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HOUSE BILL NO. 1153

Offered January 10, 2018

Prefiled January 10, 2018

A *BILL to amend and reenact §§ 46.2-320.1, 46.2-320.2, 46.2-324.1, 46.2-341.9, 46.2-341.12, 46.2-341.14:01, and 46.2-395 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 46.2-341.15:1, relating to issuance of restricted commercial driver's licenses; non-driving offenses; penalties.*

 Patron—Wilt

 Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-320.1, 46.2-320.2, 46.2-324.1, 46.2-341.9, 46.2-341.12, 46.2-341.14:01, and 46.2-395 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 46.2-341.15:1 as follows:

§ 46.2-320.1. Other grounds for suspension; nonpayment of child support.

A. The Commissioner may enter into an agreement with the Department of Social Services whereby the Department may suspend or refuse to renew the driver's license of any person upon receipt of notice from the Department of Social Services that the person (i) is delinquent in the payment of child support by 90 days or more or in an amount of \$5,000 or more or (ii) has failed to comply with a subpoena, summons, or warrant relating to paternity or child support proceedings. A suspension or refusal to renew authorized pursuant to this section shall not be effective until 30 days after service on the delinquent obligor of notice of intent to suspend or refusal to renew. The notice of intent shall be served on the obligor by the Department of Social Services (a) by certified mail, return receipt requested, or by electronic means, sent to the obligor's last known addresses as shown in the records of the Department or the Department of Social Services or (b) pursuant to § 8.01-296, or service may be waived by the obligor in accordance with procedures established by the Department of Social Services. The obligor shall be entitled to a judicial hearing if a request for a hearing is made, in writing, to the Department of Social Services within 10 days from service of the notice of intent. Upon receipt of the request for a hearing, the Department of Social Services shall petition the court that entered or is enforcing the order, requesting a hearing on the proposed suspension or refusal to renew. The court shall authorize the suspension or refusal to renew only if it finds that the obligor's noncompliance with the child support order was willful. Upon a showing by the Department of Social Services that the obligor is delinquent in the payment of child support by 90 days or more or in an amount of \$5,000 or more, the burden of proving that the delinquency was not willful shall rest upon the obligor. The Department shall not suspend or refuse to renew the driver's license until a final determination is made by the court.

B. At any time after service of a notice of intent, the person may petition the juvenile and domestic relations district court in the jurisdiction where he resides for the issuance of a restricted license to be used if the suspension or refusal to renew becomes effective. Upon such petition and a finding of good cause, the court may provide that such person be issued a restricted permit to operate a motor vehicle for any of the purposes set forth in subsection E of § 18.2-271.1. A restricted license issued pursuant to this subsection shall not permit any person to operate a commercial motor vehicle as defined in § 46.2-341.4. The court shall order the surrender of the person's license to operate a motor vehicle, to be disposed of in accordance with the provisions of § 46.2-398, and shall forward to the Commissioner a copy of its order entered pursuant to this subsection. The order shall specifically enumerate the restrictions imposed and contain such information regarding the person to whom such a permit is issued as is reasonably necessary to identify him.

B1. If, pursuant to subsection B, the court orders that a person be issued a permit to operate a motor vehicle for the purpose of travel during the hours of such person's employment if the operation of a motor vehicle is a necessary incident of such employment, the court, in its discretion, may provide that such person be issued a restricted commercial driver's license for the same purpose. Nothing herein shall permit the issuance of a restricted commercial driver's license for any purpose other than travel during the hours of such person's employment if the operation of a motor vehicle is a necessary incident of such employment. Nothing herein shall permit the issuance of a restricted commercial driver's license to a person who was issued such restricted driver's license pursuant to any other section.

