

VIRGINIA ACTS OF ASSEMBLY -- 2011 RECONVENED SESSION

CHAPTER 889

An Act to amend and reenact §§ 33.1-46.2, as it is currently effective and as it may become effective, 46.2-341.12, 46.2-341.20, 46.2-668, 46.2-711, 46.2-755, 46.2-2000, 46.2-2000.1, 46.2-2001.3, 46.2-2005, 46.2-2011.4, 46.2-2011.8, 46.2-2011.27, 46.2-2075, 46.2-2096, 46.2-2099.4, 46.2-2099.5, 46.2-2100, 46.2-2108.2, 46.2-2108.4, 46.2-2108.5, 46.2-2108.6, 46.2-2109, 46.2-2115, 46.2-2116, 46.2-2118, 46.2-2119, 46.2-2120, 46.2-2122, 46.2-2123, 46.2-2124, 46.2-2132, 46.2-2133, 46.2-2135, 46.2-2136, 46.2-2137, 46.2-2143, 46.2-2144, 46.2-2146, 46.2-2147, 46.2-2150, 46.2-2151, 46.2-2155, 46.2-2156, 58.1-2259, 58.1-2402, 58.1-2426, and 58.1-2701, as it is currently effective and as it may become effective, of the Code of Virginia; to amend the Code of Virginia by adding a section numbered 46.2-208.2 and by adding in Chapter 20 of Title 46.2 an article numbered 14, consisting of a section numbered 46.2-2099.44; and to repeal §§ 46.2-696, 46.2-2084, 46.2-2097, 46.2-2097.1, and 46.2-2099.6 of the Code of Virginia, relating to regulation of passenger carriers by the Department of Motor Vehicles.

[S 1281]

Approved April 29, 2011

Be it enacted by the General Assembly of Virginia:

1. That §§ 33.1-46.2, as it is currently effective and as it may become effective, 46.2-341.12, 46.2-341.20, 46.2-668, 46.2-711, 46.2-755, 46.2-2000, 46.2-2000.1, 46.2-2001.3, 46.2-2005, 46.2-2011.4, 46.2-2011.8, 46.2-2011.27, 46.2-2075, 46.2-2096, 46.2-2099.4, 46.2-2099.5, 46.2-2100, 46.2-2108.2, 46.2-2108.4, 46.2-2108.5, 46.2-2108.6, 46.2-2109, 46.2-2115, 46.2-2116, 46.2-2118, 46.2-2119, 46.2-2120, 46.2-2122, 46.2-2123, 46.2-2124, 46.2-2132, 46.2-2133, 46.2-2135, 46.2-2136, 46.2-2137, 46.2-2143, 46.2-2144, 46.2-2146, 46.2-2147, 46.2-2150, 46.2-2151, 46.2-2155, 46.2-2156, 58.1-2259, 58.1-2402, 58.1-2426, and 58.1-2701, as it is currently effective and as it may become effective, of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 46.2-208.2 and by adding in Chapter 20 of Title 46.2 an article numbered 14, consisting of a section numbered 46.2-2099.44, as follows:

§ 33.1-46.2. (For expiration date - see Editor's note) Designation of high-occupancy vehicle lanes; use of such lanes; penalties.

A. In order to facilitate the rapid and orderly movement of traffic to and from urban areas during peak traffic periods, the Commonwealth Transportation Board may designate one or more lanes of any highway in the interstate, primary, or secondary highway systems as high-occupancy vehicle lanes, hereinafter referred to in this section as HOV lanes. When lanes have been so designated and have been appropriately marked with such signs or other markers as the Board may prescribe, they shall be reserved during periods designated by the Board for the exclusive use of buses and high-occupancy vehicles. Any local governing body may also, with respect to highways under its exclusive jurisdiction, designate HOV lanes and impose and enforce restrictions on the use of such HOV lanes. Any highway for which the local jurisdiction receives highway maintenance funds pursuant to § 33.1-41.1 shall be deemed to be within the exclusive jurisdiction of the local governing body for the purposes of this section. HOV lanes shall be reserved for high-occupancy vehicles of a specified number of occupants as determined by the Board or, for HOV lanes designated by a local governing body, by that local governing body. Notwithstanding the foregoing provisions of this section, no designation of any lane or lanes of any highway as HOV lanes shall apply to the use of any such lanes by:

1. Emergency vehicles such as fire-fighting vehicles, ambulances, and rescue squad vehicles,
2. Law-enforcement vehicles,
3. Motorcycles,
4. a. Transit and commuter buses designed to transport 16 or more passengers, including the driver,
b. ~~Commuter buses and motor coaches operating under irregular route passenger certificates issued under § 46.2-2010 and any~~ Any vehicle operating under a certificate of Public Convenience and Necessity or as a common carrier of passengers issued under § 46.2-2075 or, 46.2-2080, 46.2-2096, 46.2-2099.4, or 46.2-2099.44,
5. Vehicles of public utility companies operating in response to an emergency call,
6. Until July 1, 2011, vehicles bearing clean special fuel vehicle license plates issued pursuant to § 46.2-749.3,
7. Taxicabs having two or more occupants, including the driver, or
8. (For contingent effective date, see Editor's note.) Any active duty military member in uniform who is utilizing Interstate Route 264 and Interstate Route 64 for the purposes of traveling to or from a military facility in the Hampton Roads Planning District.

In the Hampton Roads Planning District, HOV restrictions may be temporarily lifted and HOV lanes

opened to use by all vehicles when restricting use of HOV lanes becomes impossible or undesirable and the temporary lifting of HOV limitations is indicated by signs along or above the affected portion of highway.

The Commissioner of VDOT shall implement a program of the HOV facilities in the Hampton Roads Planning District beginning not later than May 1, 2000. This program shall include the temporary lifting of HOV restrictions and the opening of HOV lanes to all traffic when an incident resulting from nonrecurring causes within the general lanes occurs such that a lane of traffic is blocked or is expected to be blocked for 10 minutes or longer. The HOV restrictions for the facility will be reinstated when the general lane is no longer blocked and is available for use.

The Commissioner shall maintain necessary records to evaluate the effects of such openings on the operation of the general lanes and the HOV lanes. He shall report on the effects of this program. This program will terminate if the Federal Highway Administration requires repayment of any federal highway construction funds because of the program's impact on the HOV facilities in Hampton Roads.

B. In designating any lane or lanes of any highway as HOV lanes, the Board, or local governing body as the case may be, shall specify the hour or hours of each day of the week during which the lanes shall be so reserved, and the hour or hours shall be plainly posted at whatever intervals along the lanes the Board or local governing body deems appropriate. Any person driving a motor vehicle in a designated HOV lane in violation of this section shall be guilty of a traffic infraction which shall not be a moving violation and on conviction shall be fined \$100. However, violations committed within the boundaries of Planning District Eight shall be punishable as follows:

For a first offense, by a fine of \$125;

For a second offense within a period of five years from a first offense, by a fine of \$250;

For a third offense within a period of five years from a first offense, by a fine of \$500; and

For a fourth or subsequent offense within a period of five years from a first offense, by a fine of \$1,000.

Upon a conviction under this section, the court shall furnish to the Commissioner of the Department of Motor Vehicles in accordance with § 46.2-383 an abstract of the record of such conviction which shall become a part of the person's driving record. Notwithstanding the provisions of § 46.2-492, no driver demerit points shall be assessed for any violation of this section; except that persons convicted of second, third, fourth, or subsequent violations within five years of a first offense committed in Planning District Eight shall be assessed three demerit points for each such violation.

C. In the prosecution of an offense, committed in the presence of a law-enforcement officer, of failure to obey a road sign restricting a highway, or portion thereof, to the use of high-occupancy vehicles, proof that the vehicle described in the HOV violation summons was operated in violation of this section, together with proof that the defendant was at the time of such violation the registered owner of the vehicle, shall constitute in evidence a rebuttable presumption that such registered owner of the vehicle was the person who committed the violation. Such presumption shall be rebutted if the registered owner of the vehicle testifies in open court under oath that he was not the operator of the vehicle at the time of the violation. A summons for a violation of this section may be executed in accordance with § 19.2-76.2. Such rebuttable presumption shall not arise when the registered owner of the vehicle is a rental or leasing company.

D. Notwithstanding the provisions of § 19.2-76, whenever a summons for a violation of this section is served in any county, city, or town, it may be executed by mailing by first-class mail a copy thereof to the address of the owner of the vehicle as shown on the records of the Department of Motor Vehicles. If the summoned person fails to appear on the date of return set out in the summons mailed pursuant to this section, the summons shall be executed in the manner set out in § 19.2-76.3.

No proceedings for contempt or arrest of a person summoned by mailing shall be instituted for his failure to appear on the return date of the summons.

E. Notwithstanding § 33.1-252, high-occupancy vehicles having three or more occupants (HOV-3) may be permitted to use the Omer L. Hirst-Adelard L. Brault Expressway (Dulles Toll Road) without paying a toll.

F. Notwithstanding the contrary provisions of this section, the following conditions shall be met before the HOV-2 designation of Interstate Route 66 outside the Capital Beltway can be changed to HOV-3 or any more restrictive designation:

1. The Department shall publish a notice of its intent to change the existing designation and also immediately provide similar notice of its intent to all members of the General Assembly representing districts that touch or are directly impacted by traffic on Interstate Route 66.

2. The Department shall hold public hearings in the corridor to receive comments from the public.

3. The Department shall make a finding of the need for a change in such designation, based on public hearings and its internal data and present this finding to the Commonwealth Transportation Board for approval.

4. The Commonwealth Transportation Board shall make written findings and a decision based upon the following criteria:

- a. Is changing the HOV-2 designation to HOV-3 in the public interest?

b. Is there quantitative and qualitative evidence that supports the argument that HOV-3 will facilitate the flow of traffic on Interstate Route 66?

c. Is changing the HOV-2 designation beneficial to comply with the federal Clean Air Act Amendments of 1990?

G. [Repealed.]

§ 33.1-46.2. (For effective date - see Editor's note) Designation of high-occupancy vehicle lanes; use of such lanes; penalties.

