

LD6841368

HOUSE BILL NO. 1770

Offered January 18, 1995

A BILL to amend and reenact §§ 9-6.14:14.1 and 33.1-252 of the Code of Virginia, relating to alcoholic beverage control; hearing officers.

Patrons—Robinson, Cranwell and Moss

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:**1. That §§ 9-6.14:14.1 and 33.1-252 of the Code of Virginia are amended and reenacted as follows:**

§ 9-6.14:14.1. Hearing officers.

A. In all hearings conducted in accordance with § 9-6.14:12, the hearing shall be presided over by a hearing officer selected from a list prepared by the Executive Secretary of the Supreme Court and maintained in the Office of the Executive Secretary of the Supreme Court. Parties to proceedings conducted pursuant to § 9-6.14:11 may agree at the outset of the proceeding to have a hearing officer preside at the proceeding, such agreement to be revoked only by mutual consent. The Executive Secretary shall have the power to promulgate rules necessary for the administration of the hearing officer system.

All hearing officers shall meet the following minimum standards:

1. Active membership in good standing in the Virginia State Bar;

2. Active practice of law for at least five years; and

3. Completion of a course of training approved by the Executive Secretary of the Supreme Court. In order to comply with the demonstrated requirements of the agency requesting a hearing officer, the Executive Secretary may require additional training before a hearing officer will be assigned to a proceeding before that agency.

These requirements must be met prior to being included on the list of hearing officers. All attorneys on the list as of July 1, 1986, shall satisfy these requirements by January 1, 1987, to remain on the list.

B. On request from the head of an agency, the Executive Secretary will name a hearing officer from the list, selected on a rotation system administered by the Executive Secretary. Lists reflecting geographic preference and specialized training or knowledge shall be maintained by the Executive Secretary if an agency demonstrates the need.

C. A hearing officer shall voluntarily disqualify himself and withdraw from any case in which he cannot accord a fair and impartial hearing or consideration, or when required by the applicable rules governing the practice of law in the Commonwealth. Any party may request the disqualification of a hearing officer by filing an affidavit, prior to the taking of evidence at a hearing, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded, or the applicable rule of practice requiring disqualification.

The issue shall be determined not less than ten days prior to the hearing by the Executive Secretary of the Supreme Court.

D. Any hearing officer empowered by the agency to provide a recommendation or conclusion in a case decision matter shall render that recommendation or conclusion within ninety days from the date of the case decision proceeding or from a later date agreed to by the named party and the agency. If the hearing officer does not render a decision within ninety days, then the named party to the case decision may provide written notice to the hearing officer and the Executive Secretary of the Supreme Court that a decision is due. If no decision is made within thirty days from receipt by the hearing officer of the notice, then the Executive Secretary of the Supreme Court shall remove the hearing officer from the hearing officer list and report the hearing officer to the Virginia State Bar for possible disciplinary action, unless good cause is shown for the delay.

E. The Executive Secretary shall remove hearing officers from the list, upon a showing of cause after notice in writing and a hearing. When there is a failure by a hearing officer to render a decision as required by subsection D, the burden shall be on the hearing officer to show good cause for the delay. Decisions to remove a hearing officer may be reviewed by a request to the Executive Secretary for reconsideration, followed by judicial review in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.).

F. This section shall not apply to hearings conducted by (i) any commission or board where all of the members, or a quorum, are present; (ii) ~~the Alcoholic Beverage Control Board~~, the Virginia Workers' Compensation Commission, the State Corporation Commission, the Virginia Employment Commission, the State Education Assistance Authority, or the Department of Motor Vehicles under §§ 46.2-368,

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HB1770

60 46.2-389 through 46.2-416, 46.2-506, 46.2-705 through 46.2-710, 46.2-1501, 46.2-1514, 46.2-1542,
61 46.2-1543, 46.2-1563, 46.2-1572, 46.2-1573, 46.2-1576, 46.2-1601, 46.2-1704 through 46.2-1706, or
62 58.1-2409; or (iii) any panel of a health regulatory board convened pursuant to § 54.1-2400. All
63 employees hired after July 1, 1986, pursuant to §§ 65.2-201 and 65.2-203 (formerly §§ 65.1-11 and
64 65.1-12) by the Virginia Workers' Compensation Commission to conduct hearings pursuant to its basic
65 laws shall meet the minimum qualifications set forth in subsection A of this section. Agency employees
66 who are not licensed to practice law in this Commonwealth, and are presiding as hearing officers in
67 proceedings pursuant to (ii) above shall participate in periodic training courses.