The court shall order the surrender of such person's license to operate a commercial motor vehicle to be disposed of in accordance with the provisions of § 46.2-398 and shall forward to the Commissioner a copy of its order entered pursuant to this subsection, which shall specifically enumerate

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59 *the restrictions imposed and contain such information regarding the person to whom such a permit is*
60 *issued as is reasonably necessary to identify such person. The court shall also provide a copy of its*
61 *order to the person so convicted who may operate a commercial motor vehicle on the order until receipt*
62 *from the Commissioner of a restricted commercial driver's license, if the order provides for a restricted*
63 *commercial driver's license for that time period. A copy of such order and, after receipt thereof, the*
64 *restricted commercial driver's license shall be carried at all times while operating a commercial motor*
65 *vehicle. Any person who operates a commercial motor vehicle in violation of any restrictions imposed*
66 *pursuant to this subsection shall be guilty of a violation of § 18.2-272.*

67 C. The Department shall not renew a driver's license or terminate a license suspension imposed
68 pursuant to this section until it has received from the Department of Social Services a certification that
69 the person has (i) paid the delinquency in full; (ii) reached an agreement with the Department of Social
70 Services to satisfy the delinquency within a period not to exceed 10 years, and at least one payment
71 representing at least five percent of the total delinquency or \$600, whichever is greater, has been made
72 pursuant to the agreement; (iii) complied with a subpoena, summons, or warrant relating to a paternity
73 or child support proceeding; or (iv) completed or is successfully participating in an intensive case
74 monitoring program for child support as ordered by a juvenile and domestic relations district court or as
75 administered by the Department of Social Services. Certification by the Department of Social Services
76 shall be made by electronic or telephonic communication and shall be made on the same work day that
77 payment required by clause (i) or (ii) is made.

78 D. If a person who has entered into an agreement with the Department of Social Services pursuant to
79 clause (ii) of subsection C fails to comply with the requirements of the agreement, the Department of
80 Social Services shall notify the Department of the person's noncompliance and the Department shall
81 suspend or refuse to renew the driver's license of the person until it has received from the Department
82 of Social Services a certification that the person has paid the delinquency in full or has entered into a
83 subsequent agreement with the Department of Social Services to satisfy the delinquency within a period
84 not to exceed seven years and has made at least one payment of \$1,200 or five percent of the total
85 delinquency, whichever is greater, pursuant to the agreement. If the person fails to comply with the
86 terms of a subsequent agreement reached with the Department of Social Services pursuant to this
87 section, without further notice to the person as provided in the subsequent agreement, the Department of
88 Social Services shall notify the Department of the person's noncompliance, and the Department shall
89 suspend or refuse to renew the driver's license of the person. A person who has failed to comply with
90 the terms of a second or subsequent agreement pursuant to this subsection may be granted a new
91 agreement with the Department of Social Services if the person has made at least one payment of
92 \$1,800 or five percent of the total delinquency, whichever is greater, and agrees to a repayment schedule
93 of not more than seven years. Upon receipt of certification from the Department of Social Services of
94 the person's satisfaction of these conditions, the Department shall issue a driver's license to the person or
95 reinstate the person's driver's license. Certification by the Department of Social Services shall be made
96 by electronic or telephonic communication and shall be made on the same work day that payment
97 required by this subsection is made.

98 **§ 46.2-320.2. Other grounds for suspension; nonpayment of fees owed to local correctional**
99 **facilities or regional jails.**

100 A. The Commissioner may enter into an agreement with a local correctional facility or regional jail
101 whereby the Department shall suspend or refuse to renew the driver's license of any person upon receipt
102 of notice from the local correctional facility or regional jail that (i) the person is delinquent in payment
103 of fees imposed under § 53.1-131.3, (ii) a judgment for such fees has been issued by a court of
104 competent jurisdiction, and (iii) a court of competent jurisdiction has, for good cause, ordered the
105 suspension or nonrenewal of the driver's license of the person in accordance with the provisions of this
106 section. A suspension or refusal to renew authorized pursuant to this section shall be effective upon
107 notice to the Department by the local correctional facility or regional jail. Notification to the Department
108 by the local correctional facility or regional jail shall be made by electronic communication, which shall
109 include copies of the judgment and court order for suspension or nonrenewal of the person's driver's
110 license and provide the person's most current mailing address.