A. In order to facilitate the rapid and orderly movement of traffic to and from urban areas during peak traffic periods, the Commonwealth Transportation Board may designate one or more lanes of any highway in the interstate, primary, or secondary highway systems as high-occupancy vehicle lanes, hereinafter referred to in this section as HOV lanes. When lanes have been so designated and have been appropriately marked with such signs or other markers as the Board may prescribe, they shall be reserved during periods designated by the Board for the exclusive use of buses and high-occupancy vehicles. Any local governing body may also, with respect to highways under its exclusive jurisdiction, designate HOV lanes and impose and enforce restrictions on the use of such HOV lanes. Any highway for which the local jurisdiction receives highway maintenance funds pursuant to § 33.1-41.1 shall be deemed to be within the exclusive jurisdiction of the local governing body for the purposes of this section. HOV lanes shall be reserved for high-occupancy vehicles of a specified number of occupants as determined by the Board or, for HOV lanes designated by a local governing body, by that local governing body. Notwithstanding the foregoing provisions of this section, no designation of any lane or lanes of any highway as HOV lanes shall apply to the use of any such lanes by:

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The Commissioner shall maintain necessary records to evaluate the effects of such openings on the operation of the general lanes and the HOV lanes. He shall report on the effects of this program. This program will terminate if the Federal Highway Administration requires repayment of any federal highway construction funds because of the program's impact on the HOV facilities in Hampton Roads.

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shall become a part of the person's driving record. Notwithstanding the provisions of § 46.2-492, no driver demerit points shall be assessed for any violation of this section; except that persons convicted of second, third, fourth, or subsequent violations within five years of a first offense committed in Planning District Eight shall be assessed three demerit points for each such violation.

C. In the prosecution of an offense, committed in the presence of a law-enforcement officer, of failure to obey a road sign restricting a highway, or portion thereof, to the use of high-occupancy vehicles, proof that the vehicle described in the HOV violation summons was operated in violation of this section, together with proof that the defendant was at the time of such violation the registered owner of the vehicle, shall constitute in evidence a rebuttable presumption that such registered owner of the vehicle was the person who committed the violation. Such presumption shall be rebutted if the registered owner of the vehicle testifies in open court under oath that he was not the operator of the vehicle at the time of the violation. A summons for a violation of this section may be executed in accordance with § 19.2-76.2. Such rebuttable presumption shall not arise when the registered owner of the vehicle is a rental or leasing company.

D. Notwithstanding the provisions of § 19.2-76, whenever a summons for a violation of this section is served in any county, city, or town, it may be executed by mailing by first-class mail a copy thereof to the address of the owner of the vehicle as shown on the records of the Department of Motor Vehicles. If the summoned person fails to appear on the date of return set out in the summons mailed pursuant to this section, the summons shall be executed in the manner set out in § 19.2-76.3.

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3. The Department shall make a finding of the need for a change in such designation, based on public hearings and its internal data and present this finding to the Commonwealth Transportation Board for approval.

4. The Commonwealth Transportation Board shall make written findings and a decision based upon the following criteria:

- a. Is changing the HOV-2 designation to HOV-3 in the public interest?

- b. Is there quantitative and qualitative evidence that supports the argument that HOV-3 will facilitate the flow of traffic on Interstate Route 66?

- c. Is changing the HOV-2 designation beneficial to comply with the federal Clean Air Act Amendments of 1990?

G. [Repealed.]

§ 46.2-208.2. *Delinquent accounts; publication thereof.*

Upon the failure of any owner, operator, or other person to timely deliver to the Department either payment in full of uncontested civil penalties, liquidated damages, weighing fees, processing fees, delinquent taxes, debts, and levies such as the Department may be authorized to collect, the Department at the direction of the Commissioner shall be permitted to publish on a website available to the public the name of such owner, operator, or the person, along with the county or city of his residence or incorporation, and the amount owed and the type of assessment.

The Department shall remove such name, county or city of residence or incorporation, amount owed, and type of assessment from such website immediately upon receipt of payment in full of the amount owed.

§ 46.2-341.12. Application for commercial driver's license.

A. Every application to the Department for a commercial driver's license shall be made upon a form approved and furnished by the Department, and the applicant shall write his usual signature in ink in the space provided. The applicant shall provide the following information:

1. Full legal name;

2. Current mailing and residential addresses;

3. Physical description including sex, height, weight and eye and hair color;

4. Year, month and date of birth;

5. Social Security number; and

6. Any other information required on the application form.

B. Every applicant for a commercial driver's license shall also submit to the Department the following:

1. A consent to release driving record information;
2. Certifications that:
 - a. He either meets the federal qualification requirements of 49 C.F.R. Part 391, or he is exempt from or is not subject to such federal requirements;
 - b. He either meets the state qualification requirements established pursuant to § 52-8.4, or he is exempt from or is not subject to such requirements;
 - c. The motor vehicle in which the applicant takes the skills test is representative of the class and, if applicable, the type of motor vehicle for which the applicant seeks to be licensed;
 - d. He is not subject to any disqualification, suspension, revocation or cancellation of his driving privileges;
 - e. He does not have more than one driver's license;
3. Other certifications required by the Department;
4. Any evidence required by the Department to establish proof of identity, legal presence, residency, and social security number; and

5. A statement indicating whether (i) the applicant has previously been licensed to drive any type of motor vehicle during the previous 10 years and, if so, all states that licensed the applicant and the dates he was licensed, and (ii) whether or not he has ever been disqualified, or his license suspended, revoked or cancelled and, if so, the date of and reason therefor.

C. Every application for a commercial driver's license shall include a photograph of the applicant supplied under arrangements made therefor by the Department in accordance with § 46.2-323.

D. The Department shall disqualify any commercial driver for a period of one year when the records of the Department clearly show to the satisfaction of the Commissioner that such person has made a material false statement on any application or certification made for a commercial driver's license. The Department shall take such action within 30 days after discovering such falsification.

E. The Department shall review the driving record of any person who applies for a Virginia commercial driver's license, for the renewal or reinstatement of such license or for an additional commercial classification or endorsement, including the driving record from all jurisdictions where, during the previous 10 years, the applicant was licensed to drive any type of motor vehicle. If appropriate, the Department shall incorporate information from such other jurisdictions' records into the applicant's Virginia driving record, and shall make a notation on the applicant's driving record confirming that such review has been completed and the date it was completed. The Department's review shall include research through the Commercial Driver License Information System established pursuant to the Commercial Motor Vehicle Safety Act and the National Driver Register in addition to the driver record maintained by the applicant's previous jurisdictions of licensure. This research shall be completed prior to the issuance, renewal, or reinstatement of a commercial driver's license or additional commercial classification or endorsement.

F. On and after January 30, 2012, every new applicant for a commercial driver's license, including any person applying for a commercial driver's license after revocation of his driving privileges, who certifies that he will operate a commercial motor vehicle in non-excepted interstate or intrastate commerce shall provide the Department with an original or certified copy of a medical examiner's certificate prepared by a medical examiner as defined in 49 C.F.R. Part 390.5. Any new applicant for a commercial driver's license who fails to comply with the requirements of this subsection shall be denied the issuance of a commercial driver's license by the Department.

G. On and after January 30, 2012, but no later than January 30, 2014, every existing holder of a commercial driver's license who certifies that he will operate a commercial motor vehicle in non-excepted interstate or intrastate commerce shall provide the Department with an original or certified copy of a medical examiner's certificate prepared by a medical examiner as defined in 49 C.F.R. Part 390.5. If an existing holder of a commercial driver's license fails to provide the Department with a medical certificate as required by this subsection, the Department shall post a certification status of "noncertified" on the record of the driver on the Commercial Driver's License Information System and initiate a downgrade of his commercial driver's license as defined in 49 C.F.R. Part 383.5.

H. Any person who provides a medical certificate to the Department pursuant to the requirements of subsections F and G shall keep the medical certificate information current and shall notify the Department of any change in the status of the medical certificate. If the Department determines that the medical certificate is no longer valid, the Department shall initiate a downgrade of the driver's commercial driver's license as defined in 49 C.F.R. Part 383.5.

I. If the Department receives notice that the holder of a commercial driver's license has been issued a medical variance as defined in 49 C.F.R. Part 390.5, the Department shall indicate the existence of such medical variance on the commercial driver's license document of the driver and on the record of the driver on the Commercial Driver's License Information System using the restriction code "V."

J. Any holder of a commercial driver's license who has been issued a medical variance shall keep the medical variance information current and shall notify the Department of any change in the status of the medical variance. If the Department determines that the medical variance is no longer valid, the Department shall initiate a downgrade of the driver's commercial driver's license as defined in 49

C.F.R. Part 383.5.

§ 46.2-341.20. Disqualification for multiple serious traffic violations.

A. For the purposes of this section, the following offenses, if committed in a commercial motor vehicle, are serious traffic violations:

1. Driving at a speed 15 or more miles per hour in excess of the posted speed limits;
2. Reckless driving;
3. A violation of a state law or local ordinance relating to motor vehicle traffic control arising in connection with a fatal traffic accident;
4. Improper or erratic traffic lane change;
5. Following the vehicle ahead too closely;
6. Driving a commercial motor vehicle without obtaining a commercial driver's license;
7. Driving a commercial motor vehicle without a commercial driver's license in the driver's immediate possession; ~~and~~
8. Driving a commercial motor vehicle without the proper class of commercial driver's license and/or endorsements for the specific vehicle group being operated or for the passengers or type of cargo being transported; *and*

9. A violation of § 46.2-1078.1 or a substantially similar law of any other jurisdiction.

For the purposes of this section, parking, vehicle weight, and vehicle defect violations shall not be considered traffic violations.

B. Beginning September 30, 2005, the following offenses shall be treated as serious traffic violations if committed while operating a noncommercial motor vehicle, but only if (i) the person convicted of the offense was, at the time of the offense, the holder of a commercial driver's license; (ii) the offense was committed on or after September 30, 2005; and (iii) the conviction, by itself or in conjunction with other convictions that satisfy the requirements of this section, resulted in the revocation, cancellation, or suspension of such person's driver's license or privilege to drive.

1. Driving at a speed 15 or more miles per hour in excess of the posted speed limits;
2. Reckless driving;
3. A violation of a state law or local ordinance relating to motor vehicle traffic control arising in connection with a fatal traffic accident;
4. Improper or erratic traffic lane change; or
5. Following the vehicle ahead too closely.

C. The Department shall disqualify for the following periods of time, any person whose record as maintained by the Department shows that he has committed, within any three-year period, the requisite number of serious traffic violations:

1. A 60-day disqualification period for any person convicted of two serious traffic violations; or
2. A 120-day disqualification period for any person convicted of three serious traffic violations.

