

VIRGINIA ACTS OF ASSEMBLY -- 1995 SESSION

CHAPTER 145

An Act to amend and reenact §§ 46.2-341.21 and 52-8.4 of the Code of Virginia, relating to driving while disqualified; certain regulations promulgated by the Superintendent of State Police; penalties.

[S 1009]

Approved March 9, 1995

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-341.21 and 52-8.4 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-341.21. Driving while disqualified; penalties.

No person whose privilege to drive a commercial motor vehicle has been suspended or revoked or who has been disqualified from operating a commercial motor vehicle or who has been ordered out of service, and who has been given notice of, or reasonably should know of the suspension, revocation, disqualification, or out-of-service order shall operate a commercial motor vehicle anywhere in the Commonwealth until the period of such suspension, revocation, disqualification, or out-of-service order has terminated.

Any person who violates this section shall, for the first offense, be guilty of a Class 2 misdemeanor, and for the second or any subsequent offense, be guilty of a Class 1 misdemeanor; *however, if the offense is the violation of an out-of-service order, the minimum fine shall be \$1,000 for any driver so convicted and \$2,500 for any motor carrier so convicted, and the maximum fine shall be \$2,500 for any driver so convicted and \$10,000 for any motor carrier so convicted.* Upon receipt of a record of a violation of this section, the Commissioner shall impose an additional suspension, revocation, or disqualification period equal to the period for which the driver's privilege to operate a motor vehicle was suspended or revoked or for which the driver was disqualified when he violated this section; *however, if the offense was the violation of an out-of-service order, the Commissioner shall impose a disqualification period of 180 days, unless the records of the Department show that the driver has been previously convicted of violating an out-of-service order for an offense committed within ten years of the current offense, in which case the Commissioner shall impose a disqualification period of three years.*

Notice of disqualification or of revocation or suspension of the license or privilege to operate a commercial motor vehicle is sufficient if served in accordance with the provisions of § 46.2-416.

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

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; *however, any violation of any out-of-service order issued under authority of such regulations or under authority of the Federal Motor Carrier Safety regulations shall be punished as provided in § 46.2-341.21 and the disqualification provisions of § 46.2-341.21 also shall apply to any driver so convicted.*

D. The Department of State Police, together with all other law-enforcement officers certified to perform vehicle safety inspections as defined by § 46.2-1001 and those agents of the Motor Carrier Enforcement Section of the State Corporation Commission 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 maintenance records by an inspection of the vehicles to which those records relate.