by motor carriers and (ii) the length of time such accounts, records, and memoranda shall be preserved, as well as of the receipts and expenditures of money. The Department or its employees shall at all times have access to all lands, buildings, or equipment of motor carriers used in connection with their operations and also all accounts, records, and memoranda, including all documents, papers, and correspondence now or hereafter existing, and kept, or required to be kept, by motor carriers. The Department and its employees shall have authority to inspect and examine any and all such lands, buildings, equipment, accounts, records, and memoranda, including all documents, papers, and correspondence now or hereafter existing and kept or required to be kept by such carriers. These provisions shall apply to receivers of carriers and to operating trustees and, to the extent deemed necessary by the Department, to persons having control, direct or indirect, over or affiliated with any motor carrier.

~~C. As used in this section the term "motor carriers" includes brokers.~~

§ 46.2-2126. Certificate or permit holder not relieved of liability for negligence.

Nothing in this chapter shall relieve any holder of a certificate~~, license,~~ or permit by and under the authority of the Department from any liability resulting from his negligence, whether or not he has complied with the requirements of this chapter.

§ 46.2-2129. Unlawful use of registration and identification markers.

It shall be unlawful for any person to operate or cause to be operated on any highway in the Commonwealth any motor vehicle that (i) does not carry the proper registration and identification that this title requires, (ii) does not display an identification marker *issued for such vehicle by the Department* in such manner as is prescribed by the Department, or (iii) bears registration or identification markers of persons whose ~~license,~~ permit~~,~~ or certificate issued by the Department has been revoked, suspended, or renewal thereof denied in accordance with this chapter.

§ 46.2-2130. Registration violations; penalties.

A. The following violations of laws shall be punished as follows:

1. Any person who does not *declare a motor vehicle to be operated for hire when required by § 46.2-2121.1 or otherwise* obtain a proper registration card~~, identification marker,~~ or other evidence of registration as required by ~~this chapter shall be~~ *Chapter 6 (§ 46.2-600 et seq.) is* guilty of a Class 4 misdemeanor.

2. Any person who operates or causes to be operated on any highway in the Commonwealth any motor vehicle that does not carry the proper registration and identification that this title requires or any

motor vehicle that does not display (i) an identification marker *issued for such vehicle by the Department* in such manner as is prescribed by the Department or (ii) other identifying information that this title requires it to display ~~shall be~~ *is* guilty of a Class 4 misdemeanor.

3. Any person who knowingly displays or uses on any vehicle operated by him any identification marker or other identification that has not been issued to the owner or operator thereof for such vehicle and any person who knowingly assists him to do so ~~shall be~~ *is* guilty of a Class 3 misdemeanor.

4. Any person who operates or causes to be operated on any highway in the Commonwealth any motor vehicle requiring registration from the Department under this ~~article~~ *title or Title 58.1* after such registration cards or identification markers have been revoked, canceled or suspended ~~shall be~~ *is* guilty of a Class 3 misdemeanor.

B. The officer charging the violation under this section shall serve a citation on the operator of the vehicle in violation. Such citation shall be directed to the owner, operator or other person responsible for the violation as determined by the officer. Service of the citation on the vehicle operator shall constitute service of process upon the owner, operator, or other person charged with the violation under this article, and shall have the same legal force as if served within the Commonwealth personally upon the owner, operator, or other person charged with the violation, whether such owner, operator, or other person charged is a resident or nonresident.

§ 46.2-2131. Violation; criminal penalties.

A. Any person knowingly and willfully violating any provision of this chapter, or any rule or regulation thereunder, or any term or condition of any certificate~~,~~ *or* permit~~, or license,~~ for which a penalty is not otherwise herein provided, shall, upon conviction thereof, be fined not more than $2,500 for the first offense and not more than $5,000 for any subsequent offense. Each day of such violation shall constitute a separate offense.

B. Any person, whether carrier~~, broker~~, shipper, *or* consignee, or any officer, employee, agent, or representative thereof, who shall knowingly and willfully by any such means or otherwise fraudulently seek to evade or defeat regulation as in this chapter provided for motor carriers ~~or brokers,shall be deemed~~ *is* guilty of a misdemeanor and, upon conviction thereof, *shall* be fined not more than $500 for the first offense and not more than $2,000 for any subsequent offense.