111 B. The Department shall not renew a driver's license or terminate a license suspension imposed
112 pursuant to this section until it has received from the local correctional facility or regional jail a
113 notification that the person has (i) paid the delinquency in full or (ii) reached an agreement with the
114 local correctional facility or regional jail to satisfy the delinquency within an acceptable period.
115 Notification to the Department by the local correctional facility or regional jail shall be made by
116 electronic communication and shall be made on the same work day that the payment or agreement
117 required by clause (i) or (ii) is made.

118 C. Any person whose license is suspended pursuant to subsection A may petition the district court of
119 the jurisdiction where he resides or wherein the jail or correctional facility is located for the issuance of
120 a restricted driver's license for a period not to exceed one year for any of the purposes set forth in

subsection E of § 18.2-271.1. The district court may, for good cause shown, issue such a restricted permit.

C1. If, pursuant to subsection C, the court orders that a person be issued a permit to operate a motor vehicle for the purpose of travel during the hours of such person's employment if the operation of a motor vehicle is a necessary incident of such employment, the court, in its discretion, may provide that such person be issued a restricted commercial driver's license for the same purpose. Nothing herein shall permit the issuance of a restricted commercial driver's license for any purpose other than travel during the hours of such person's employment if the operation of a motor vehicle is a necessary incident of such employment. Nothing herein shall permit the issuance of a restricted commercial driver's license to a person who was issued such restricted driver's license pursuant to any other section.

The court shall order the surrender of such person's license to operate a commercial motor vehicle to be disposed of in accordance with the provisions of § 46.2-398 and shall forward to the Commissioner a copy of its order entered pursuant to this subsection, which shall specifically enumerate the restrictions imposed and contain such information regarding the person to whom such a permit is issued as is reasonably necessary to identify such person. The court shall also provide a copy of its order to the person so convicted who may operate a commercial motor vehicle on the order until receipt from the Commissioner of a restricted commercial driver's license, if the order provides for a restricted commercial driver's license for that time period. A copy of such order and, after receipt thereof, the restricted commercial driver's license shall be carried at all times while operating a commercial motor vehicle. Any person who operates a commercial motor vehicle in violation of any restrictions imposed pursuant to this subsection shall be guilty of a violation of § 18.2-272.

§ 46.2-324.1. Requirements for initial licensure of certain applicants.

A. No driver's license shall be issued to any applicant unless he either (i) provides written evidence of having satisfactorily completed a course of driver instruction at a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) or a comparable course approved by the Department or Department of Education or (ii) has held a learner's permit issued by the Department for at least 60 days prior to his first behind-the-wheel examination by the Department when applying for a noncommercial driver's license.

The provisions of this section shall only apply to persons who are at least 18 years old and who either (a) have never held a driver's license issued by Virginia or any other state or territory of the United States or foreign country or (b) have never been licensed or held the license endorsement or classification required to operate the type of vehicle which they now propose to operate. Completion of a course of driver instruction approved by the Department or the Department of Education at a driver training school may include the final behind-the-wheel examination for a driver's license; however, a driver training school shall not administer the behind-the-wheel examination to any applicant who is under medical control pursuant to § 46.2-322. Applicants completing a course of driver instruction approved by the Department or the Department of Education at a driver training school retain the option of having the behind-the-wheel examination administered by the Department.

B. No commercial driver's license shall be issued to any applicant unless he is 18 years old or older and has complied with the requirements of ~~subsection~~ *subsections A through I* of § 46.2-341.9. Applicants for a commercial driver's license who have never before held a commercial driver's license shall apply for a commercial learner's permit and either (i) provide written evidence of having satisfactorily completed a course of driver instruction at a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) or a comparable course approved by the Department or Department of Education and hold the commercial learner's permit for a minimum of 14 days prior to taking the behind-the-wheel examination for the commercial driver's license or (ii) hold the commercial learner's permit for a minimum of 30 days before taking the behind-the-wheel examination for the commercial driver's license.

Holders of a commercial driver's license who have never held the license endorsement or classification required to operate the type of commercial motor vehicle which they now propose to operate must apply for a commercial learner's permit if the upgrade requires a skills test and hold the permit for a minimum of 14 days prior to taking the behind-the-wheel examination for the commercial driver's license.

