

VIRGINIA ACTS OF ASSEMBLY -- 2021 SPECIAL SESSION I

CHAPTER 136

An Act to amend and reenact §§ 46.2-341.18, 46.2-382, and 46.2-1702 of the Code of Virginia, relating to commercial driver's licenses.

[H 1868]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-341.18, 46.2-382, and 46.2-1702 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-341.18. Disqualification for certain offenses.

A. Except as otherwise provided in this section and in § 46.2-341.18:01, the Commissioner shall disqualify for a period of one year any person whose record, as maintained by the Department of Motor Vehicles, shows that he has been convicted of any of the following offenses, if such offense was committed while operating a commercial motor vehicle:

1. A violation of any provision of § 46.2-341.21 or a violation of any federal law or the law of another jurisdiction substantially similar to § 46.2-341.21;

2. A violation of any provision of § 46.2-341.24 or a violation of any federal law or the law of another state substantially similar to § 46.2-341.24;

3. A violation of any provision of § 18.2-51.4 or 18.2-266 or a violation of a local ordinance paralleling or substantially similar to § 18.2-51.4 or 18.2-266, or a violation of any federal, state or local law or ordinance substantially similar to § 18.2-51.4 or 18.2-266;

4. Refusal to submit to a chemical test to determine the alcohol or drug content of the person's blood or breath in accordance with §§ 18.2-268.1 through 18.2-268.12 or this article, or the comparable laws of any other state or jurisdiction;

5. Failure of the driver whose vehicle is involved in an accident to stop and disclose his identity at the scene of the accident; or

6. Commission of any crime punishable as a felony in the commission of which a motor vehicle is used, other than a felony described in § 46.2-341.19.

B. The Commissioner shall disqualify any such person for a period of three years if any offense listed in subsection A ~~of this section~~ was committed while driving a commercial motor vehicle used in the transportation of hazardous materials required to be placarded under federal Hazardous Materials Regulations (49 C.F.R. Part 172, Subpart F).

C. Beginning September 30, 2005, the Commissioner shall disqualify for a period of one year any person whose record, as maintained by the Department, shows that he has been convicted of any of the following offenses committed while operating a noncommercial motor vehicle, provided that the person was, at the time of the offense, the holder of a commercial driver's license, and provided further that the offense was committed on or after September 30, 2005:

1. A violation of any provision of § 18.2-51.4, 18.2-266, or a violation of a local ordinance paralleling or substantially similar to § 18.2-51.4 or 18.2-266, or a violation of any federal, state, or local law or ordinance, or law of any other jurisdiction, substantially similar to § 18.2-51.4 or 18.2-266;

2. Refusal to submit to a chemical test to determine the alcohol or drug content of the person's blood or breath in accordance with §§ 18.2-268.1 through 18.2-268.12, or the comparable laws of any other state or jurisdiction;

3. Failure of the driver whose vehicle is involved in an accident to stop and disclose his identity at the scene of the accident; or

4. Commission of any crime punishable as a felony in the commission of which a motor vehicle is used.

D. The Commissioner shall disqualify for life any person whose record, as maintained by the Department, shows that he has been convicted of two or more violations of any of the offenses listed in subsection A or C ~~of this section~~, if each offense arose from a separate incident, except that if all of the offenses are for violation of an out-of-service order, the disqualification shall be for five years. If two or more such disqualification offenses arise from the same incident, the disqualification periods imposed pursuant to subsection A, B, or C ~~of this section~~ shall run consecutively and not concurrently.

E. The Commissioner shall disqualify for a period of five years a person who is convicted of voluntary or involuntary manslaughter, where the death occurred as a direct result of the operation of a commercial motor vehicle.

F. *The Commissioner shall disqualify for life a person who is convicted of a felony involving an act or practice of severe forms of trafficking in persons as defined in 22 U.S.C. § 7102(11) while driving a commercial motor vehicle, including any local, state, or federal law substantially similar to or fitting the*

definition of severe forms of trafficking in persons.

G. The Department may issue, if permitted by federal law, regulations establishing guidelines, including conditions, under which a disqualification for life under subsection D may be reduced to a period of not less than 10 years.

§ 46.2-382. Courts to keep full records of certain cases.

A. Every ~~general~~ district court or circuit court or the clerk thereof shall keep a full record of every case in which:

1. A person is charged with (i) a violation of any law of the Commonwealth pertaining to the operator or operation of a motor vehicle or commercial motor vehicle *as defined in § 46.2-341.4*; (ii) a violation of any ordinance of any county, city, or town pertaining to the operator or operation of any motor vehicles, except parking regulations; (iii) any theft of a motor vehicle or unauthorized use thereof or theft of any part attached to it; (iv) a violation of § 18.2-36.2, subsection B of § 29.1-738, or § 29.1-738.02, 29.1-738.2, or 29.1-738.4; or (v) a violation or offense involving the use of a motor vehicle or commercial motor vehicle by a person holding a commercial learner's permit or commercial driver's license in the commission of any felony involving manufacturing, distributing, or dispensing a controlled substance or possession with intent to manufacture, distribute, or dispense such controlled substance;

2. A person is charged with manslaughter or any other felony in the commission of which a motor vehicle was used; or

3. There is rendered a judgment for damages, the rendering and nonpayment of which under the terms of this title require the Commissioner to suspend the driver's license and registration in the name of the judgment debtor.