C. Any motor carrier ~~or broker,~~ or any officer, agent, employee, or representative thereof who willfully fails or refuses to make a report to the Department as required by this chapter or to keep accounts, records, and memoranda in the form and manner approved or prescribed by the Department, or knowingly and willfully falsifies, destroys, mutilates, or alters any such report, account, record or memorandum, or knowingly and willfully files any false report, account, record or memorandum, ~~shall be deemed~~ *is* guilty of a misdemeanor and upon conviction thereof *shall* be subject for each offense to a fine of not less than $100 and not more than $5,000.

§ 46.2-2132. Violations; civil penalties.

The Department may impose a civil penalty not exceeding $1,000 if any person has:

1. Made any misrepresentation of a material fact to obtain proper operating credentials as required by this chapter or other requirements in this title regulating the operation of motor vehicles;

2. Failed to make any report required in this chapter;

3. Failed to pay any fee or tax properly assessed against him; or

4. Failed to comply with any provision of this chapter or lawful order, rule or regulation of the Department or any term or condition of any certificate~~,~~ *or* permit~~, or license~~.

Any such penalty shall be imposed by order; however, no order issued pursuant to this section shall become effective until the Department has offered the person an opportunity for an administrative hearing to show cause why the order should not be enforced. Instead of or in addition to imposing such penalty, the Department may suspend, revoke, or cancel any ~~license,~~ permit, certificate of fitness, *or* registration card or identification marker issued pursuant to this title. If, in any such case, it appears that the defendant owes any fee or tax to the Commonwealth, the Department shall enter order therefor.

For the purposes of this section, each separate violation shall be subject to the civil penalty.

§ 46.2-2133. Grounds for denying, suspending, or revoking licenses or certificates.

A ~~license or~~ certificate of fitness issued under this chapter may be denied, suspended, or revoked on any one or more of the following grounds, where applicable:

1. Material misstatement or omission in application for ~~license or~~ certificate of ~~public convenience and necessity, identification marker,~~ *fitness* or vehicle registration;

2. Failure to comply subsequent to receipt of a written warning from the Department or any willful failure to comply with a lawful order, any provision of this chapter or any regulation promulgated by the Department under this chapter, or any term or condition of any ~~license or~~ certificate of fitness;

3. Use of deceptive business acts or practices;

4. Knowingly advertising by any means any assertion, representation, or statement of fact that is untrue, misleading, or deceptive relating to the conduct of the business for which a ~~license,~~ certificate of

fitness~~,~~ ~~identification marker,~~ or vehicle registration is held or sought;

5. Having been found, through a judicial or administrative hearing, to have committed fraudulent or deceptive acts in connection with the business for which a ~~license or~~ certificate of fitness is held or sought or any consumer-related fraud;

6. Having been convicted of any criminal act involving the business for which a ~~license or~~ certificate of fitness is held or sought;

7. Improper leasing, renting, lending, or otherwise allowing the improper use of a ~~license,~~ certificate of fitness, identification marker *issued by the Department*, or vehicle registration;

8. Having been convicted of a felony;

9. Having been convicted of any misdemeanor involving lying, cheating, stealing, or moral turpitude;

10. Failure to submit to the Department any tax, fees, dues, fines, or penalties owed to the Department;

11. Failure to furnish the Department information, documentation, or records required or requested pursuant to statute or regulation;

12. Knowingly and willfully filing any false report, account, record, or memorandum;

13. Failure to meet or maintain application certifications or requirements of character, fitness, and financial responsibility pursuant to this chapter;

14. Willfully altering or changing the appearance or wording of any license, certificate, identification marker *issued by the Department*, license plate, or vehicle registration;

15. Failure to provide services in accordance with ~~license or~~ certificate of fitness terms, limitations, conditions, or requirements;

16. Failure to maintain and keep on file with the Department motor carrier liability insurance or cargo insurance, issued by a company licensed to do business in the Commonwealth, or a bond, certificate of insurance, certificate of self-insurance, or unconditional letter of credit in accordance with this chapter, with respect to each motor vehicle operated in the Commonwealth;

17. Failure to comply with the Workers' Compensation Act of Title 65.2;

18. Failure to properly register a motor vehicle under this title;

19. Failure to comply with any federal motor carrier statute, rule, or regulation; or

20. Inactivity of a motor carrier as may be evidenced by the absence of a motor vehicle registered to operate under such certificate ~~or permit~~ for a period of greater than three months.