D. Any disqualification period imposed pursuant to this section shall run consecutively, and not concurrently, with any other disqualification period imposed hereunder.

§ 46.2-668. Vehicles validly registered in other states and used in conjunction with harvesting operations.

A. No person shall be required to obtain the registration certificate, license plates and decals, or pay a registration fee for any motor vehicle, trailer, or semitrailer which is validly registered in another state and bears valid license plates issued by that state when the use of the vehicle has been contracted for by the owner or lessee of a farm as an incidental part of the harvesting of a crop from his farm. This exemption shall only be valid while the vehicle is engaged *principally* in transporting farm produce from the farm:

1. As an incidental part of harvesting operations;
2. Along a public highway for a distance of not more than 20 miles to a storage house, packing plant, market, or transportation terminal;
3. When the use is a seasonal operation; and
4. When the owner of the vehicle has secured from the Commissioner an exemption permit for each vehicle.

B. The Commissioner, upon receipt of ~~certification by the Superintendent of State Police~~ *an application certifying* that a vehicle is entitled to the exemption set forth in this subsection and, if the vehicle is a qualified highway vehicle under § 58.1-2700, payment of ~~\$100~~ *\$150*, shall issue an exemption permit on a form prescribed by him. The exemption permit shall be carried at all times by the operator of the vehicle for which it is issued or displayed in a conspicuous place on the vehicle. The exemption permit shall be valid for a period of 90 days from date of issue and shall be renewable by the procedure set forth in the foregoing provisions of this section.

§ 46.2-711. Furnishing number and design of plates; displaying on vehicles required.

A. The Department shall furnish one license plate for every registered motorcycle, tractor truck, semitrailer, or trailer, and two license plates for every other registered motor vehicle, except to licensed motor vehicle dealers and persons delivering unladen vehicles who shall be furnished one license plate. The license plates for trailers, semitrailers, commercial vehicles, and trucks, other than license plates for

dealers, may be of such design as to prevent removal without mutilating some part of the indicia forming a part of the license plate, when secured to the bracket.

B. The Department shall issue appropriately designated license plates for:

1. Passenger-carrying vehicles for rent or hire for the transportation of passengers for private trips;
2. Taxicabs;
3. Passenger-carrying vehicles operated by common carriers or restricted common carriers;
4. Property-carrying motor vehicles to applicants who operate as private carriers only;
5. Applicants who operate motor vehicles as carriers for rent or hire; ~~and~~
6. *Vehicles operated by nonemergency medical transportation carriers as defined in § 46.2-2000; and*
7. Trailers and semitrailers.

C. The Department shall issue appropriately designated license plates for motor vehicles held for rental as defined in § 58.1-2401.

D. No vehicles shall be operated on the highways in the Commonwealth without displaying the license plates required by this chapter. The provisions of this subsection shall not apply to vehicles used to collect and deliver the United States mail to the extent that their rear license plates may be covered by the "CAUTION, FREQUENT STOPS, U.S. MAIL" sign when the vehicle is engaged in the collection and delivery of the United States mail.

E. Pickup or panel trucks are exempt from the provisions of subsection B with reference to displaying for-hire license plates when operated as a carrier for rent or hire. However, this exemption shall not apply to pickup or panel trucks subject to regulation under Chapter 21 (§ 46.2-2100 et seq.) of this title.

§ 46.2-755. Limitations on imposition of motor vehicle license taxes and fees.

A. No county, city, or town shall impose any motor vehicle license tax or fee on any motor vehicle, trailer, or semitrailer when:

1. A similar tax or fee is imposed by the county, city, or town wherein the vehicle is normally garaged, stored or parked;
2. The vehicle is owned by a nonresident of such locality and is used exclusively for pleasure or personal transportation and not for hire or for the conduct of any business or occupation other than that set forth in subdivision 3 of this subsection;
3. The vehicle is (i) owned by a nonresident and (ii) used for transporting into and within the locality, for sale in person or by his employees, wood, meats, poultry, fruits, flowers, vegetables, milk, butter, cream, or eggs produced or grown by him, and not purchased by him for sale;
4. The motor vehicle, trailer, or semitrailer is owned by an officer or employee of the Commonwealth who is a nonresident of such county, city, or town and who uses the vehicle in the performance of his duties for the Commonwealth under an agreement for such use;
5. The motor vehicle, trailer, or semitrailer is kept by a dealer or manufacturer for sale or for sales demonstration;
6. The motor vehicle, trailer, or semitrailer is operated by a common carrier of persons or property operating between cities and towns in the Commonwealth and not in intracity transportation or between cities and towns on the one hand and points and places outside cities and towns on the other and not in intracity transportation; or
7. The motor vehicle, trailer, or semitrailer is inoperable and unlicensed pursuant to § 46.2-734.

B. No county, city, or town shall impose a license fee for any one motor vehicle owned and used personally by any veteran who holds a current state motor vehicle registration card establishing that he has received a disabled veteran's exemption from the Department and has been issued a disabled veteran's motor vehicle license plate as prescribed in § 46.2-739.

C. No county, city, or town shall impose any license tax or license fee or the requirement of a license tag, sticker or decal upon any daily rental vehicle, as defined in § 58.1-2401, the rental of which is subject to the tax imposed by § 58.1-2402 A 4.

D. In the rental agreement between a motor vehicle renting company and a renter, the motor vehicle renting company may separately itemize and charge daily fees or transaction fees to the renter, provided that the amounts of such fees are disclosed at the time of reservation and rental as part of any estimated pricing provided to the renter. Such fees include a vehicle license fee to recover the company's incurred costs in licensing, titling, and registering its rental fleet, concession recovery fees actually charged the company by an airport, or other governmentally owned or operated facility, and consolidated facility charges actually charged by an airport, or other governmentally owned or operated facility for improvements to or construction of facilities at such facility where the motor vehicle rental company operates. The vehicle license fee shall represent the company's good faith estimate of the average per day per vehicle portion of the company's total annual vehicle licensing, titling, and registration costs.

No motor vehicle renting company charging a vehicle license fee, concession recovery fee, or consolidated facility charge may make an advertisement in the Commonwealth that includes a statement of the rental rate for a vehicle available for rent in the Commonwealth unless such advertisement includes a statement that the customer will be required to pay a vehicle license fee, concession recovery fee, or consolidated facility charge. The vehicle license fee, concession recovery fee, or consolidated

facility charge shall be shown as a separately itemized charge on the rental agreement. The vehicle license fee shall be described in either the terms and conditions of the rental agreement as the "estimated average per day per vehicle portion of the company's total annual vehicle licensing, titling, and registration costs" or, for renters participating in an extended rental program pursuant to a master rental agreement, by posting such statement on the rental company website.

Any amounts collected by the motor vehicle renting company in excess of the actual amount of its costs incurred relating to its vehicle license fees shall be retained by the motor vehicle renting company and applied toward the recovery of its next calendar year's costs relating to such fees. In such event, the good faith estimate of any vehicle license fee to be charged by the company for the next calendar year shall be reduced to take into account the excess amount collected from the prior year.

E. As used in this section, common carrier of persons or property includes any person who undertakes, whether directly or by lease or any other arrangement, to transport passengers or household goods for the general public by motor vehicle for compensation over the highways of the Commonwealth, whether over regular or irregular routes, that has obtained the required certificate of public convenience and necessity from the Department of Motor Vehicles pursuant to § 46.2-2075 or 46.2-2150.

§ 46.2-2000. Definitions.

Whenever used in this chapter unless expressly stated otherwise:

"Authorized insurer" means, in the case of an interstate motor carrier whose operations may or may not include intrastate activity, an insurer authorized to transact business in any one state, or, in the case of a solely intrastate motor carrier, an insurer authorized to transact business in the Commonwealth.

"Broker" means any person not included in the term "motor carrier" and not a bona fide employee or agent of any such carrier, who, as principal or agent, sells or offers for sale any transportation subject to this chapter, or negotiates for, or holds himself out by solicitation, advertisement, or otherwise as one who sells, provides, furnishes, contracts, or arranges for such transportation.

"Carrier by motor launch" means a common carrier or contract carrier, which carrier uses one or more motor launches operating on the waters within the Commonwealth to transport passengers.

"Certificate" means a certificate of public convenience and necessity or a certificate of fitness.

"Certificate of fitness" means a certificate issued by the Department to a contract bus carrier, a contract passenger carrier, a sight-seeing carrier, or a nonemergency medical transportation carrier.

"Certificate of public convenience and necessity" means a certificate issued by the Department of Motor Vehicles to *certain* common carriers, ~~certain restricted common carriers, contract passenger carriers and sight-seeing carriers under this chapter authorizing the transportation of passengers over the public highways or waterways of the Commonwealth;~~ but nothing contained in this chapter shall be construed to mean that the Department can issue any such certificate authorizing intracity transportation.

"Charter bus" means a motor vehicle manufactured with a minimum seating capacity of 32 passengers or more, excluding the driver.

"Common carrier" means any person who undertakes, whether directly or by a lease or any other arrangement, to transport passengers for the general public by motor vehicle for compensation over the highways of the Commonwealth, whether over regular or irregular routes, including such motor vehicle operations of carriers by rail or water under this chapter. *"Common carrier" does not include nonemergency medical transportation carriers as defined in this section.*

"Contract bus carrier" means a motor carrier that operates solely charter buses, as defined in this section, to transport groups of passengers under a single contract made with one person for an agreed charge for such transportation regardless of the number of passengers transported, and for which transportation no individual or separate fares are solicited, charged, collected, or received by the carrier.

"Contract carrier" means any person who, under special and individual contracts or agreements, and whether directly or by a lease or any other arrangement, transports passengers for compensation.

"Contract passenger carrier" means a motor carrier that transports groups of passengers under a single contract made with one person for an agreed charge for such transportation, regardless of the number of passengers transported, and for which transportation no individual or separate fares are solicited, charged, collected, or received by the carrier.

"Department" means the Department of Motor Vehicles.

"Employee hauler" means a motor carrier operating for compensation and exclusively transporting only bona fide employees directly to and from the factories, plants, office or other places of like nature where the employees are employed and accustomed to work.

"Excursion train" means any steam-powered train that carries passengers for which the primary purpose of the operation of such train is the passengers' experience and enjoyment of this means of transportation, and does not, in the course of operation, carry (i) freight other than the personal luggage of the passengers or crew or supplies and equipment necessary to serve the needs of the passengers and crew, (ii) passengers who are commuting to work, or (iii) passengers who are traveling to their final destination solely for business or commercial purposes.