C. Nothing in this section shall be construed to prohibit the Department from requiring any person to complete the skills examination as prescribed in § 46.2-325 and the written or automated examinations as prescribed in § 46.2-335.

D. Notwithstanding the provisions of subsection B, applicants for a commercial driver's license who have never before held a commercial driver's license who are members of the active duty military, military reserves, National Guard, active duty United States Coast Guard, or Coast Guard Auxiliary and provide written evidence of having satisfactorily completed a military commercial driver training program shall hold the commercial learner's permit for a minimum of 14 days prior to taking the

182 behind-the-wheel examination for the commercial driver's license.

183 E. Notwithstanding the provisions of subsection B, applicants for a commercial driver's license who
184 have never before held a commercial driver's license who are employed by a public school division as a
185 bus driver and provide written evidence of having satisfactorily completed a commercial driver training
186 program with a public school division shall hold the commercial learner's permit for a minimum of 14
187 days prior to taking the behind-the-wheel examination for the commercial driver's license.

188 **§ 46.2-341.9. Eligibility for commercial driver's license or commercial learner's permit.**

189 A. A Virginia commercial driver's license or commercial learner's permit shall be issued only to a
190 person who drives or intends to drive a commercial motor vehicle, who is domiciled in the
191 Commonwealth, and who is eligible for a commercial driver's license or commercial learner's permit
192 under such terms and conditions as the Department may require.

193 B. No person shall be eligible for a Virginia commercial driver's license or commercial learner's
194 permit until he has applied for such license or permit and has passed the applicable vision, knowledge
195 and skills tests required by this article, and has satisfied all other applicable licensing requirements
196 imposed by the laws of the Commonwealth. Such requirements shall include meeting the standards
197 contained in subparts F, G, and H, of Part 383 of the FMCSA regulations.

198 C. No person shall be eligible for a Virginia commercial driver's license or commercial learner's
199 permit during any period in which he is disqualified from driving a commercial motor vehicle, or his
200 driver's license or privilege to drive is suspended, revoked or cancelled in any state, or during any
201 period wherein the restoration of his license or privilege is contingent upon the furnishing of proof of
202 financial responsibility. *The provisions of this subsection shall not apply to any person granted a*
203 *restricted commercial driver's license pursuant to subsection B1 of § 46.2-320.1, subsection C1 of §*
204 *46.2-320.2, or subsection E1 of § 46.2-395.*

205 D. No person shall be eligible for a Virginia commercial driver's license until he surrenders all other
206 driver's licenses issued to him by any state.

207 E. No person shall be eligible for a Virginia commercial learner's permit until he surrenders all other
208 driver's licenses and permits issued to him by any other state. The applicant for a commercial learner's
209 permit is not required to surrender his Virginia noncommercial driver's license.

210 F. No person under the age of 21 years shall be eligible for a commercial driver's license, except that
211 a person who is at least 18 years of age may be issued a commercial driver's license or commercial
212 learner's permit, provided that such person is exempt from or is not subject to the age requirements of
213 the Federal Motor Carrier Safety Regulations contained in 49 C.F.R. Part 391, and is not prohibited
214 from operating a commercial motor vehicle by the Virginia Motor Carrier Safety Regulations, and has
215 so certified. No person under the age of 21 years shall be issued a hazardous materials endorsement.

216 G. No person shall be eligible for a Virginia commercial driver's license to drive a Type S vehicle,
217 as defined in subsection B of § 46.2-341.16, during any period in which he is a person for whom
218 registration with the Sex Offender and Crimes Against Minors Registry is required pursuant to Chapter 9
219 (§ 9.1-900 et seq.) of Title 9.1.

220 H. In determining the eligibility of any applicant for a Virginia commercial driver's license, the
221 Department shall consider, to the extent not inconsistent with federal law, the applicant's military
222 training and experience.

223 I. A person for whom registration with the Sex Offender and Crimes Against Minors Registry is
224 required pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 may be issued a Virginia commercial
225 driver's license to drive a Type P vehicle, as defined in subsection B of § 46.2-341.16, provided the
226 commercial driver's license includes a restriction prohibiting the license holder from operating a
227 commercial vehicle to transport children to or from activities sponsored by a school or by a child day
228 care facility licensed, regulated, or approved by the Virginia Department of Social Services.