68 G. Notwithstanding the exemptions of subsection A of § 9-6.14:4.1, this article shall apply to hearing
69 officers conducting hearings of the kind described in § 9-6.14:12 for the Department of Game and
70 Inland Fisheries, the Virginia Housing Development Authority, the Milk Commission and the Virginia
71 Resources Authority pursuant to their basic laws.

72 § 33.1-252. Free use of toll bridges, etc., by certain state officers and employees; penalties.

73 A. Upon presentation of a toll pass issued pursuant to regulations promulgated by the Commonwealth
74 Transportation Board, the following persons may use all toll bridges, toll ferries, toll tunnels, and toll
75 roads in this Commonwealth without the payment of toll:

- 76 1. The Commonwealth Transportation Commissioner;
- 77 2. Members of the Commonwealth Transportation Board;
- 78 3. Employees of the Virginia Department of Transportation;
- 79 4. The Superintendent of the Department of State Police;
- 80 5. Officers and employees of the Department of State Police;
- 81 6. Members of the Alcoholic Beverage Control Board;
- 82 7. Employees of the regulatory ~~and hearings divisions~~ division of the Department of Alcoholic
83 Beverage Control and special agents of the Department of Alcoholic Beverage Control;
- 84 8. The Commissioner of the Department of Motor Vehicles;
- 85 9. Employees of the Department of Motor Vehicles;
- 86 10. Employees of the enforcement division of the State Corporation Commission;
- 87 11. Local police officers;
- 88 12. Sheriffs and their deputies;
- 89 13. Persons operating fire-fighting equipment and ambulances owned by a political subdivision of the
90 Commonwealth or a nonprofit association or corporation;
- 91 14. Operators of school buses being used to transport pupils to or from schools;
- 92 15. Operators of (i) commuter buses having a capacity of twenty or more passengers, including the
93 driver, and used to regularly transport workers to and from their places of employment and (ii) public
94 transit buses; and

95 16. Employees of the Department of Rail and Public Transportation.

96 A1. Vehicles transporting three or more persons, including the driver, may be permitted toll-free use
97 of the Dulles Toll Road during rush hours by the Commonwealth Transportation Board.

98 B. Any tollgate keeper who shall refuse to permit the persons listed in subsection A of this section to
99 pass through such tollgate or over such toll bridge or ferry, or toll road or toll tunnel upon presentation
100 of such a toll pass, shall be guilty of a misdemeanor and punished by a fine of not more than fifty
101 dollars, and not less than two dollars and fifty cents. Any person other than those listed in subsection A
102 of this section who shall exhibit any such toll pass for the purpose of using any toll bridge, toll tunnel
103 or ferry shall be guilty of a Class 1 misdemeanor and punished accordingly.

104 B1. Any vehicle operated by the holder of a valid driver's license issued by Virginia or any other
105 state shall be allowed free use of all toll bridges, toll roads, and other toll facilities in Virginia if:

- 106 1. The vehicle is specially equipped to permit its operation by a handicapped person;
- 107 2. The driver of the vehicle has been certified, either by a physician licensed by Virginia or any
108 other state or by the Adjudication Office of the United States Veterans Administration, as being severely
109 physically disabled and having permanent upper limb mobility or dexterity impairments which
110 substantially impair his ability to deposit coins in toll baskets;
- 111 3. The driver has applied for and received from the Department of Transportation a vehicle window
112 sticker identifying him as eligible for such free passage; and
- 113 4. Such identifying window sticker is properly displayed on the vehicle.

114 A copy of this subsection shall be posted at all toll bridges, toll roads, and other toll facilities in
115 Virginia. The Department of Transportation shall provide envelopes for payments of tolls by those
116 persons exempted from tolls pursuant to this subsection and shall accept any payments made by such
117 persons.

118 C. Nothing contained in this section or in § 33.1-251 or § 33.1-285 shall operate to affect the
119 provisions of § 22.1-187.

120 D. Notwithstanding the provisions of subsections A and B of this section, only the following persons
121 may use the Chesapeake Bay Bridge-Tunnel or facilities of the Richmond Metropolitan Authority

122 without the payment of toll when necessary and incidental to the conduct of official business:
123 1. The Commonwealth Transportation Commissioner;
124 2. Members of the Commonwealth Transportation Board;
125 3. Employees of the Department of Transportation;
126 4. The Superintendent of the Department of State Police;
127 5. Officers and employees of the Department of State Police;
128 6. The Commissioner of the Department of Motor Vehicles;
129 7. Employees of the Department of Motor Vehicles; and
130 8. Sheriffs and deputy sheriffs.
131 2. That the provisions of this act shall not apply to any hearing conducted by the Alcoholic
132 Beverage Control Board which commenced prior to the effective date of this act.