"Financial responsibility" means the ability to respond in damages for liability thereafter incurred arising out of the ownership, maintenance, use, or operation of a motor vehicle, in the amounts provided

for in this chapter.

"Highway" means every public highway or place of whatever nature open to the use of the public for purposes of vehicular travel in the Commonwealth, including the streets and alleys in towns and cities.

"Identification marker" means a decal or other visible identification issued by the Department to show (i) that the operator of the vehicle has registered with the Department for the payment of the road tax imposed under Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1, (ii) proof of the possession of a certificate or permit issued pursuant to Chapter 20 (§ 46.2-2000 et seq.) of this title, and/or (iii) proof of compliance with the insurance requirements of this chapter.

"Interstate" means transportation of passengers between states.

"Intrastate" means transportation of passengers solely within a state.

"License" means a license issued by the Department to a broker.

"Minibus" means any motor vehicle having a seating capacity of not less than seven nor more than 31 passengers, including the driver, and used in the transportation of passengers.

"Motor carrier" means any person who undertakes, whether directly or by lease, to transport passengers for compensation over the highways of the Commonwealth.

"Motor launch" means a motor vessel that meets the requirements of the U.S. Coast Guard for the carriage of passengers for compensation, with a capacity of six or more passengers, but not in excess of fifty passengers. Motor launch, as defined herein, shall not include sight-seeing vessels, special or charter party vessels within the provisions of this chapter. A carrier by motor launch shall not be regarded as a steamship company.

"Nonemergency medical transportation carrier" means a motor carrier that exclusively provides nonemergency medical transportation and provides such transportation only through the Department of Medical Assistance Services or through a broker operating under a contract with that Department to provide such transportation.

"Nonprofit/tax-exempt passenger carrier" means a bona fide nonprofit corporation organized or existing under Chapter 10 (§ 13.1-801 et seq.) of Title 13.1, or a tax-exempt organization as defined in §§ 501 (c) (3) and 501 (c) (4) of the United States Internal Revenue Code, as from time to time amended, who undertakes, whether directly or by lease, to control and operate minibuses exclusively in the transportation, for compensation, of members of such organization if it is a membership corporation, or of elderly, disabled, or economically disadvantaged members of the community if it is not a membership corporation.

"Operation" or "operations" includes the operation of all motor vehicles, whether loaded or empty, whether for compensation or not, and whether owned by or leased to the motor carrier who operates them or causes them to be operated.

"Operator" means the employer or person actually driving a motor vehicle or combination of vehicles.

"Permit" means a permit issued by the Department to carriers operating as employee haulers or nonprofit/tax-exempt passenger carriers or to operators of taxicabs or other vehicles performing taxicab service under this chapter.

"Person" means any individual, firm, copartnership, corporation, company, association or joint-stock association, and includes any trustee, receiver, assignee, or personal representative thereof.

"Restricted common carrier" means any person who undertakes, whether directly or by a lease or other arrangement, to transport passengers for compensation, whereby such transportation service has been restricted.

"Route," when used in connection with or with respect to a certificate of public convenience and necessity, means the road or highway, or segment thereof, operated over by the holder of a certificate of public convenience and necessity or proposed to be operated over by an applicant therefor, whether such road or highway is designated by one or more highway numbers.

"Services" and "transportation" include the service of, and all transportation by, all vehicles operated by, for, or in the interest of any motor carrier irrespective of ownership or contract, expressed or implied, together with all facilities and property operated or controlled by any such carrier or carriers and used in the transportation of passengers or the performance of any service in connection therewith.

"Sight-seeing carrier" means a restricted common carrier authorized to transport passengers under the provisions of this chapter, whereby the primary purpose of the operation is the passengers' experience and enjoyment and/or the promotion of tourism.

"Sight-seeing carrier by boat" means a restricted common carrier, which restricted common carrier uses a boat or boats operating on waters within the Commonwealth to transport passengers, and whereby the primary purpose of the operation is the passengers' experience and enjoyment and/or the promotion of tourism. Sight-seeing carriers by boat shall not be regarded as steamship companies.

"Single state insurance receipt" means any receipt issued pursuant to 49 C.F.R. Part 367 evidencing that the carrier has the required insurance and paid the requisite fees to the Commonwealth and other qualified jurisdictions.

"Special or charter party carrier by boat" for purposes of this chapter shall mean a restricted common carrier which transports groups of persons under a single contract made with one person for an agreed

charge for such movement regardless of the number of persons transported. Special or charter party carriers by boat shall not be regarded as steamship companies.

"Taxicab or other motor vehicle performing a taxicab service" means any motor vehicle having a seating capacity of not more than six passengers, excluding the driver, not operating on a regular route or between fixed terminals used in the transportation of passengers for hire or for compensation, and not a common carrier, ~~or~~ restricted common carrier, *or nonemergency medical transportation carrier* as defined in this chapter.

§ 46.2-2000.1. Vehicles excluded from operation of chapter.

This chapter shall not be construed to include:

1. Motor vehicles employed solely in transporting school children and teachers;
2. Taxicabs, or other motor vehicles performing bona fide taxicab service, having a seating capacity of not more than six passengers, excluding the driver, while operating in a county, city, or town which has or adopts an ordinance regulating and controlling taxicabs and other vehicles performing a bona fide taxicab service, and not operating on a regular route or between fixed termini;
3. Motor vehicles owned or operated by or on behalf of hotels while used exclusively for the transportation of hotel patronage between hotels and local railroad or other common carrier stations;
4. Motor vehicles owned and operated by the United States, the District of Columbia, or any state, or any municipality or any other political subdivision of this Commonwealth, including passenger-carrying motor vehicles while being operated under an exclusive contract with the United States;
5. Any motor vehicle designed with a seating capacity for and used to transport not more than fifteen passengers, including the driver, if the driver and the passengers are engaged in a share-the-ride undertaking and if they share not more than the expenses of operation of the vehicle. Regular payments toward a capital recovery fund not exceeding the cost of the vehicle or used to pay for leasing the vehicle are to be considered eligible expenses of operation;
6. Unless otherwise provided, motor vehicles while used exclusively in the transportation of passengers within the corporate limits of incorporated cities or towns, and motor vehicles used exclusively in the regular transportation of passengers within the boundaries of such cities or towns and adjacent counties where such vehicles are being operated by such county or pursuant to a contract with the board of supervisors of such county;
7. Motor vehicles while operated under the exclusive regulatory control of a transportation district commission acting pursuant to Chapter 45 (§ 15.2-4500 et seq.) of Title 15.2;
8. Motor vehicles used for the transportation of passengers by nonprofit, nonstock corporations funded solely by federal, state or local subsidies, the use of which motor vehicles are restricted as to regular and irregular routes to contracts with four or more counties and, at the commencement of the operation, no certificated carrier provides the same or similar services within such counties; *and*
9. *Ambulances as defined in § 32.1-111.1.*

§ 46.2-2001.3. Application; notice requirements.

A. Applications for a license, permit, certificate, or identification marker under this chapter shall be made to the Department and contain such information and exhibits as the Department shall require. Such information shall include, in the application or otherwise, the matters set forth in § 46.2-2011.24 as grounds for denying licenses, permits, and certificates, and other pertinent matters requisite for the safeguarding of the public interest.

B. An applicant for any original certificate of public convenience and necessity issued under this chapter, or any request for a transfer of such certificate, unless otherwise provided, shall cause a notice of such application, on the form and in the manner prescribed by the Department, on every motor carrier holding the same type of certificate issued by the Department and operating or providing service within the area proposed to be served by the applicant.

C. ~~An applicant for~~ For any application for original certificate or license issued under this chapter, or any request for a transfer of such certificate or license, *the Department shall cause publish* a notice of such application *on the Department's public website; or* in the form and in the manner prescribed by the Department; ~~on every affected person who has requested notification.~~

D. An applicant for any original certificate of public convenience and necessity or license issued under this chapter, or any request for a transfer of such certificate of public convenience and necessity or license, shall cause a publication of a summary of the application to be made in a newspaper having a general circulation in the proposed area to be served or area where the primary business office is located within such time as the Department may prescribe.

§ 46.2-2005. Action on applications; hearings on denials and protests.

A. The Department may act upon any application required under this chapter for a certificate of public convenience and necessity without a hearing, unless such application is protested by any aggrieved party, except that no protest shall be heard in such cases whereby the applicant has received a notice of intent to award a contract under the Virginia Public Procurement Act (§ 2.2-4300 et seq.) for irregular route common carrier service to or from a public-use airport located in the City of Norfolk. Aggrieved parties may protest an application by submitting written grounds to the Department setting forth (i) a precise statement of the party's interest and how the party could be aggrieved if the

application were granted; (ii) a full and clear statement of the facts that the person is prepared to provide by competent evidence; (iii) a statement of the specific relief sought; (iv) the case number assigned to the application; and (v) a certification that a copy of the protest was sent to the applicant.

B. The Department may act upon any application required under this chapter for a license or certificate of fitness without a hearing, unless such application is protested by any party based upon fitness allegations. Parties may protest an application by submitting written grounds to the Department setting forth (i) a precise statement of the party's objections to the application being granted; (ii) a full and clear statement of the facts that the person is prepared to provide by competent evidence; (iii) the case number assigned to the application; and (iv) a certification that a copy of the protest was sent to the applicant. The Department shall have full discretion as to whether a hearing is warranted based on the merits of any protest filed.

C. Any applicant denied without a hearing an original license or certificate under subsection A or B, or any request for a transfer of such a license or certificate, shall be given a hearing at a time and place determined by the Commissioner or his designee upon the applicant's written request for such hearing made within thirty days of denial.

§ 46.2-2011.4. Conversion of old permits and certificates.