229 ~~B.~~ J. Notwithstanding the provisions of ~~subsection~~ *subsections A through I*, pursuant to 49 U.S.C.
230 31311(a)(12) a commercial driver's license or commercial learner's permit may be issued to an individual
231 who (i) operates or will operate a commercial motor vehicle; (ii) is a member of the active duty
232 military, military reserves, National Guard, active duty United States Coast Guard, or Coast Guard
233 Auxiliary; and (iii) is not domiciled in the Commonwealth, but whose temporary or permanent duty
234 station is located in the Commonwealth.

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

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

5. Social security number;
 6. Domicile or, if not domiciled in the Commonwealth, proof of status as a member of the active duty military, military reserves, National Guard, active duty United States Coast Guard, or Coast Guard Auxiliary pursuant to 49 U.S.C. § 31311(a)(12); and
 7. Any other information required on the application form.
 The applicant's social security number shall be provided to the Commercial Driver's License Information System as required by 49 C.F.R. § 383.153.
 B. Every applicant for a commercial driver's license or commercial learner's permit shall also submit to the Department the following:
 1. A consent to release driving record information;
 2. Certifications that:
 a. He either meets the federal qualification requirements of 49 C.F.R. Parts 383 and 391, or he is exempt from or is not subject to such federal requirements;
 b. He either meets the state qualification requirements established pursuant to § 52-8.4, or he is exempt from or is not subject to such requirements;
 c. The motor vehicle in which the applicant takes the skills test is representative of the class and, if applicable, the type of motor vehicle for which the applicant seeks to be licensed;
 d. He is not subject to any disqualification, suspension, revocation, or cancellation of his driving privileges. *For the purposes of this subdivision, any person who has a valid and unexpired restricted driver's license and restricted commercial driver's license issued pursuant to subsection B of § 46.2-230.1 and subsection B1 of § 46.2-320.1, respectively; subsection C of § 46.2-320.2 and subsection C1 of § 46.2-320.2, respectively; or subsection E of § 46.2-395 and subsection E1 of § 46.2-395, respectively, shall not be considered to be subject to any disqualification, suspension, revocation, or cancellation of his driving privileges for any such restriction; and*
 e. He does not have more than one driver's license;
 3. Other certifications required by the Department;
 4. Any evidence required by the Department to establish proof of identity, citizenship or lawful permanent residency, domicile, and social security number notwithstanding the provisions of § 46.2-328.1 and pursuant to 49 C.F.R. Part 383;
 5. A statement indicating whether (i) the applicant has previously been licensed to drive any type of motor vehicle during the previous 10 years and, if so, all states that licensed the applicant and the dates he was licensed, and (ii) whether or not he has ever been disqualified, or his license suspended, revoked or cancelled and, if so, the date of and reason therefor; and
 6. An unexpired employment authorization document (EAD) issued by the U.S. Citizenship and Immigration Services (USCIS) or an unexpired foreign passport accompanied by an approved Form I-94 documenting the applicant's most recent admittance into the United States for persons applying for a nondomiciled commercial driver's license or nondomiciled commercial learner's permit.
 C. Every application for a commercial driver's license shall include a photograph of the applicant supplied under arrangements made therefor by the Department in accordance with § 46.2-323.
 D. The Department shall disqualify any commercial driver for a period of one year when the records of the Department clearly show to the satisfaction of the Commissioner that such person has made a material false statement on any application or certification made for a commercial driver's license or commercial learner's permit. The Department shall take such action within 30 days after discovering such falsification.
 E. The Department shall review the driving record of any person who applies for a Virginia commercial driver's license or commercial learner's permit, for the renewal or reinstatement of such license or permit or for an additional commercial classification or endorsement, including the driving record from all jurisdictions where, during the previous 10 years, the applicant was licensed to drive any type of motor vehicle. Such review shall include checking the photograph on record whenever the applicant or holder appears in person to renew, upgrade, transfer, reinstate, or obtain a duplicate commercial driver's license or to renew, upgrade, reinstate, or obtain a duplicate commercial learner's permit. If appropriate, the Department shall incorporate information from such other jurisdictions' records into the applicant's Virginia driving record, and shall make a notation on the applicant's driving record confirming that such review has been completed and the date it was completed. The Department's review shall include research through the Commercial Driver License Information System established pursuant to the Commercial Motor Vehicle Safety Act and the National Driver Register Problem Driver Pointer System in addition to the driver record maintained by the applicant's previous jurisdictions of licensure. This research shall be completed prior to the issuance, renewal, transfer, or reinstatement of a commercial driver's license or additional commercial classification or endorsement.
 The Department shall verify the name, date of birth, and Social Security number provided by the applicant with the information on file with the Social Security Administration for initial issuance of a