B. The Department and every district court or circuit court or the clerk thereof (i) shall not reduce, dismiss, defer, or otherwise conceal the conviction of any person charged with any offense committed while operating a commercial motor vehicle as defined in § 46.2-341.4 or any holder of a commercial driver's license or a commercial driver's permit charged with any offense committed while operating a noncommercial motor vehicle and (ii) shall comply with all federal laws and regulations regarding such convictions, including 49 C.F.R. § 384.226.

§ 46.2-1702. Certification of driver education courses by Commissioner.

Notwithstanding any other provision of law, the Commissioner shall have the authority to approve as a driver education course satisfying the requirements of § 46.2-334 any course which is offered by any driver training school licensed under the provisions of this chapter if he finds that the course is of comparable content and quality to that offered in the Commonwealth's public schools. In making such finding, the Commissioner shall not require that the instructors of any driver training school meet the certification requirements of teachers in the Commonwealth's public schools.

Any comprehensive community college within the Virginia Community College System shall have the authority to offer the courses required by the Virginia Board of Education to become a certified driver education instructor in Virginia on a not-for-credit basis so long as the courses include the same content and curriculum required by the Department of Education, enabling individuals who complete those courses to then teach driver's education in Virginia driver education training schools upon official certification by the Department of Motor Vehicles. The Virginia Department of Education shall provide the curriculum, content, and other information regarding the courses required to become certified driver education instructors in Virginia to any comprehensive community college within the Virginia Community College System. The content of each course must be accurate and rigorous and must meet the requirements for the Department of Education's Curriculum and Administrative Guide for Driver's Education, which includes the Board of Education's standards of learning.

Except for schools in the Commonwealth's public school system and providers of correspondence courses approved by the Board of Education pursuant to subsection F of § 22.1-205, only those driver training schools that are licensed as computer-based driver education providers shall be authorized to administer computer-based driver education courses, including the parent/student driver education component of the driver education curriculum as established in § 22.1-205. The content and quality of such computer-based driver education courses shall be comparable to that of courses offered in the Commonwealth's public schools. The Commissioner may establish minimum standards for testing students who have enrolled in computer-based driver education courses. Such standards may include (i) requirements for the test site; (ii) verification that the person taking the test is the person enrolled in the course; (iii) verification of the identity of the student using photo identification approved by the Commissioner; and (iv) maintenance of a log containing the name and title of the licensed instructor monitoring the test, the test date, the name of the student taking the test, and the student's time-in and time-out of the test site. Computer-based driver education providers shall not issue a certificate of completion to a student prior to receiving proof of completion of the additional minimum 90-minute parent/student driver education component pursuant to § 22.1-205.

Any driver training school licensed under the provisions of this chapter shall be authorized to provide the 90-minute parent/student driver education component of the driver education curriculum pursuant to § 22.1-205. Only public schools and those driver training schools that are licensed as computer-based

driver education providers shall be authorized to administer the parent/student driver education component of the driver education curriculum through a virtual, computer-based program. Completion of such education component shall satisfy the requirement for the additional 90-minute parent/student driver education component so long as there is participation of the student's parent or guardian and the content provided is comparable to that which is offered in the Commonwealth's public schools and emphasizes (a) parental responsibilities regarding juvenile driver behavior, (b) juvenile driving restrictions pursuant to this Code, and (c) the dangers of driving while intoxicated and underage consumption of alcohol.

The Commissioner shall have authority to approve any driver education course offered by any Class A licensee if he finds the course meets the requirements for such courses as set forth in this chapter and as otherwise established by the Department. Class A licensees shall not be permitted to administer ~~knowledge or~~ behind-the-wheel examinations unless authorized pursuant to § 46.2-326.1. Driver education courses offered by any Class B licensee shall be based on the driver education curriculum currently approved by the Department of Education and the Department.

The Commissioner may accept, in lieu of requirements established by the Department of Education for instructor qualification, (1) 20 years' service with the Virginia Department of State Police by a law-enforcement officer who retired or resigned while in good standing from such Department or (2)(i) 20 years' service as a traffic enforcement officer with patrol experience with any local police department by a law-enforcement officer who has been certified by the Virginia Department of Criminal Justice Services pursuant to § 15.2-1706, (ii) who retired or resigned while in good standing from such department, and (iii) who has been certified to teach driver training by the Virginia Department of Criminal Justice Services.