§ 46.2-2134. Grounds for denying, suspending, or revoking permits.

A permit issued under this chapter may be denied, suspended, or revoked on any one or more of the following grounds:

1. Failure to submit to the Department any tax, fees, fines, or penalties owed to the Department.

2. Failure to maintain and keep on file with the Department motor carrier liability insurance or cargo insurance, issued by a company licensed to do business in the Commonwealth, or a bond, certificate of insurance, certificate of self-insurance, or unconditional letter of credit in accordance with this chapter, with respect to each motor vehicle operated in the Commonwealth.

3. Inactivity of a motor carrier as may be evidenced by the absence of a motor vehicle registered to operate under such permit ~~or certificate~~ for a period of greater than three months.

§ 46.2-2135. Altering or amending permits or certificates.

The Department may alter or amend a ~~license,~~ permit~~,~~ or certificate of fitness at the request of a ~~licensee,~~ permittee~~,~~ or certificate holder~~,~~ or upon a finding by the Department that a ~~licensee,~~ permittee~~,~~ or certificate holder failed to observe any of the provisions within this chapter, or any of the rules or regulations of the Department, or any term, condition, or limitation of such ~~license~~ *permit* or certificate.

§ 46.2-2136. Suspension, revocation, and refusal to renew permit or certificate; notice and hearing.

A. Except as provided in subsection D ~~of this section~~, unless otherwise provided in this chapter, no ~~license,~~ permit~~,~~ or certificate of fitness issued under this chapter shall be suspended or revoked, or renewal thereof refused, unless the ~~licensee,~~ permittee~~,~~ or certificate holder has been furnished a written copy of the complaint against him and the grounds upon which the action is taken and has been offered an opportunity for an administrative hearing to show cause why such action should not be taken.

B. The order suspending, revoking, or denying renewal of a ~~license,~~ permit~~,~~ or certificate of fitness shall not become effective until the ~~licensee,~~ permittee~~,~~ or certificate holder has, after notice of the opportunity for a hearing, had ~~thirty~~ *30* days to make a written request for such a hearing. If no hearing has been requested within such ~~thirty-day~~ *30-day* period, the order shall become effective and no hearing shall thereafter be held. A timely request for a hearing shall automatically stay operation of the order until after the hearing.

C. Notice of an order suspending, revoking, or denying renewal of a ~~license,~~ permit~~,~~ or certificate of fitness and an opportunity for a hearing shall be mailed to the ~~licensee,~~ permittee~~,~~ or certificate holder by registered or certified mail at the address as shown on the ~~license,~~ permit~~,~~ or certificate or other record of information in possession of the Department and shall be considered served when mailed.

D. If the Department makes a finding, after conducting a preliminary investigation, that the conduct of a ~~licensee,~~ permittee~~,~~ or certificate holder (i) is in violation of this chapter or regulations adopted pursuant to this chapter and (ii) such violation constitutes a danger to public safety, the Department may issue an order suspending the ~~license,~~ permit~~,~~ or certificate. Notice of the suspension shall be in writing and mailed in accordance with subsection C ~~of this section~~. Upon receipt of a request for a hearing appealing the suspension, the ~~licensee,~~ permittee~~,~~ or certificate holder shall be afforded the opportunity for a hearing within ~~thirty~~ *30* days. The suspension shall remain in effect pending the outcome of the hearing.

§ 46.2-2137. Basis for reinstatement of suspended permits or certificates; reinstatement fees.

A. The Department shall reinstate any ~~license,~~ permit~~,~~ or certificate suspended pursuant to this chapter provided the grounds upon which the suspension action was taken have been satisfied and the appropriate reinstatement fee and other applicable fees have been paid to the Department.