~~A. All holders of nonemergency medical transportation carriers as defined in this chapter that hold a license, permit, or certificate issued prior to July 1, 2002 2011, shall be issued a replacement license, permit, or nonemergency medical transportation certificate that shall reflect the same or new classification for and contain the same requirements and restrictions as the original license, permit, or certificate of fitness. All contract passenger carriers and sight-seeing carriers that hold a certificate of public convenience and necessity issued prior to July 1, 2011, shall be issued a replacement certificate of fitness. The holder of such license, permit, or certificate shall apply for a replacement license, permit, or certificate prior to October 1, 2002 2011. If such application is not received by the Department or received in an envelope bearing a postmark showing it was mailed prior to midnight, September 30, 2002 2011, then the license, permit, or certificate shall expire.~~

~~B. If a broker, motor carrier, or rail passenger carrier does not request a replacement license, permit, or certificate prior to October 1, 2002 2011, and allows the original to expire, any application received thereafter shall be treated as an original application.~~

~~C. Replacement certificates issued for limousine, executive sedan, and special or charter party certificates shall be reclassified as contract passenger certificates.~~

§ 46.2-2011.8. Transfers of licenses or certificates.

Any license or certificate issued under this chapter may be transferred ~~or leased~~, subject to the approval of the Department, and under such reasonable rules and regulations as may be prescribed by the Department. An application for such approval shall be made jointly by the transferor and transferee, ~~or lessor or lessee~~. The transfer ~~or lease~~ of a license or certificate can only be made upon a satisfactory showing that such purchaser, ~~or transferee, or lessee~~ can and will comply with the applicable motor carrier or broker laws, rules and regulations of the Department, is fit, willing and able to properly perform the services, and all taxes due the Commonwealth have been paid, or payment guaranteed.

§ 46.2-2011.27. Basis for reinstatement of suspended licenses, permits, or certificates; reinstatement fees.

A. The Department shall reinstate any license, permit, or certificate suspended pursuant to this chapter provided the grounds upon which the suspension action was taken have been satisfied and the appropriate reinstatement fee and other applicable fees have been paid to the Department.

B. The reinstatement fee for suspensions issued pursuant to this chapter shall be fifty dollars. In the event multiple credentials have been suspended under this chapter for the same violation, only one reinstatement fee shall be applicable.

C. In addition to a reinstatement fee, a fee of \$500 shall be paid for failure of a motor carrier to keep in force at all times insurance, a bond or bonds, in an amount required by this chapter. *Any motor carrier who applies for a new license, permit, or certificate because his prior license, permit, or certificate was revoked for failure to keep in force at all times insurance, a bond or bonds, in an amount required by this chapter, shall also be subject to a fee of \$500.*

§ 46.2-2075. Required certificates of public convenience and necessity.

No common carrier not otherwise exempted, *other than a sight-seeing carrier*, shall engage in intrastate operation on any highway within the Commonwealth without first having obtained from the Department a certificate of public convenience and necessity authorizing such operation.

§ 46.2-2096. Certificates required unless exempted.

Unless otherwise exempted, no person shall engage in the business of a contract passenger carrier by motor vehicle on any highway within the Commonwealth on an intrastate basis unless such person has secured from the Department a certificate of ~~public convenience and necessity~~ *fitness* authorizing such business.

§ 46.2-2099.4. Required certificate of fitness.

No sight-seeing carrier, unless otherwise exempted, shall transport passengers on any highway within the Commonwealth on an intrastate basis without first having obtained from the Department a certificate

of ~~public convenience and necessity~~ *fitness* authorizing such operation.

§ 46.2-2099.5. Specific service and route requirements.

A certificate issued under this article shall authorize the holder named in the certificate to ~~A sight-seeing carrier~~ shall transport passengers from ~~the a specific point or points of origin named in the certificate~~ over regular routes to ~~the specific points of interest named in the certificate~~ and back to the point or points of origin. Each passenger shall be issued a ticket on which shall be printed the points of interest and the fare charged for the round trip. Passengers shall be transported only on round trips without stopover privileges, and no part of a fare shall be refunded because of a passenger's refusal to complete the round trip.

Article 14.

Nonemergency Medical Transportation Carriers.

§ 46.2-2099.44. *Certificate of fitness required.*

No nonemergency medical transportation carrier, unless otherwise exempted, shall transport passengers on any highway within the Commonwealth on an intrastate basis without first having obtained from the Department a certificate of fitness authorizing such operation.

§ 46.2-2100. Definitions.

Whenever used in this chapter, unless expressly stated otherwise:

"Authorized insurer" means, in the case of an interstate motor carrier whose operations may or may not include intrastate activity, an insurer authorized to transact business in any one state, or, in the case of a solely intrastate motor carrier, an insurer authorized to transact business in the Commonwealth.

"Broker" means any person not included in the term "motor carrier" and not a bona fide employee or agent of any such carrier, who, as principal or agent, sells or offers for sale any transportation subject to this chapter, or negotiates for, or holds himself out by solicitation, advertisement, or otherwise as one who sells, provides, furnishes, contracts, or arranges for such transportation.

"Bulk commodity" means any non-liquid, non-gaseous commodity shipped loose or in mass/aggregate and which in the loading and unloading thereof is ordinarily shoveled, scooped, forked, or mechanically conveyed or which is not in containers or in units of such size to permit piece by piece loading and unloading.

"Bulk property carrier" means any person, not herein exempted, who undertakes either directly or by lease, to transport exclusively bulk commodities, as defined, for compensation including for purposes of this section for-hire tow truck operations.

"Certificate of ~~public convenience and necessity~~ *fitness*" means a certificate issued by the Department to certain "household goods carriers" under this chapter.

"Constructive weight" means a measurement of seven pounds per cubic foot of properly loaded van space.

"Courier service" means a motor carrier that engages, directly or by lease, exclusively in the transportation of letters, envelopes, negotiable or nonnegotiable instruments, or other documents or papers for compensation.

"Department" means the Department of Motor Vehicles.

"Financial responsibility" means the ability to respond in damages for liability thereafter incurred arising out of the ownership, maintenance, use, or operation of a motor vehicle, in the amounts provided for in this chapter.

"Gross weight" means the weight of a truck after a shipment has been loaded.

"Highway" means every public highway or place of whatever nature open to the use of the public for purposes of vehicle travel in this Commonwealth, excluding the streets and alleys in towns and cities.

"Household goods" means personal effects and property used or to be used in a dwelling, when a part of the equipment or supplies of such dwelling, and similar property if the transportation of such effects or property is (i) arranged and paid for by the householder, including transportation of the property from a factory or store when the property is purchased by the householder with intent to use it in his dwelling or (ii) arranged and paid for by another party.

"Household goods carrier" means a restricted common carrier who undertakes, whether directly or by a lease or other arrangement, to transport "household goods," as herein defined, by motor vehicle for compensation, on any highway in this Commonwealth, between two or more points in this Commonwealth, whether over regular or irregular routes.

"Identification marker" means a decal or other visible identification issued by the Department to show (i) that the operator of the vehicle has registered with the Department for the payment of the road tax imposed under Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1, (ii) proof of the possession of a certificate or permit issued pursuant to Chapter 21 (§ 46.2-2100 et seq.) of this title, and/or (iii) proof of compliance with the insurance requirements of this chapter.

"Interstate" means the transportation of property between states.

"Intrastate" means the transportation of property solely within a state.

"License" means a license issued by the Department to a broker.

"Motor carrier" means any person who undertakes whether directly or by a lease, to transport property, including household goods, as defined by this chapter, for compensation over the highways of

the Commonwealth.

"Motor vehicle" means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of property, but does not include any vehicle, locomotive or car operated exclusively on a rail or rails.

"Net weight" means the tare weight subtracted from the gross weight.

"Permit" means a permit issued by the Department authorizing the transportation of property, excluding household goods transported for a distance greater than 30 road miles.

"Person" means any individual, firm, copartnership, corporation, company, association or joint-stock association, and includes any trustee, receiver, assignee, or personal representative thereof.

"Property carrier" means any person, not herein exempted, who undertakes either directly or by a lease, to transport property for compensation.

"Restricted common carrier" means any person who undertakes, whether directly or by a lease or other arrangement, to transport household goods by motor vehicle for compensation whether over regular or irregular routes.

"Services" and "transportation" includes the services of, and all transportation by, all vehicles operated by, for, or in the interest of any motor carrier, irrespective of ownership or contract, express or implied, together with all facilities and property operated or controlled by any such carrier or carriers and used in the transportation of property or in the performance of any service in connection therewith.

"Single state insurance receipt" means any receipt issued pursuant to 49 C.F.R. Part 367 evidencing that the carrier has the required insurance and paid the requisite fees to the Commonwealth and other qualified jurisdictions.

"Tare weight" means the weight of a truck before being loaded at a shipper's residence or place of business, including the pads, dollies, hand-trucks, ramps and other equipment normally used in the transportation of household goods shipments.

§ 46.2-2108.2. Necessity of a license, permit, or certificate.

It shall be unlawful for any person to operate, offer, advertise, provide, procure, furnish, or arrange by contract, agreement or arrangement to transport property for compensation on an intrastate basis as a motor carrier or broker without first obtaining from the Department a license, permit, or certificate of ~~public convenience and necessity~~ *fitness* as required by this chapter.

§ 46.2-2108.4. Application; notice requirements.

A. Applications for a license, permit, or certificate of ~~public convenience and necessity~~ *fitness* under this chapter shall be made to the Department and contain such information as the Department shall require. Such information shall include, in the application or otherwise, the matters set forth in §§ 46.2-2133 and 46.2-2134 as grounds for denying licenses, permits, and certificates.

B. The applicant for a certificate of ~~public convenience and necessity~~ *fitness* issued under this chapter shall cause a notice of such application, on the form and in the manner prescribed by the Department, to be served ~~on the mayor or principal officer of any city or county and on the chairman of the board of supervisors of any county in which the applicant maintains offices and/or warehouses; and on every affected person who has requested notification. Publication of a summary of the application shall be made in a newspaper having a general circulation in the area where the primary business office is located within such time as the Department may prescribe.~~

§ 46.2-2108.5. Registered for fuels tax; business, professional, and occupational license taxes.

License, permit, and certificate of ~~public convenience and necessity~~ *fitness* holders shall be licensed and registered in accordance with the road tax requirements of Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1 and licensed for payment of local business, professional, and occupational license taxes of Chapter 37 (§ 58.1-3700 et seq.) of Title 58.1 as required.

§ 46.2-2108.6. Considerations for determination of issuance of license, permit, or certificate.

In determining whether a license, permit, or certificate of ~~public convenience and necessity~~ *fitness* required by this chapter shall be issued, the Department may, among other things, consider compliance with financial responsibility, bonding and other requirements of this chapter.

§ 46.2-2109. Action on applications; hearings on denials and protests.

