

2008 SESSION

INTRODUCED

088923284

SENATE BILL NO. 707

Offered January 16, 2008

A BILL to amend and reenact §§ 46.2-2801, 46.2-2809, 46.2-2814, 46.2-2819, 46.2-2820, and 46.2-2824 of the Code of Virginia, relating to powers, duties, and regulations of the Board of Towing and Recovery Operators.

Patrons—Norment; Delegate: Peace

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-2801, 46.2-2809, 46.2-2814, 46.2-2819, 46.2-2820, and 46.2-2824 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-2801. The Board of Towing and Recovery Operators.

A. The Board of Towing and Recovery Operators is hereby created. The Board shall consist of 15 members as follows:

1. ~~Two~~ Three members appointed by the Governor, subject to confirmation by the General Assembly, one who shall be licensed as a Class A operator and, one who shall be licensed as a Class B operator, and one citizen consumer;

2. ~~Four~~ Five members appointed by the Speaker of the House of Delegates, ~~one~~ two who shall be licensed as a Class A operator operators, two of whom shall be licensed as Class A or Class B operators, and one who shall be licensed as a Class B operator, one citizen consumer, and one representative of the insurance industry;

3. ~~Three~~ Four members appointed by the Senate Committee on Rules, one who shall be licensed as a Class A operator, one who shall be licensed as Class A or Class B operator, and one two who shall be licensed as a Class B operator operators, and one citizen consumer;

4. Three citizens of the Commonwealth appointed at-large, one appointed by the Governor, one appointed by the Speaker of the House of Delegates, and one appointed by the Senate Committee on Rules, all of whom shall have no direct or indirect interest, other than as consumers, in or relating to the towing and recovery industry;

5. The Commissioner of the Department of Motor Vehicles or his designee;

6. The Commissioner of Agriculture and Consumer Services or his designee; and

7. The Superintendent of the State Police or his designee.

All members shall be voting members.

B. Members shall serve for terms of four years, except that of those members initially appointed by the Governor, one shall be appointed for a one-year term and one for a two-year term. Of those members initially appointed by the Speaker of the House of Delegates, one shall be appointed for a four-year term, one for a three-year term, one for a two-year term, and one for a one-year term. Of those members initially appointed by the Senate Committee on Rules, one shall be appointed for a one-year term, one for a two-year term, and one for a three-year term.

C. Every member shall be a citizen of the United States and a resident of Virginia. Nominations may be made for each operator vacancy from a list of at least three names submitted to the Governor, the Speaker of the House of Delegates, and the Senate Committee on Rules by the Virginia Association of Towing and Recovery Operators and the Major Incident Heavy Recovery Operators Association. The Governor, the Speaker of the House of Delegates, and the Senate Committee on Rules may notify the associations promptly of any operator vacancy other than by expiration and like nominations may be made for the filling of the vacancy. In no case shall the Governor, the Speaker of the House of Delegates, or the Senate Committee on Rules be bound to make any appointment from among the nominations of the associations. Any member may be removed from the Board in the same manner as he was appointed. The members shall be at-large members and, insofar as practical, should reflect fair and equitable statewide representation. No member, other than the Commissioner of the Department of Motor Vehicles or his designee, the Commissioner of Agriculture and Consumer Services or his designee, and the Superintendent of the State Police or his designee, shall serve for more than two full successive terms. Vacancies shall be filled by appointment in the same manner as the original appointment and shall be for the unexpired term. Vacancies filled by appointment by the Governor shall be effective until 30 days after the next meeting of the ensuing General Assembly, and, if confirmed, thereafter for the remainder of the term. Any person appointed to fill a vacancy may serve two additional successive terms. The Commissioner of the Department of Motor Vehicles or his designee, the Commissioner of Agriculture and Consumer Services or his designee, and the Superintendent of the

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59 State Police or his designee shall be ex officio voting members.

60 D. The Board shall meet at least quarterly each year. Annually, the members of the Board shall elect  
61 from its membership a chairman ~~who shall be a licensed Class A operator~~ and a vice-chairman, each to  
62 serve for a one-year term. Eight members shall constitute a quorum.