B. The reinstatement fee for suspensions issued pursuant to this chapter shall be ~~fifty dollars~~ *$50*. In the event multiple credentials have been suspended under this chapter for the same violation only one reinstatement fee shall be applicable.

C. In addition to a reinstatement fee, a fee of $500 shall be paid for failure of a motor carrier to keep in force at all times insurance, a bond or bonds, in an amount required by this chapter. Any motor carrier who applies for a new ~~license,~~ permit~~,~~ or certificate because his prior ~~license,~~ permit~~,~~ or certificate was revoked for failure to keep in force at all times insurance, a bond or bonds, in an amount required by this chapter, shall also be subject to a fee of $500.

§ 46.2-2138. Basis for reissuance after revocation of permits or certificates; fees.

The Department shall not accept an application for a ~~license,~~ permit~~,~~ or certificate from an applicant where such credentials have been revoked pursuant to this chapter until the period of revocation imposed by the Department has passed. The Department shall process such applications under the same provisions, procedures and requirements as an original application for such ~~license,~~ permit~~,~~ or certificate. The Department shall issue such ~~license,~~ permit~~,~~ or certificate, provided *that* the applicant has met all the appropriate qualifications and requirements, has satisfied the grounds upon which the revocation action was taken, and has paid the appropriate application or filing fees to the Department.

§ 46.2-2139. Surrender of license plate and registration card; removal by law enforcement; operation of vehicle denied.

A. It shall be unlawful for a ~~licensee,~~ permittee~~,~~ or certificate holder whose ~~license,~~ permit~~,~~ or certificate has expired or been revoked or suspended or whose renewal thereof has been denied pursuant to this chapter to fail or refuse to surrender, on demand, to the Department license plates~~,~~ ~~identification markers,~~ and registration cards issued under this title.

B. It shall be unlawful for a vehicle owner who is not the holder of a valid permit or certificate or whose vehicle is not validly leased to a motor carrier holding an active permit or certificate to fail or refuse to surrender to the Department on demand license plates~~,~~ ~~identification markers,~~ and registration cards issued under this title.

C. If any law-enforcement officer finds that a vehicle bearing Virginia license plates or temporary transport plates is in violation of subsection A or B, such law-enforcement officer may remove the license plate or plates~~,~~ ~~identification marker,~~ and registration card. If a law-enforcement officer removes a license plate~~,~~ ~~identification marker,~~ or registration card, he shall forward such license plate~~,~~ ~~identification marker,~~ and registration card to the Department.

D. When informed that a motor carrier vehicle is being operated in violation of this section, the driver shall drive the vehicle to a nearby location off the public highways and not remove it or allow it to be moved until the motor carrier is in compliance with all provisions of this chapter.

§ 46.2-2140. Title to plates.

All registration cards and ~~identification markers~~ *license plates* issued by the Department shall remain the property of the Department.

§ 46.2-2143. Surety bonds, insurance, letter of credit or securities required prior to issuance of registration.

No certificate of fitness, permit~~,~~ ~~identification marker~~, registration card, or license plate shall be issued by the Department to *any motor carrier or for* any vehicle operated by *or on behalf of* a motor carrier until the motor carrier certifies to the Department that the vehicle is covered by one or more of the following, in the amount or amounts set forth in § 46.2-2143.1:

1. An insurance policy or bond;

2. A certificate of insurance in lieu of the insurance policy or bond, certifying that such policy or bond covers the liability of such motor carrier in accordance with the provisions of this article, is issued by an authorized insurer, or in the case of bonds, is in an amount approved by the Department. The bonds may be issued by the Commonwealth of Virginia, the United States of America, or any municipality in the Commonwealth. Such bonds shall be deposited with the State Treasurer and the

surety shall not be reduced except in accordance with an order of the Department;

3. An unconditional letter of credit, issued by a bank doing business in Virginia, for an amount approved by the Department. The letter of credit shall be in effect so long as the motor carrier operates motor vehicles in the Commonwealth; or

4. In the case of a lessor who acts as a registrant for purposes of consolidating lessees' vehicle registration applications, a statement that the registrant has, before leasing a vehicle, obtained from the lessee an insurance policy, bond, or certificate of insurance in lieu of the insurance policy or bond and can make available said proof of insurance coverage upon demand.