commercial learner's permit or transfer of a commercial driver's license from another state. The Department shall make a notation in the driver's record confirming that the necessary verification has been completed and noting the date it was done. The Department shall also make a notation confirming that proof of citizenship or lawful permanent residency has been presented and the date it was done.

F. Every new applicant for a commercial driver's license or commercial learner's permit, including any person applying for a commercial driver's license or permit after revocation of his driving privileges, who certifies that he will operate a commercial motor vehicle in non-excepted interstate or intrastate commerce shall provide the Department with an original or certified copy of a medical examiner's certificate prepared by a medical examiner as defined in 49 C.F.R. § 390.5. Upon receipt of an appropriate medical examiner's certificate, the Department shall post a certification status of "certified" on the record of the driver on the Commercial Driver's License Information System. Any new applicant for a commercial driver's license or commercial learner's permit who fails to comply with the requirements of this subsection shall be denied the issuance of a commercial driver's license or commercial learner's permit by the Department.

G. Every existing holder of a commercial driver's license or commercial learner's permit who certifies that he will operate a commercial motor vehicle in non-excepted interstate or intrastate commerce shall provide the Department with an original or certified copy of a medical examiner's certificate prepared by a medical examiner as defined in 49 C.F.R. § 390.5. Upon receipt of an appropriate medical examiner's certificate, the Department shall post a certification status of "certified" and any other necessary information on the record of the driver on the Commercial Driver's License Information System. If an existing holder of a commercial driver's license fails to provide the Department with a medical certificate as required by this subsection, the Department shall post a certification status of "noncertified" on the record of the driver on the Commercial Driver's License Information System and initiate a downgrade of his commercial driver's license as defined in 49 C.F.R. § 383.5.

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

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

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

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

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

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

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

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

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

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

b. Has not had any license suspended, revoked, canceled, or disqualified. *For the purposes of this subdivision, any person who has had a restricted driver's license and restricted commercial driver's license issued pursuant to subsection B of § 46.2-230.1 and subsection B1 of § 46.2-320.1, respectively; subsection C of § 46.2-320.2 and subsection C1 of § 46.2-320.2, respectively; or subsection E of § 46.2-395 and subsection E1 of § 46.2-395, respectively, shall not be considered to*

have been subject to any disqualification, suspension, revocation, or cancellation of his driving privileges for any such restriction;

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

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

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

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

a. Is regularly employed or was regularly employed within the last 90 days or any other period authorized by the FMCSA in a military position requiring operation of a commercial motor vehicle;

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

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

§ 46.2-341.15:1. Issuance of restricted commercial driver's license.

The Department shall, upon receipt of a court order issued pursuant to subsection B1 of § 46.2-320.1, subsection C1 of § 46.2-320.2, or subsection E1 of § 46.2-395, issue a restricted commercial driver's license to the person named in the court order.

Such permit shall meet the requirements of § 46.2-341.15 and shall state that the license is invalid unless accompanied by the court order authorizing the issuance of such restricted license. Such license shall also contain the words "only valid for travel during the hours of holder's employment" on the face of the document. Such permit shall have an expiration date.

No person who, while in possession of a court order issued pursuant to subsection B1 of § 46.2-320.1, subsection C1 of § 46.2-320.2, or subsection E1 of § 46.2-395 but prior to the receipt of a restricted commercial vehicle license issued pursuant to this section, operates a commercial motor vehicle in compliance with such court order shall be guilty of a violation of § 46.2-341.7.

