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HOUSE BILL NO. 284

Offered January 19, 1994

A BILL to amend and reenact § 52-8.4 of the Code of Virginia, relating to powers and duties of the Department of State Police.

Patron—Watkins

Referred to Committee on Militia and Police

Be it enacted by the General Assembly of Virginia:**1. That § 52-8.4 of the Code of Virginia is amended and reenacted as follows:**

§ 52-8.4. Powers and duties to promulgate regulations; inspection of certain records.

A. The Superintendent of State Police, with the cooperation of such other agencies of the Commonwealth as may be necessary, shall promulgate regulations pertaining to commercial motor vehicle safety pursuant to the United States Motor Carrier Act of 1984. These regulations shall set forth criteria relating to driver, vehicle, and cargo safety inspections with which motor carriers and transport vehicles shall comply, and shall be no more restrictive than the applicable provisions of the Federal Motor Carrier Safety Regulations of the United States Department of Transportation. These regulations shall not apply to hours worked by any carrier when transporting passengers or property to or from any portion of the Commonwealth for the purpose of providing relief or assistance in case of earthquake, flood, fire, famine, drought, epidemic, pestilence, major loss of utility services, or other calamity or disaster. The suspension of the regulation provided for in this subsection shall expire if the Secretary of the United States Department of Transportation determines that it is in conflict with the intent of Federal Motor Carrier Safety regulations.

B. For the purposes of this section:

1. "Commercial motor vehicle" means any self-propelled or towed vehicle used on the highways in interstate or intrastate commerce to transport passengers or property if such vehicle (i) has a gross vehicle weight rating or gross combination weight rating of more than 26,000 pounds, (ii) is designed to transport more than fifteen passengers, including the driver, regardless of weight, or (iii) is used to transport hazardous materials in a quantity requiring placards by regulations issued under authority of Article 7 (§ 10.1-1450 et seq.) of Chapter 14 of Title 10.1.

2. "Motor carrier" means a common carrier by motor vehicle, a contract carrier by motor vehicle, or a private carrier of property by motor vehicle. This term also encompasses any agent, officer, representative, or employee who is responsible for the hiring, supervision, training, assignment, or dispatching of drivers.

3. "Transport vehicle" means any vehicle owned or leased by a motor carrier used in the transportation of goods or persons.

4. "Safety inspection" means the detailed examination of a vehicle for compliance with safety regulations promulgated under this section and includes a determination of the qualifications of the driver and his hours of service.

C. Any violation of the provisions of the regulations adopted pursuant to this section shall constitute a traffic infraction punishable by a fine of not more than \$1,000 for the first offense or by a fine of not more than \$5,000 for a subsequent offense. Each day of violation shall constitute a separate offense.

D. The Department of State Police, together with all other law-enforcement officers of the Commonwealth certified to perform vehicle safety inspections as defined by § 46.2-1001 who have satisfactorily completed forty hours of on-the-job training and a course of instruction as prescribed by the U.S. Department of Transportation, Federal Highway Administration, Office of Motor Carriers, in federal motor carrier safety regulations, safety inspection procedures, and out-of-service criteria, shall enforce the regulations and other requirements promulgated pursuant to this section. Those law-enforcement officers certified to enforce the regulations and other requirements promulgated pursuant to this section shall annually receive in-service training in current federal motor carrier safety regulations, safety inspection procedures, and out-of-service criteria.

E. Any records required to be maintained by motor carriers pursuant to regulations promulgated by the Superintendent under the authority of subsection A of this section shall be open to inspection during a carrier's normal business hours by specially trained members of the Department of State Police specifically designated by the Superintendent. Members of the Department of State Police designated for that purpose by the Superintendent shall also be authorized, with the consent of the owner, operator, or agent in charge or with an appropriate warrant obtained under the procedure prescribed in Chapter 24 (§ 19.2-393 et seq.) of Title 19.2, to go upon the property of motor carriers to verify the accuracy of

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60 maintenance records by an inspection of the vehicles to which those records relate.