Vehicles belonging to carriers who have filed proof of financial responsibility in accordance with the ~~single state registration system authorized by 49 U.S.C. § 14504 or the~~ unified carrier registration system authorized by 49 U.S.C. § 14504a are deemed to have fulfilled the requirements of this article for insurance purposes~~, provided there is on board the vehicle a copy of an insurance receipt issued pursuant to the federal regulations promulgated pursuant to 49 U.S.C. § 14504 or 14504a~~. The Department is further authorized to ~~issue single state registration system or unified carrier registration system receipts to~~ *register* any qualified carrier *under the unified carrier registration system* as well as to collect and disperse the fees for ~~and to qualified jurisdictions~~ *registration under that system.*

§ 46.2-2143.1. Insurance requirement for motor carriers.

A. All motor carriers shall keep in force at all times insurance, a bond, or bonds in an amount required by this section. *However, motor carriers exempt under subdivision 6 of § 46.2-2101 shall only be required to keep in force insurance, a bond, or bonds in the amount required by this section that provide primary coverage from the time the motor carrier or a person acting for or on behalf of the motor carrier accepts the request to transport property and the vehicle is en route to pick up the property until the time the property has been removed from the vehicle and delivered to its final destination.*

B. The minimum public liability financial responsibility requirements for motor carriers operating in intrastate commerce shall be *based on the gross vehicle weight rating of the vehicle as follows: for vehicles with a gross vehicle weight rating in excess of 10,000 pounds, the minimum requirement is* $750,000*; for vehicles with a gross vehicle weight rating in excess of 7,500 pounds but not in excess of 10,000 pounds, the minimum requirement is $300,000; for passenger cars, motorcycles, autocycles, and vehicles with a gross vehicle weight rating of 7,500 pounds or less, the minimum requirement is $50,000 per person and $100,000 per incident for death and bodily injury and at least $25,000 for property damage*. The minimum insurance for motor carriers operating in interstate commerce shall equal the minimum required by federal law, rule, or regulation.

C. *Notwithstanding subsection B, the minimum public financial responsibility requirements for household goods carriers required to obtain a certificate of fitness pursuant to this chapter shall be $750,000.*

D. The minimum cargo insurance required for motor carriers operating in intrastate commerce shall be $50,000. Motor carriers *not* engaged ~~exclusively in the transportation of bulk commodities~~ *in the transportation of household goods and those solely operating passenger cars, motorcycles, autocycles, and vehicles with a gross vehicle weight rating of 7,500 pounds or less* shall not be required to file any cargo insurance, bond, or bonds for cargo liability.

~~D. Any motor carrier that meets the minimum federal financial responsibility requirements and also operates in intrastate commerce may submit, in lieu of a separate filing for its intrastate operation pursuant to § 46.2-2143, proof of the minimum federal limits, provided that (i) both interstate and intrastate operations are insured, (ii) the public liability filed is at least $750,000, and (iii) any cargo insurance requirements of this section have been met.~~

§ 46.2-2143.2. Special insurance provisions for certain carriers.

A. The provisions of this section shall apply only to motor carriers exempt under subdivision 6 of § 46.2-2101 and insurance policies maintained by such carriers pursuant to this article.

B. Insurance coverage for motor carriers shall be primary, and the requirements of § 46.2-2143.1 may be satisfied by any of the following:

1. Insurance maintained by the motor carrier;

2. Insurance maintained by another person on behalf of the motor carrier; or

3. Any combination of subdivisions 1 and 2.

C. A motor carrier may meet its obligation under subsection B of § 46.2-2143.1 through a policy obtained by a person other than the carrier under subdivision B 2 or 3 only if the motor carrier verifies that the policy is maintained by such other person.