§ 46.2-395. Suspension of license for failure or refusal to pay fines or costs.

A. Any person, whether licensed by Virginia or not, who drives a motor vehicle on the highways in the Commonwealth shall thereby, as a condition of such driving, consent to pay all lawful fines, court costs, forfeitures, restitution, and penalties assessed against him for violations of the laws of the Commonwealth; of any county, city, or town; or of the United States. For the purpose of this section, such fines and costs shall be deemed to include any fee assessed by the court under the provisions of § 18.2-271.1 for entry by a person convicted of a violation of § 18.2-51.4 or 18.2-266 into an alcohol safety action program.

B. In addition to any penalty provided by law and subject to the limitations on collection under §§ 19.2-340 and 19.2-341, when any person is convicted of any violation of the law of the Commonwealth or of the United States or of any valid local ordinance and fails or refuses to provide for immediate payment in full of any fine, costs, forfeitures, restitution, or penalty lawfully assessed against him, or fails to make deferred payments or installment payments as ordered by the court, the court shall forthwith suspend the person's privilege to drive a motor vehicle on the highways in the Commonwealth. The driver's license of the person shall continue suspended until the fine, costs, forfeiture, restitution, or penalty has been paid in full. However, if the defendant, after having his license suspended, pays the reinstatement fee to the Department of Motor Vehicles and enters into an agreement under § 19.2-354 that is acceptable to the court to make deferred payments or installment payments of unpaid fines, costs, forfeitures, restitution, or penalties as ordered by the court, the defendant's driver's license shall thereby be restored. If the person has not obtained a license as provided in this chapter, or is a nonresident, the court may direct in the judgment of conviction that the person shall not drive any motor vehicle in Virginia for a period to coincide with the nonpayment of the amounts due.

C. Before transmitting to the Commissioner a record of the person's failure or refusal to pay all or part of any fine, costs, forfeiture, restitution, or penalty or a failure to comply with an order issued pursuant to § 19.2-354, the clerk of the court that convicted the person shall provide or cause to be sent to the person written notice of the suspension of his license or privilege to drive a motor vehicle in Virginia, effective 30 days from the date of conviction, if the fine, costs, forfeiture, restitution, or penalty is not paid prior to the effective date of the suspension as stated on the notice. Notice shall be provided to the person at the time of trial or shall be mailed by first-class mail to the address certified on the summons or bail recognizance document as the person's current mailing address, or to such mailing address as the person has subsequently provided to the court as a change of address. If so mailed on the date of conviction or within five business days thereof, or if delivered to the person at the time of trial, such notice shall be adequate notice of the license suspension and of the person's ability to

428 avoid suspension by paying the fine, costs, forfeiture, restitution, or penalty prior to the effective date.
429 No other notice shall be required to make the suspension effective. A record of the person's failure or
430 refusal and of the license suspension shall be sent to the Commissioner if the fine, costs, forfeiture,
431 restitution, or penalty remains unpaid on the effective date of the suspension specified in the notice or
432 on the failure to make a scheduled payment.

433 C1. Whenever a person provides for payment of a fine, costs, forfeiture, restitution or penalty other
434 than by cash and such provision for payment fails, the clerk of the court that convicted the person shall
435 cause to be sent to the person written notice of the failure and of the suspension of his license or
436 privilege to drive in Virginia. The license suspension shall be effective 10 days from the date of the
437 notice. The notice shall be effective notice of the suspension and of the person's ability to avoid the
438 suspension by paying the full amount owed by cash, cashier's check or certified check prior to the
439 effective date of the suspension if the notice is mailed by first class mail to the address provided by the
440 person to the court pursuant to subsection C or § 19.2-354. Upon such a failure of payment and notice,
441 the fine, costs, forfeiture, restitution or penalty due shall be paid only in cash, cashier's check or
442 certified check, unless otherwise ordered by the court, for good cause shown.

