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HOUSE BILL NO. 1170

Offered January 9, 2008

Prefiled January 9, 2008

A *BILL to amend and reenact §§ 46.2-341.4 and 46.2-341.16 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 46.2-341.16:2, relating to commercial driver's licenses.*

Patron—Cosgrove

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-341.4 and 46.2-341.16 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 46.2-341.16:2 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 definition, 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 16 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; ~~or~~ (v) is designed to transport fewer than 16 passengers including the driver and is for rent, for hire, or offered as a complimentary or incidental service and used for the transportation of passengers. 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 vehicle operated for military purposes by (a) active duty military personnel, (b) members of the military reserves, (c) members of the national guard on active duty, including personnel on full-time national guard duty, personnel on part-time national guard training, and national guard military technicians (civilians who are required to wear military uniforms), but not U.S. Reserve technicians, and (d) active duty U.S. Coast Guard personnel; or emergency equipment operated by a member of a firefighting, rescue, or emergency entity in the performance of his official duties; *or any taxicab as defined in § 46.2-2000 and regulated by local ordinance.*

"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

INTRODUCED

HB1170

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.

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

"Hazardous materials" means materials designated to be hazardous in accordance with § 103 of the federal Hazardous Materials Transportation Act, as amended, (49 U.S.C. § 5101 et seq.) and which require placarding when transported by motor vehicle as provided in the federal Hazardous Materials Regulations (49 C.F.R. Part 172, Subpart F); it also includes any quantity of any material listed as a select agent or toxin in federal Public Health Service Regulations at 42 C.F.R. Part 73.

"Out-of-service order" or "out-of-service declaration" means an order by a judicial officer pursuant to § 46.2-341.26:2 or 46.2-341.26:3 or an order or declaration by an authorized law-enforcement officer under § 46.2-1001 or regulations promulgated pursuant to § 52-8.4 relating to Motor Carrier Safety, and including similar actions by authorized judicial officers or enforcement officers acting pursuant to similar laws of other states, the United States, the Canadian Provinces, Canada, Mexico, and localities within them, and also including actions by federal or other jurisdictions' officers pursuant to federal Motor Carrier Safety Regulations, that a driver, a commercial motor vehicle, or a motor carrier is out of service. Such order or declaration as to a driver means that the driver is prohibited from operating a commercial motor vehicle for the duration of the out-of-service period. Such order or declaration as to a vehicle means that such vehicle cannot be operated until the hazardous condition that resulted in the order or declaration has been removed and the vehicle has been cleared for further operation. Such order or declaration as to a motor carrier means that no vehicle may be operated for or on behalf of such carrier until the out-of-service order or declaration has been lifted. For purposes of this article, the provisions of the federal Motor Carrier Safety Regulations (49 C.F.R. Parts 390 through 397), including such regulations or any substantially similar regulations as may have been adopted by any state of the United States, the Provinces of Canada, Canada, Mexico, or any locality shall be considered laws similar to the Virginia laws referenced herein.

"Seasonal restricted commercial driver's license" means a commercial driver's license issued, under the authority of the waiver promulgated by the federal Department of Transportation (49 C.F.R. § 383.3) by Virginia or any other jurisdiction, to an individual who has not passed the knowledge or skills tests required of other commercial driver's license holders. This license authorizes operation of a commercial motor vehicle only on a seasonal basis, stated on the license, by a seasonal employee of a farm service business, within 150 miles of the place of business or the farm currently being served.

"State" means one of the 50 states of the United States or the District of Columbia.

"Tank vehicle" means any commercial motor vehicle that is designed to transport any liquid or gaseous materials within a tank that is either permanently or temporarily attached to the vehicle or the chassis. Such vehicles include, but are not limited to, cargo tanks and portable tanks, as defined in 49 C.F.R. Part 171. However, this definition does not include portable tanks having a rated capacity under 1,000 gallons.

§ 46.2-341.16. Vehicle classifications and endorsements.

