

VIRGINIA ACTS OF ASSEMBLY -- 2004 SESSION

CHAPTER 23

An Act to amend and reenact § 52-8.4 of the Code of Virginia, relating to commercial motor vehicle safety; hours of service; emergency.

[H 516]

Approved March 2, 2004

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 (i) providing relief or assistance in case of earthquake, flood, fire, famine, drought, epidemic, pestilence, ~~major loss of utility services~~, or other calamity or disaster or (ii) *engaging in the provision or restoration of utility services when the loss of such service is unexpected, unplanned or unscheduled*. 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:

"Commercial motor vehicle" means any self-propelled or towed vehicle used on the highways in commerce to transport passengers or property if such vehicle (i) has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, whichever is greater, of more than 10,000 pounds when operated interstate or more than 26,000 pounds when operated intrastate, (ii) is designed or used to transport more than ~~fifteen~~ 15 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.

"Motor carrier" means a common carrier by motor vehicle, a contract carrier by motor vehicle, or a private carrier of property or passengers 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.

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

"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. Except for those offenses listed in § 52-8.4:2, 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 who have satisfactorily completed ~~forty~~ 40 hours of on-the-job training and a course of instruction as prescribed by the U.S. Department of Transportation, Federal Motor Carrier Safety Administration, 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.

2. That an emergency exists and this act is in force from its passage.