443 D. If the person pays the amounts assessed against him subsequent to the time the suspended license
444 has been transmitted to the Department, and his license is not under suspension or revocation for any
445 other lawful reason, except pursuant to this section, then the Commissioner shall return the license to the
446 person on presentation of the official report of the court evidencing the payment of the fine, costs,
447 forfeiture, restitution, or penalty.

448 E. Any person otherwise eligible for a restricted license may petition each court that suspended his
449 license pursuant to this section for authorization for a restricted license. A court may, upon written
450 verification of employment and for good cause shown, authorize the Department of Motor Vehicles to
451 issue a restricted license to operate a motor vehicle for any of the purposes set forth in subsection E of
452 § 18.2-271.1. No restricted license may be issued unless each court which suspended the person's license
453 pursuant to this section provides authorization for a restricted license. Such restricted license shall not be
454 issued for more than a six-month period. No restricted license issued pursuant to this subsection shall
455 permit a person to operate a commercial motor vehicle as defined in the Commercial Driver's License
456 Act (§ 46.2-341.1 et seq.).

457 The court shall forward to the Commissioner a copy of its authorization entered pursuant to this
458 section, which shall specifically enumerate the restrictions imposed and contain such information
459 regarding the person to whom such a license is issued as is reasonably necessary to identify the person.
460 The court shall also provide a copy of its authorization to the person, who may not operate a motor
461 vehicle until receipt from the Commissioner of a restricted license. A copy of the restricted license
462 issued by the Commissioner shall be carried at all times while operating a motor vehicle. Any person
463 who operates a motor vehicle in violation of any restrictions imposed pursuant to this section shall be
464 punished as provided in subsection C of § 46.2-301.

465 *E1. If, pursuant to subsection E, the court orders that a person be issued a permit to operate a*
466 *motor vehicle for the purpose of travel during the hours of such person's employment if the operation of*
467 *a motor vehicle is a necessary incident of such employment, the court, in its discretion, may provide*
468 *that such person be issued a restricted commercial driver's license for the same purpose. Nothing herein*
469 *shall permit the issuance of a restricted commercial driver's license for any purpose other than travel*
470 *during the hours of such person's employment if the operation of a motor vehicle is a necessary incident*
471 *of such employment. Nothing herein shall permit the issuance of a restricted commercial driver's license*
472 *to a person who was issued such restricted driver's license pursuant to any other section.*

473 *The court shall order the surrender of such person's license to operate a commercial motor vehicle*
474 *to be disposed of in accordance with the provisions of § 46.2-398 and shall forward to the*
475 *Commissioner a copy of its order entered pursuant to this subsection, which shall specifically enumerate*
476 *the restrictions imposed and contain such information regarding the person to whom such a permit is*
477 *issued as is reasonably necessary to identify such person. The court shall also provide a copy of its*
478 *order to the person so convicted who may operate a commercial motor vehicle on the order until receipt*
479 *from the Commissioner of a restricted commercial driver's license, if the order provides for a restricted*
480 *commercial driver's license for that time period. A copy of such order and, after receipt thereof, the*
481 *restricted commercial driver's license shall be carried at all times while operating a commercial motor*
482 *vehicle. Any person who operates a commercial motor vehicle in violation of any restrictions imposed*
483 *pursuant to this subsection shall be guilty of a violation of § 18.2-272.*

484 F. Notwithstanding any other provision of law imposing a license suspension, revocation, or
485 forfeiture against a person whose license is suspended pursuant to this section, the period of suspension
486 imposed under this section shall run concurrently with any other license suspension, revocation, or
487 forfeiture imposed.

488 **2. That the provisions of this act are contingent upon receipt by the Virginia Department of**
489 **Transportation of written assurance from the Federal Motor Carrier Safety Administration of the**

490 U.S. Department of Transportation that Virginia will not lose any federal funds as a result of the
491 implementation of this act.
492 3. That the provisions of this act may result in a net increase in periods of imprisonment or
493 commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot
494 be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter
495 836 of the Acts of Assembly of 2017 requires the Virginia Criminal Sentencing Commission to
496 assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4, the estimated amount of the
497 necessary appropriation cannot be determined for periods of commitment to the custody of the
498 Department of Juvenile Justice.

INTRODUCED

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