A. The Department may act upon any application required under this chapter without a hearing, unless such application is protested by any ~~aggrieved party based upon fitness allegations. Aggrieved parties~~ *Parties* may protest an application by submitting written grounds to the Department setting forth (i) a precise statement of the party's ~~interest and how the party could be aggrieved if objections to the application were being granted;~~ (ii) a full and clear statement of the facts that the person is prepared to provide by competent evidence; (iii) ~~a statement of the specific relief sought;~~ (iv) the case number assigned to the application; and ~~(v)~~ (iv) a certification that a copy of the protest was sent to the applicant. *The Department shall have full discretion as to whether a hearing is warranted based on the merits of any protest filed.*

B. Any applicant denied without a hearing an original license or certificate of ~~public convenience and necessity~~ *fitness* under subsection A, or any request for a transfer for such license or certificate, shall be given a hearing at a time and place determined by the Commissioner or his designee upon the applicant's written request for such hearing made within thirty days of denial.

§ 46.2-2115. Determination for issuance of license, permit, or certificate.

If the Department finds the applicant has met all requirements of this chapter, it shall issue a license, permit, or certificate of ~~public convenience and necessity~~ *fitness* to the applicant, subject to such terms, limitations and restrictions as the Department may deem proper.

§ 46.2-2116. Issuance of temporary authority.

To enable the provision of service for which there is an immediate and urgent need to a point or between points in Virginia where certificated carriers are unable to perform the service, or within a territory having no certificated carrier, the Department may, in its discretion and without hearings or other proceedings, grant temporary authority for such service by a carrier that would otherwise be required to obtain a certificate of ~~public convenience and necessity~~ *fitness* under this chapter. Such temporary authority, unless suspended or revoked in accordance with § 46.2-2133, shall be valid for such time as the Department shall specify, but for not more than an aggregate of 180 days, and shall create no presumption that corresponding permanent authority will be granted thereafter.

§ 46.2-2118. Issuance, expiration, and renewal of license, permit, and certificate.

All licenses, permits, and certificates of ~~public convenience and necessity~~ *fitness* issued under this chapter shall be issued for a period of twelve consecutive months except, at the discretion of the Department, the periods may be adjusted as necessary. Such licenses, permits, and certificates shall expire if not renewed annually. Such expiration shall be effective thirty days after the Department has provided the licensee, permittee, or certificate holder notice of non-renewal. If the license, permit, or certificate is renewed within thirty days after notice of non-renewal, then the license, permit, or certificate shall not expire.

§ 46.2-2119. Conversion of old certificates.

A. All holders of a ~~license, permit, or~~ certificate of public convenience and necessity issued prior to July 1, 2002 ~~2011~~, shall be issued a replacement ~~license, permit, or~~ certificate that shall reflect the same classification and contain the same requirements and restrictions as the original license, permit, or ~~certificate of fitness~~. The holder of such ~~license, permit, or~~ certificate shall make application for a replacement ~~license, permit, or~~ certificate prior to October 1, 2002 ~~2011~~. If such application is not received by the Department or received in an envelope bearing a postmark showing it was mailed prior to midnight, September 30, 2002 ~~2011~~, then the ~~license, permit, or~~ certificate shall expire.

B. If a ~~broker or~~ motor carrier does not request a replacement ~~license, permit, or~~ certificate prior to October 1, 2002 ~~2011~~, and allows the original to expire, any application received thereafter shall be treated as an original application.

§ 46.2-2120. Filing and application fees.

Every applicant for an original license or certificate of ~~public convenience and necessity~~ *fitness* issued under this chapter and transfer of a license or certificate of ~~public convenience and necessity~~ *fitness* under this chapter shall, upon the filing of an application, deposit with the Department, as a filing fee, a sum in the amount of fifty dollars. The Department shall collect a fee of three dollars for the issuance of a duplicate license or certificate of ~~public convenience and necessity~~ *fitness*.

§ 46.2-2122. Bond and letter of credit requirements of applicants for license and certificate.

A. Every applicant for an original, second-year renewal, third-year renewal, fourth-year renewal, and fifth-year renewal of a certificate of ~~public convenience and necessity~~ *fitness* under this chapter shall obtain and file with the Department a surety bond or an irrevocable letter of credit, in addition to any other bond or letter of credit required by law, in the amount of \$50,000. The bond or letter of credit shall be in a form and content acceptable to the Department. The bond or letter of credit shall be conditioned on a statement by the applicant that the applicant will not practice fraud, make any fraudulent representation, or violate any provision of this chapter in the conduct of the applicant's business. The Department may, without holding a hearing, suspend the certificate of ~~public convenience and necessity~~ *fitness* during the period that the certificate holder does not have a sufficient bond or letter of credit on file.

B. Every applicant for an original and subsequent renewal license pursuant to Article 5 of this chapter shall obtain and file with the Department a surety bond or an irrevocable letter of credit, in addition to any other bond or letter of credit required by law, in the amount of \$25,000. The bond or letter of credit shall be in a form and content acceptable to the Department. The bond or letter of credit shall be conditioned on a statement by the applicant that the applicant will not practice fraud, make any fraudulent representation, or violate any provision of this chapter in the conduct of the applicant's business. The Department may, without holding a hearing, suspend the license during the period that the licensee does not have a sufficient bond or letter of credit on file.

C. If a person suffers any of the following: (i) loss or damage in connection with the transportation service by reason of fraud practiced on him or fraudulent representation made to him by a licensee or certificate holder or his agent or employee acting within the scope of employment; (ii) loss or damage by reason of a violation by a licensee or certificate holder or his agent or employee of any provision of this chapter in connection with the transportation service; or (iii) loss or damage resulting from a breach of a contract entered into on or after the effective date of this act, that person shall have a claim against the licensee or certificate holder's bond or letter of credit, and may recover from such bond or letter of

credit the amount awarded to such person by final judgment of a court of competent jurisdiction against the licensee or certificate holder as a result of such loss or damage up to, but not exceeding, the amount of the bond or letter of credit.

D. The licensee or certificate holder's surety shall notify the Department when a claim is made against a licensee or certificate holder's bond, when a claim is paid and/or when the bond is canceled. Such notification shall include the amount of a claim and the circumstances surrounding the claim. Notification of cancellation shall include the effective date and reason for cancellation.

E. The surety on any bond filed by a licensee or certificate holder shall be released and discharged from all liability accruing on such bond after the expiration of sixty days from the date on which the surety files with the Department a written request to be released and discharged. Such request shall not operate to relieve, release, or discharge the surety from any liability already accrued or that shall accrue before the expiration of the sixty-day period.

§ 46.2-2123. Transfer of license or certificate.

Any certificate of ~~public convenience and necessity~~ *fitness* issued under this chapter may be transferred ~~or leased~~, subject to the approval of the Department, and under such reasonable rules and regulations as may be prescribed by the Department. An application for such approval shall be made jointly by the transferor and transferee, ~~or lessor or lessee~~. The transfer ~~or lease~~ of a certificate of ~~public convenience and necessity~~ *fitness* can only be made upon a satisfactory showing that such purchaser, ~~or transferee, or lessee~~ can and will comply with the applicable motor carrier or broker laws, rules and regulations of the Department, is fit, willing and able to properly perform the services, and all taxes due the Commonwealth have been paid, or payment guaranteed. The transfer provisions of this section shall also apply to licenses.

§ 46.2-2124. Notice of discontinuance of service.

Every motor carrier or broker who ceases operation or abandons his rights under a license, permit, or certificate of ~~public convenience and necessity~~ *fitness* issued shall notify the Department within thirty days of such cessation or abandonment.

§ 46.2-2132. Violations; civil penalties.

The Department may impose a civil penalty not exceeding \$1,000 if any person has:

1. Made any misrepresentation of a material fact to obtain proper operating credentials as required by this chapter or other requirements in this title regulating the operation of motor vehicles;
2. Failed to make any report required in this chapter;
3. Failed to pay any fee or tax properly assessed against him; or
4. Failed to comply with any provision of this chapter or lawful order, rule or regulation of the Department or any term or condition of any certificate, permit, or license.

Any such penalty shall be imposed by order; however, no order issued pursuant to this section shall become effective until the Department has offered the person an opportunity for an administrative hearing to show cause why the order should not be enforced. Instead of or in addition to imposing such penalty, the Department may suspend, revoke, or cancel any license, permit, certificate of ~~public convenience and necessity~~ *fitness*, registration card or identification marker issued pursuant to this title. If, in any such case, it appears that the defendant owes any fee or tax to the Commonwealth, the Department shall enter order therefor.

§ 46.2-2133. Grounds for denying, suspending, or revoking licenses or certificates.

A license or certificate of ~~public convenience and necessity~~ *fitness* issued under this chapter may be denied, suspended, or revoked on any one or more of the following grounds, where applicable:

1. Material misstatement or omission in application for license or certificate of public convenience and necessity, identification marker, or vehicle registration;
2. Failure to comply subsequent to receipt of a written warning from the Department or any willful failure to comply with a lawful order, any provision of this chapter or any regulation promulgated by the Department under this chapter, or any term or condition of any license or certificate of ~~public convenience and necessity~~ *fitness*;
3. Use of deceptive business acts or practices;
4. Knowingly advertising by any means any assertion, representation, or statement of fact that is untrue, misleading, or deceptive relating to the conduct of the business for which a license, certificate of ~~public convenience and necessity~~ *fitness*, identification marker, or vehicle registration is held or sought;
5. Having been found, through a judicial or administrative hearing, to have committed fraudulent or deceptive acts in connection with the business for which a license or certificate of ~~public convenience and necessity~~ *fitness* is held or sought or any consumer-related fraud;
6. Having been convicted of any criminal act involving the business for which a license or certificate of ~~public convenience and necessity~~ *fitness* is held or sought;
7. Improper leasing, renting, lending, or otherwise allowing the improper use of a license, certificate of ~~public convenience and necessity~~ *fitness*, identification marker, or vehicle registration;
8. Having been convicted of a felony;
9. Having been convicted of any misdemeanor involving lying, cheating, stealing, or moral turpitude;
10. Failure to submit to the Department any tax, fees, dues, fines, or penalties owed to the

Department;

11. Failure to furnish the Department information, documentation, or records required or requested pursuant to statute or regulation;

12. Knowingly and willfully filing any false report, account, record, or memorandum;

13. Failure to meet application certifications or requirements of ~~public convenience and necessity~~, character, fitness, and financial responsibility pursuant to this chapter;

14. Willfully altering or changing the appearance or wording of any license, certificate, identification marker, license plate, or vehicle registration;

15. Failure to provide services in accordance with license or certificate of ~~public convenience and necessity~~ *fitness* terms, limitations, conditions, or requirements;

16. Failure to maintain and keep on file with the Department motor carrier liability insurance or cargo insurance, issued by a company licensed to do business in the Commonwealth, or a bond, certificate of insurance, certificate of self-insurance, or unconditional letter of credit in accordance with this chapter, with respect to each motor vehicle operated in the Commonwealth;

17. Failure to comply with the Workers' Compensation Act of Title 65.2;

18. Failure to properly register a motor vehicle under this title;

19. Failure to comply with any federal motor carrier statute, rule, or regulation; or

20. Inactivity of a motor carrier as may be evidenced by the absence of a motor vehicle registered to operate under such certificate or permit for a period of greater than three months.