63 E. The Board shall adopt a seal with the words "Board of Towing and Recovery Operators,  
64 Commonwealth of Virginia." The executive director of the Board shall have charge, care, and custody of  
65 the seal, and shall keep a record of all proceedings of the Board that shall be open to the public for  
66 inspection.

67 F. Members of the Board shall be reimbursed their actual and necessary expenses incurred in  
68 carrying out their duties, such reimbursement to be paid from the Towing and Recovery Operators  
69 Board Fund established pursuant to § 46.2-2804, subject to review and approval by the executive  
70 director and chairman of the Board.

71 § 46.2-2809. Regulations.

72 The Board may promulgate regulations requiring persons licensed under this chapter to keep and  
73 maintain records reasonably required for the enforcement of provisions of this chapter, and any other  
74 regulations, not inconsistent with the provisions of this chapter, as it shall consider necessary for the  
75 effective administration and enforcement of this chapter. A copy of any regulation promulgated under  
76 this section shall be mailed to each licensee 30 days prior to its effective date. *No regulation of the*  
77 *Board shall become effective prior to July 1, 2010.*

78 § 46.2-2814. Drivers to have tow truck driver authorization document.

79 The Board shall issue to tow truck drivers who meet such qualifications as the Board shall have  
80 established a document authorizing the holder to drive a tow truck. Such documents shall be valid for  
81 such period of time as the Board shall provide by regulation. The Board may also provide by regulation  
82 for the issuance of temporary tow truck driver authorization documents, valid for less than five years, to  
83 non-Virginia residents.

84 On and after July 1, ~~2008~~ 2010, no tow truck shall be operated in the Commonwealth by any person  
85 who does not have such tow truck driver authorization document. Such document shall be in addition to  
86 whatever driver's license or commercial driver's license is required for operation of the vehicle under  
87 Chapter 3 (§ 46.2-300 et seq.) of this title. No driver shall be deemed by the Board to be qualified to  
88 drive a tow truck unless he provides to the Board a written statement that he is employed by or engaged  
89 to be employed by the licensed operator and is not required to register as a sex offender as provided in  
90 § 9.1-901 or in a substantially similar law of any other state, the United States, or any foreign  
91 jurisdiction. The Board may charge a reasonable fee for the issuance of such document in an amount  
92 calculated to cover its actual and necessary expenses.

93 The Board shall require every applicant for a tow truck driver authorization document to submit to  
94 fingerprinting and provide personal descriptive information to be forwarded along with the applicant's  
95 fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for  
96 the purpose of obtaining a national criminal history record check regarding such applicant. The cost of  
97 the fingerprinting and criminal history records check shall be paid by the applicant.

98 The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no  
99 record exists, shall make a report to the Board. If an applicant is denied a tow truck driver authorization  
100 document because of the information appearing in his criminal history record, the Board shall notify the  
101 applicant that information obtained from the Central Criminal Records Exchange contributed to such  
102 denial. The information shall not be disseminated except as provided in this section.

103 § 46.2-2819. License to be displayed.

104 On and after July 1, ~~2008~~ 2010, every person engaged in towing and recovery services shall display  
105 his license in a conspicuous place in the principal office in which he operates.

106 § 46.2-2820. Prohibited acts.

107 On and after July 1, ~~2008~~ 2010, it shall be unlawful for any person:

108 1. To engage in the towing and recovery of vehicles without holding a license as an operator issued  
109 by the Board;

110 2. To impersonate a licensed operator of a like or different name;

111 3. To do any act for which, if he were a licensed operator, could be revoked as provided by this  
112 chapter or regulations of the Board;

113 4. To publish or cause to be published in any manner an advertisement that is false, deceptive, or  
114 misleading, or violates regulations of the Board governing advertising by towing and recovery operators;  
115 or

116 5. To provide any towing and recovery services for vehicles of a gross vehicle weight over 26,000  
117 pounds unless licensed as a Class A operator.

118 § 46.2-2824. License required.

119 On and after July 1, ~~2008~~ 2010, no person shall offer to engage in or engage in the towing and  
120 recovery of vehicles without a valid license from the Board.

121 2. Any regulations recommended by the Board of Towing and Recovery Operators shall be  
122 presented to the Senate and House Transportation Committees for their consideration during the  
123 2009 General Assembly session.

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