D. Insurers providing coverage under subsection B of § 46.2-2143.1 shall have the exclusive duty to defend any liability claim, including any claim against a motor carrier or person acting for or on behalf of the motor carrier, arising from an accident occurring within the time period specified in subsection A of § 46.2-2143.1. Insurers of the personal automobile insurance policy of neither a person acting for or on behalf of the motor carrier nor the vehicle's owner shall have the duty to defend or indemnify the

activities of a person acting for or on behalf of a motor carrier in connection with the motor carrier unless such policy expressly provides otherwise for the period of time to which subsection A of § 46.2-2143.1 is applicable or the policy contains an amendment or endorsement to provide that coverage.

E. Coverage under a motor carrier's insurance policy shall not be dependent on a personal automobile policy's first denying a claim, nor shall a personal automobile insurance policy be required to first deny a claim.

F. Nothing in this section shall be construed to require a personal automobile insurance policy to provide primary or excess coverage. The personal automobile insurance policy of neither a person acting for or on behalf of the motor carrier nor the vehicle's owner shall provide coverage for activities in connection with the motor carrier to such person acting for or on behalf of the motor carrier, the vehicle owner, or any third party unless such policy expressly provides otherwise for the period of time to which subsection A of § 46.2-2143.1 is applicable or the policy contains an amendment or endorsement to provide that coverage.

G. In every instance where motor carrier insurance maintained by a person other than the motor carrier to fulfill the insurance obligations of subsection B of § 46.2-2143.1 has lapsed or ceased to exist, the motor carrier shall provide the coverage required by that subsection beginning with the first dollar of a claim.

H. This section shall not limit the liability of a motor carrier arising out of an accident involving a person acting for or on behalf of the carrier in any action for damages against a motor carrier for an amount above the required insurance coverage.

I. Any person, or an attorney acting on his behalf, who suffers a loss in an automobile accident with a reasonable belief that the accident involves a vehicle operated by a person acting for or on behalf of a motor carrier and who provides the motor carrier with the date, approximate time, and location of the accident, the name of the vehicle operator, if available, and the accident report, if available, may request in writing from the motor carrier information relating to the insurance coverage and the company providing the coverage. The motor carrier shall respond electronically or in writing within 30 days. The motor carrier's response shall contain the following information: (i) whether, at the approximate time of the accident, the vehicle was being operated for or on behalf of the motor carrier; (ii) the name of the insurance carrier providing primary coverage; and (iii) the identity and last known address of the vehicle operator.

J. Any insurance required by subsection B of § 46.2-2143.1 may be placed with an insurer that has been admitted in Virginia or with an insurer providing surplus lines insurance as defined in § 38.2-4805.2.

K. Any insurance policy required by subsection B of § 46.2-2143.1 shall satisfy the financial responsibility requirement for a motor vehicle under § 46.2-706 during the period such vehicle is being operated for or on behalf of a motor carrier.

L. In a claims coverage investigation, a motor carrier and its insurer shall cooperate with insurers involved in the claims coverage investigation to facilitate the exchange of information, including the date and time of any accident involving a vehicle operated for or on behalf of the motor carrier and the precise times that the vehicle was being operated for or on behalf of the motor carrier.

§ 46.2-2144. Policies or surety bonds to be filed with the Department and securities with State Treasurer.

A. Each motor carrier shall keep on file with the Department proof of an insurance policy or bond in accordance with this article. Record of the policy or bond shall remain in the files of the Department six months after the certificate of fitness, registration card, license plate, ~~identification marker~~ or permit is canceled for any cause. If federal, state, or municipal bonds are deposited with the State Treasurer in lieu of an insurance policy, the bonds shall remain deposited until six months after the registration card, license plate, certificate, *or* permit ~~or identification marker~~ is canceled for any cause unless otherwise ordered by the Department.

B. The Department may, without holding a hearing, suspend a permit or certificate of fitness if the permittee or certificate holder fails to comply with the requirements of this section.

2. That § 46.2-2108.3 and Article 5 (§§ 46.2-2174, 46.2-2175, and 46.2-2176) of Chapter 21 of Title 46.2 of the Code of Virginia are repealed.

3. That the provisions of this act shall become effective on October 1, 2017.