§ 46.2-2135. Altering or amending licenses, permits, or certificates.

The Department may alter or amend a license, permit, or certificate of ~~public convenience and necessity~~ *fitness* at the request of a licensee, permittee, or certificate holder, or upon a finding by the Department that a licensee, permittee, or certificate holder failed to observe any of the provisions within this chapter, or any of the rules or regulations of the Department, or any term, condition, or limitation of such license or certificate.

§ 46.2-2136. Suspension, revocation, and refusal to renew license, permit, or certificate; notice and hearing.

A. Except as provided in subsection D of this section, unless otherwise provided in this chapter, no license, permit, or certificate of ~~public convenience and necessity~~ *fitness* issued under this chapter shall be suspended or revoked, or renewal thereof refused, unless the licensee, permittee, or certificate holder has been furnished a written copy of the complaint against him and the grounds upon which the action is taken and has been offered an opportunity for an administrative hearing to show cause why such action should not be taken.

B. The order suspending, revoking, or denying renewal of a license, permit, or certificate of ~~public convenience and necessity~~ *fitness* shall not become effective until the licensee, permittee, or certificate holder has, after notice of the opportunity for a hearing, had thirty days to make a written request for such a hearing. If no hearing has been requested within such thirty-day period, the order shall become effective and no hearing shall thereafter be held. A timely request for a hearing shall automatically stay operation of the order until after the hearing.

C. Notice of an order suspending, revoking, or denying renewal of a license, permit, or certificate of ~~public convenience and necessity~~ *fitness* and an opportunity for a hearing shall be mailed to the licensee, permittee, or certificate holder by registered or certified mail at the address as shown on the license, permit, or certificate or other record of information in possession of the Department and shall be considered served when mailed.

D. If the Department makes a finding, after conducting a preliminary investigation, that the conduct of a licensee, permittee, or certificate holder (i) is in violation of this chapter or regulations adopted pursuant to this chapter and (ii) such violation constitutes a danger to public safety, the Department may issue an order suspending the license, permit, or certificate. Notice of the suspension shall be in writing and mailed in accordance with subsection C of this section. Upon receipt of a request for a hearing appealing the suspension, the licensee, permittee, or certificate holder shall be afforded the opportunity for a hearing within thirty days. The suspension shall remain in effect pending the outcome of the hearing.

§ 46.2-2137. Basis for reinstatement of suspended licenses, permits, or certificates; reinstatement fees.

A. The Department shall reinstate any license, permit, or certificate suspended pursuant to this chapter provided the grounds upon which the suspension action was taken have been satisfied and the appropriate reinstatement fee and other applicable fees have been paid to the Department.

B. The reinstatement fee for suspensions issued pursuant to this chapter shall be fifty dollars. In the event multiple credentials have been suspended under this chapter for the same violation only one reinstatement fee shall be applicable.

C. In addition to a reinstatement fee, a fee of \$500 shall be paid for failure of a motor carrier to keep in force at all times insurance, a bond or bonds, in an amount required by this chapter. *Any motor carrier who applies for a new license, permit, or certificate because his prior license, permit, or certificate was revoked for failure to keep in force at all times insurance, a bond or bonds, in an amount required by this chapter, shall also be subject to a fee of \$500.*

§ 46.2-2143. Surety bonds, insurance, letter of credit or securities required prior to issuance of registration; amounts.

A. No certificate of ~~public convenience and necessity~~ *fitness*, permit, identification marker, registration card, or license plate shall be issued by the Department to any vehicle operated by a motor carrier until the motor carrier certifies to the Department that the vehicle is covered by:

1. An insurance policy or bond;
2. A certificate of insurance in lieu of the insurance policy or bond, certifying that such policy or bond covers the liability of such motor carrier in accordance with the provisions of this article, is issued by an authorized insurer, or in the case of bonds, is in an amount approved by the Department. The bonds may be issued by the Commonwealth of Virginia, the United States of America, or any municipality in the Commonwealth. Such bonds shall be deposited with the State Treasurer and the surety shall not be reduced except in accordance with an order of the Department;
3. An unconditional letter of credit, issued by a bank doing business in Virginia, for an amount approved by the Department. The letter of credit shall be in effect so long as the motor carrier operates motor vehicles in the Commonwealth; or
4. In the case of a lessor who acts as a registrant for purposes of consolidating lessees' vehicle registration applications, a statement that the registrant has, before leasing a vehicle, obtained from the lessee an insurance policy, bond, or certificate of insurance in lieu of the insurance policy or bond and can make available said proof of insurance coverage upon demand.

Vehicles belonging to carriers who have filed proof of financial responsibility in accordance with the single state registration system authorized by 49 U.S.C. § 14504 or the unified carrier registration system authorized by 49 U.S.C. § 14504a are deemed to have fulfilled the requirements of this article for insurance purposes, provided there is on board the vehicle a copy of an insurance receipt issued pursuant to the federal regulations promulgated pursuant to 49 U.S.C. § 14504 or 14504a. The Department is further authorized to issue single state registration system or unified carrier registration system receipts to any qualified carrier as well as to collect and disperse the fees for and to qualified jurisdictions.

B. All motor carriers shall keep in force at all times insurance, a bond or bonds, in an amount required by this section.

C. The minimum public liability financial responsibility requirements for motor carriers operating in intrastate commerce shall be \$750,000. The minimum insurance for motor carriers operating in interstate commerce shall equal the minimum required by federal law, rule, or regulation. The minimum cargo insurance required for motor carriers operating in intrastate commerce shall be \$50,000. Motor carriers engaged exclusively in the transportation of bulk commodities shall not be required to file any cargo insurance, bond or bonds for cargo liability. Any motor carrier that meets the minimum federal financial responsibility requirements and also operates in intrastate commerce may submit, in lieu of a separate filing for its intrastate operation, proof of the minimum federal limits, provided that (i) both interstate and intrastate operations are insured, (ii) the public liability filed is at least \$750,000, and (iii) any cargo insurance requirements of this section have been met.

§ 46.2-2144. Policies or surety bonds to be filed with the Department and securities with State Treasurer.

A. Each motor carrier shall keep on file with the Department proof of an insurance policy or bond in accordance with this article. Record of the policy or bond shall remain in the files of the Department six months after the certificate of ~~public convenience and necessity~~ *fitness*, registration card, license plate, identification marker or permit is canceled for any cause. If federal, state, or municipal bonds are deposited with the State Treasurer in lieu of an insurance policy, the bonds shall remain deposited until six months after the registration card, license plate, certificate, permit or identification marker is canceled for any cause unless otherwise ordered by the Department.

B. The Department may, without holding a hearing, suspend a permit or certificate of ~~public convenience and necessity~~ *fitness* if the permittee or certificate holder fails to comply with the requirements of this section.

§ 46.2-2146. Effect of unfair claims settlement practices on self-insured motor carriers.

The provisions of subdivisions 4, 6, 11 and 12 of subsection A of § 38.2-510 shall apply to each holder of a certificate of ~~public convenience and necessity~~ *fitness* or permit issued by and under the authority of the Department who, in lieu of filing an insurance policy, has deposited with the State Treasurer state, federal or municipal bonds or has filed an unconditional letter of credit issued by a bank. The failure of any such holder of a certificate or permit to comply with the provisions of § 38.2-510 shall be the cause for revocation or suspension of the certificate or permit.

§ 46.2-2147. Certain household goods carriers exempted from article.

Household goods carriers transporting solely household goods under a certificate of ~~public convenience and necessity~~ *fitness* issued pursuant to this chapter are exempt from the provisions of this article.

§ 46.2-2150. Required certificates of fitness.

No household goods carrier, unless otherwise exempted, shall engage in intrastate operations on any highway within the Commonwealth without first having obtained from the Department a certificate of

~~public convenience and necessity~~ *fitness* authorizing such operation.

§ 46.2-2151. Considerations for determination of issuance of certificate.

In determining whether the certificate of ~~public convenience and necessity~~ *fitness* required by this article shall be granted, the Department may, among other things, consider the provisions of § 46.2-2108.6, ~~whether the proposed operation is justified by public convenience and necessity~~, the applicant's character and fitness, and the applicant's compliance with federal, state, and local taxes.

§ 46.2-2155. Power and duty of Department.

The Department shall regulate and control all household goods carriers not herein exempted, doing business in the Commonwealth, in all matters relating to the performance of their duties as such carriers and their rates and charges therefor, which rates and charges shall be filed with and subject to approval by the Department by individual household goods carriers or by groups of such carriers, and correct abuses by such carriers. To that end the Department may prescribe reasonable rules, regulations, bills of lading, forms and reports for such carriers to administer and enforce the provisions of this chapter. The Department shall have the right at all times to require from such carriers special reports and statements, under oath, concerning their business. It shall make and enforce such requirements, rules, and regulations as may be necessary to prevent unjust or unreasonable discriminations by any such carrier ~~in favor of, or against, any person, locality, community or connecting carrier in the matter of service, schedule, efficiency of transportation or otherwise, in connection with the duties of such carriers.~~ The Department may prescribe and enforce such reasonable requirements, rules and regulations in the matter of leasing of motor vehicles as are necessary to prevent evasion of the Department's regulatory powers.

§ 46.2-2156. Solicitation, booking, registration by other persons prohibited; storage-in-transit.

A. No person except a certificated household goods carrier, its parent, or its wholly owned subsidiary company, or other entity under complete ownership, or an employee of the above certificated carrier may solicit, book or register a shipment of household goods moving intrastate and only in the name of that certificated carrier.

