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HOUSE BILL NO. 1339

Offered January 26, 1998

A BILL to amend and reenact § 46.2-341.4 of the Code of Virginia, relating to commercial vehicles and licensure of commercial vehicle drivers.

Patrons—Diamonstein, Abbitt, Armstrong, Behm, Crittenden, Davis, Day, Drake, Hamilton, Keating, Orrock and Williams; Senators: Maxwell, Norment and Williams

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-341.4 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-341.4. Definitions.

The following definitions shall apply to this article, unless a different meaning is clearly required by the context:

"Commercial driver's license" means any driver's license issued to a person in accordance with the provisions of this article, or if the license is issued by another state, any license issued to a person in accordance with the federal Commercial Motor Vehicle Safety Act, which authorizes such person to drive a commercial motor vehicle of the class and type and with the restrictions indicated on the license.

"Commercial motor vehicle" means: Except for those vehicles specifically excluded in this subdivision, every motor vehicle, vehicle or combination of vehicles used to transport passengers or property which either: (i) has a gross vehicle weight rating of 26,001 or more pounds; or (ii) has a gross combination weight rating of 26,001 or more pounds inclusive of a towed vehicle with a gross vehicle weight rating of more than 10,000 pounds; or (iii) is designed to transport sixteen or more passengers including the driver; or (iv) is of any size and is used in the transportation of hazardous materials as defined in this section. Every such motor vehicle or combination of vehicles shall be considered a commercial motor vehicle whether or not it is used in a commercial or profit-making activity.

The following shall be excluded from the definition of commercial motor vehicle: any vehicle when used by an individual solely for his own personal purposes, such as personal recreational activities; or any vehicle which (i) is controlled and operated by a farmer, whether or not it is owned by the farmer, and which is used exclusively for farm use, as defined in § 46.2-698, (ii) is used to transport either agricultural products, farm machinery or farm supplies to or from a farm, (iii) is not used in the operation of a common or contract motor carrier and (iv) is used within 150 miles of the farmer's farm; or any military vehicle when operated by active duty military personnel, or members of the military reserves or national guard when on active duty, in the pursuit of military purposes; or any vehicle when used as firefighting, rescue, or emergency equipment for the purpose of preserving life or property or to execute emergency governmental functions.

"Commercial Motor Vehicle Safety Act" means the federal Commercial Motor Vehicle Safety Act of 1986, Title XII of Public Law 99-570, as amended.

"Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction, an unvacated forfeiture of bond, bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court costs in lieu of trial, a violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended or probated, or, for the purposes of alcohol or drug-related offenses involving the operation of a motor vehicle, a civil or an administrative determination of a violation. For the purposes of this definition, an administrative determination shall include an unvacated certification or finding by an administrative or authorized law-enforcement official that a person has violated a provision of law.

"Disqualification" means a prohibition against driving, operating or being in physical control of a commercial motor vehicle for a specified period of time, imposed by a court or a magistrate, or by an authorized administrative or law-enforcement official or body.

"Domicile" means a person's true, fixed and permanent home and principal residence, to which he intends to return whenever he is absent.

"Gross combination weight rating" means the value specified by the manufacturers of an articulated vehicle or combination of vehicles as the maximum loaded weight of such vehicles. In the absence of such a value specified by the manufacturer, the gross combination weight rating shall be the greater of (i) the gross vehicle weight rating of the power units of the combination vehicle plus the total weight of the towed units, including any loads thereon, or (ii) the gross weight at which the articulated vehicle or combination of vehicles is registered in its state of registration.

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60 "Gross vehicle weight rating" means the value specified by the manufacturer of the vehicle as the
61 maximum loaded weight of a single vehicle. In the absence of such a value specified by the
62 manufacturer, the gross vehicle weight rating shall be the gross weight at which the vehicle is registered
63 in its state of registration.

64 "Hazardous materials" means materials determined to be hazardous in accordance with § 103 of the
65 federal Hazardous Materials Transportation Act (49 U.S.C. § 1801 et seq.), as amended, and which
66 require placarding when transported by motor vehicle as provided in the federal Hazardous Materials
67 Regulations (49 C.F.R. Part 172, Subpart F).

68 "Seasonal restricted commercial driver's license" means a commercial driver's license issued, under
69 the authority of the waiver promulgated by the federal Department of Transportation (57 Federal
70 Register 13650) by Virginia or any other jurisdiction, to an individual who has not passed the
71 knowledge or skills tests required of other commercial driver's license holders. This license authorizes
72 operation of a commercial motor vehicle only on a seasonal basis, stated on the license, by a seasonal
73 employee of a farm service business, within 150 miles of the place of business or the farm currently
74 being served.

75 "State" means one of the fifty states of the United States or the District of Columbia.