A. A commercial driver's license shall authorize the licensee to operate only the classes and types of commercial motor vehicles designated thereon. The classes of commercial motor vehicles for which such license may be issued are:

1. Class A-Combination heavy vehicle. - Any combination of vehicles with a gross combination weight rating of 26,001 or more pounds, provided the gross vehicle weight rating of the vehicles being towed is in excess of 10,000 pounds;

2. Class B-Heavy straight vehicle or other combination. - Any single motor vehicle with a gross vehicle weight rating of 26,001 or more pounds, or any such vehicle towing a vehicle with a gross vehicle weight rating that is not in excess of 10,000 pounds; and

3. Class C-Small vehicle. - Any vehicle that does not fit the definition of a Class A or Class B vehicle and is either (i) designed to transport sixteen or more passengers including the driver or (ii) is used in the transportation of hazardous materials; and

4. Class D-Small passenger vehicle. - Any passenger-carrying vehicle designed to transport fewer than 16 passengers including the driver and is for rent, for hire, or offered as a complimentary or incidental service and used for the transportation of passengers.

B. Commercial driver's licenses shall be issued with endorsements and restrictions authorizing the

driver to operate or restricting the driver to the types of vehicles identified as follows:

1. Type T-Vehicles with double or triple trailers;
2. Type P-Vehicles carrying passengers;
3. Type N-Vehicles with cargo tanks;
4. Type H-Vehicles required to be placarded for hazardous materials;
5. Type K-Vehicles not equipped with air brakes; and
6. Type S-School buses carrying 16 or more passengers, including the driver.

C. Persons authorized to drive Class A vehicles are also authorized to drive Classes B and C vehicles, provided such persons possess the requisite endorsements for the type of vehicle driven.

D. Persons authorized to drive Class B vehicles are also authorized to drive Class C vehicles, provided such persons possess the requisite endorsements for the type of vehicle driven.

E. Any licensee who seeks to add a classification or endorsement to his commercial driver's license must submit the application forms, certifications and other updated information required by the Department and shall take and successfully complete the tests required for such classification or endorsement.

§ 46.2-341.16:2. Additional requirement for Class D-Small passenger vehicle or Type P endorsement.

A. Prior to the issuance of a Class D-Small passenger vehicle driver's license or a commercial driver's license with a Type P endorsement as set out in subsections A and B of § 46.2-341.16, the applicant shall consent to a criminal history records check. The applicant shall submit to fingerprinting and provide personal descriptive information that shall be forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history information regarding the applicant. The Department of State Police shall forward to the Department the results of the records search from the Central Criminal Records Exchange and the Federal Bureau of Investigation.

B. The Commissioner or his agent shall collect an additional nonrefundable fee in conjunction with an application for a Class D-Small passenger vehicle driver's license or a Type P endorsement to offset the costs of collecting and processing fingerprints. The total amount assessed for processing an application under this section shall not exceed \$50, and there shall be no exemption from such additional fee for any applicant who is an employee of the Commonwealth or any county, city, or town. In addition, any local law-enforcement agency that provides fingerprinting services in conjunction with this section may assess a fee from the applicant, not to exceed \$35. Such amount shall be collected by the local law-enforcement agency and remitted to the treasurer of the appropriate locality.

C. No Class D-Small passenger vehicle driver's license or driver's license with a Type P endorsement shall be issued by the Department if:

1. The applicant has been convicted of any offense under subsection A of § 46.2-341.18, even if such offense was committed while operating a noncommercial vehicle.

2. The applicant has been convicted of any offense under subsection C of § 46.2-341.18, even if the person was not a holder of a commercial driver's license at the time of the offense.

3. The applicant has been convicted of any offense under § 46.2-341.20, even if such offense was committed while operating a noncommercial vehicle or the person was not a holder of a commercial driver's license at the time of the offense.

4. The applicant has been convicted of a felony or any other offense that requires registration with the Department of State Police pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1.

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