B. No person or employee of a certificated or a noncertificated carrier may act as an employee, representative, or agent for another certificated carrier for purpose of soliciting, booking or registering an intrastate shipment except as provided in subsection A of this section. No person or employee of a certificated carrier who solicits, books or registers intrastate shipments may be employed by a noncertificated carrier.

C. A certificated household goods carrier may utilize the services of another certificated household goods carrier or a permitted property carrier that has complied with the minimum cargo insurance requirements of this chapter for storage and final delivery on storage-in-transit shipments at destination. A property carrier who does not hold a household goods certificate of ~~public convenience and necessity~~ *fitness* is prohibited from delivering a shipment for a greater distance than thirty road miles from the warehouse. The shipment must move on the bill of lading of the originating certificated household goods carrier with the delivering certificated household goods carrier or property carrier shown on the bill of lading. The legal liability of the shipment remains the responsibility of the originating certificated household goods carrier.

D. A household goods carrier may interchange or interline shipments with any other certificated household goods carrier provided both carriers hold proper authority to transport the shipment from origin to destination. The shipment must move on the bill of lading of the originating certificated household goods carrier with the delivering certificated household goods carrier shown on the bill of lading. The legal liability of the shipment remains the responsibility of the originating certificated household goods carrier.

§ 58.1-2259. Fuel uses eligible for refund.

A. A refund of the tax paid for the purchase of fuel in quantities of five gallons or more at any time shall be granted in accordance with the provisions of § 58.1-2261 to any person who establishes to the satisfaction of the Commissioner that such person has paid the tax levied pursuant to this chapter upon any fuel:

1. Sold and delivered to a governmental entity for its exclusive use;
2. Used by a governmental entity, provided persons operating under contract with a governmental entity shall not be eligible for such refund;
3. Sold and delivered to an organization described in subdivision 2 of § 58.1-2226 or subdivision 2 of § 58.1-2250 for its exclusive use in the operation of an aircraft;
4. Used by an organization described in subdivision 2 of § 58.1-2226 or subdivision 2 of § 58.1-2250 for its exclusive use in the operation of an aircraft, provided persons operating under contract with such an organization shall not be eligible for such refund;
5. Purchased by a licensed exporter and subsequently transported and delivered by such licensed exporter to another state for sales or use outside the boundaries of the Commonwealth if the tax applicable in the destination state has been paid, provided a refund shall not be granted pursuant to this section on any fuel which is transported and delivered outside of the Commonwealth in the fuel supply tank of a highway vehicle or an aircraft;
6. Used by any person performing transportation under contract or lease with any transportation

district for use in a highway vehicle controlled by a transportation district created under the Transportation District Act of 1964 (§ 15.2-4500 et seq.) and used in providing transit service by the transportation district by contract or lease, provided the refund shall be paid to the person performing such transportation;

7. Used by any private, nonprofit agency on aging, designated by the Department for the Aging, providing transportation services to citizens in highway vehicles owned, operated or under contract with such agency;

8. Used in operating or propelling highway vehicles owned by a nonprofit organization that provides specialized transportation to various locations for elderly or disabled individuals to secure essential services and to participate in community life according to the individual's interest and abilities;

9. Used in operating or propelling buses owned and operated by a county or the school board thereof while being used to transport children to and from public school or from school to and from educational or athletic activities;

10. Used by buses owned or solely used by a private, nonprofit, nonreligious school while being used to transport children to and from such school or from such school to and from educational or athletic activities;

11. Used by any county or city school board or any private, nonprofit, nonreligious school contracting with a private carrier to transport children to and from public schools or any private, nonprofit, nonreligious school, provided the tax shall be refunded to the private carrier performing such transportation;

12. Used in operating or propelling the equipment of volunteer firefighting companies and of volunteer rescue squads within the Commonwealth used actually and necessarily for firefighting and rescue purposes;

13. Used in operating or propelling motor equipment belonging to counties, cities and towns, if actually used in public activities;

14. Used for a purpose other than in operating or propelling highway vehicles, watercraft or aircraft;

15. Used off-highway in self-propelled equipment manufactured for a specific off-road purpose, which is used on a job site and the movement of which on any highway is incidental to the purpose for which it was designed and manufactured;

16. Proven to be lost by accident, including the accidental mixing of (i) dyed diesel fuel with tax-paid motor fuel, (ii) gasoline with diesel fuel, or (iii) undyed diesel fuel with dyed kerosene, but excluding fuel lost through personal negligence or theft;

17. Used in operating or propelling vehicles used solely for racing other vehicles on a racetrack;

18. Used in operating or propelling unlicensed highway vehicles and other unlicensed equipment used exclusively for agricultural or horticultural purposes on lands owned or leased by the owner or lessee of such vehicles and not operated on or over any highway for any purpose other than to move it in the manner and for the purpose mentioned. The amount of refund shall be equal to the amount of the taxes paid less one-half cent per gallon on such fuel so used which shall be paid by the Commissioner into the state treasury to the credit of the Virginia Agricultural Foundation Fund;

19. Used in operating or propelling commercial watercraft. The amount of refund shall be equal to the amount of the taxes paid less one and one-half cents per gallon on such fuel so used which shall be paid by the Commissioner into the state treasury to be credited as provided in subsection D of § 58.1-2289. If any applicant so requests, the Commissioner shall pay into the state treasury, to the credit of the Game Protection Fund, the entire tax paid by such applicant for the purposes specified in subsection D of § 58.1-2289. If any applicant who is an operator of commercial watercraft so requests, the Commissioner shall pay into the state treasury, to the credit of the Marine Fishing Improvement Fund, the entire tax paid by such applicant for the purposes specified in § 28.2-208;

20. Used in operating stationary engines, or pumping or mixing equipment on a highway vehicle if the fuel used to operate such equipment is stored in an auxiliary tank separate from the fuel tank used to propel the highway vehicle, and the highway vehicle is mechanically incapable of self-propulsion while fuel is being used from the auxiliary tank; or

21. Used in operating or propelling recreational and pleasure watercraft.

B. 1. Any person purchasing fuel for consumption in a solid waste compacting or ready-mix concrete highway vehicle, or a bulk feed delivery truck, where the vehicle's equipment is mechanically or hydraulically driven by an internal combustion engine that propels the vehicle, is entitled to a refund in an amount equal to 35 percent of the tax paid on such fuel. For purposes of this section, a "bulk feed delivery truck" means bulk animal feed delivery trucks utilizing power take-off (PTO) driven auger or air feed discharge systems for off-road deliveries of animal feed.

2. Any person purchasing fuel for consumption in a vehicle designed or permanently adapted solely and exclusively for bulk spreading or spraying of agricultural liming materials, chemicals, or fertilizer, where the vehicle's equipment is mechanically or hydraulically driven by an internal combustion engine that propels the vehicle, is entitled to a refund in an amount equal to 55 percent of the tax paid on such fuel.

C. Any person purchasing any fuel on which tax imposed pursuant to this chapter has been paid may

apply for a refund of the tax if such fuel was consumed by a highway vehicle used in operating an urban or suburban bus line or a taxicab service. This refund also applies to a common carrier of passengers which has been issued a certificate of public convenience and necessity pursuant to §§ ~~46.2-2005 and 58.1-2204~~ § 46.2-2075 or 46.2-2099.4 providing regular route service over the highways of the Commonwealth. No refund shall be granted unless the majority of the passengers using such bus line, taxicab service or common carrier of passengers do so for travel of a distance of not more than 40 miles, one way, in a single day between their place of abode and their place of employment, shopping areas or schools.

If the applicant for a refund is a taxicab service, he shall hold a valid permit from the Department to engage in the business of a taxicab service. No applicant shall be denied a refund by reason of the fee arrangement between the holder of the permit and the driver or drivers, if all other conditions of this section have been met.

Under no circumstances shall a refund be granted more than once for the same fuel. The amount of refund under this subsection shall be equal to the amount of the taxes paid, except refunds granted on the tax paid on fuel used by a taxicab service shall be in an amount equal to the tax paid less \$0.01 per gallon on the fuel used.

Any refunds made under this subsection shall be deducted from the urban highway funds allocated to the highway construction district, pursuant to Article 1.1 (§ 33.1-23.01 et seq.) of Chapter 1 of Title 33.1, in which the recipient has its principal place of business.

Except as otherwise provided in this chapter, all provisions of law applicable to the refund of fuel taxes by the Commissioner generally shall apply to the refunds authorized by this subsection. Any county having withdrawn its roads from the secondary system of state highways under provisions of § 11 Chapter 415 of the Acts of 1932 shall receive its proportionate share of such special funds as is now provided by law with respect to other fuel tax receipts.

D. Any person purchasing fuel for consumption in a vehicle designed or permanently adapted solely and exclusively for bulk spreading or spraying of agricultural liming materials, chemicals, or fertilizer, where the vehicle's equipment is mechanically or hydraulically driven by an internal combustion engine that propels the vehicle, is entitled to a refund in an amount equal to 55 percent of the tax paid on such fuel.

E. Refunds resulting from any fuel shipments diverted from Virginia shall be based on the amount of tax paid for the fuel less discounts allowed by § 58.1-2233.

F. Any person who is required to be licensed under this chapter and is applying for a refund shall not be eligible for such refund if the applicant was not licensed at the time the refundable transaction was conducted.

§ 58.1-2402. Levy.

A. There is hereby levied, in addition to all other taxes and fees of every kind now imposed by law, a tax upon the sale or use of motor vehicles in Virginia, other than (i) vehicles with a gross vehicle weight rating or gross combination weight rating of 26,001 pounds or more, or (ii) a sale to or use by a person for rental as an established business or part of an established business or incidental or germane to such business.

There shall also be levied a tax upon the rental of a motor vehicle in Virginia, without regard to whether such vehicle is required to be licensed by the Commonwealth. However, such tax shall not be levied upon a rental to a person for re-rental as an established business or part of an established business, or incidental or germane to such business.

The amount of the tax to be collected shall be determined by the Commissioner by the application of the following rates against the gross sales price or gross proceeds:

1. Three percent of the sale price of each motor vehicle sold in Virginia. If such motor vehicle is a manufactured home as defined in § 36-85.3, the tax shall be three percent of the sale price of each such manufactured home sold in this Commonwealth; if such vehicle is a mobile office as defined in § 58.1-2401, the tax shall be two percent of the sale price of each mobile office sold in this Commonwealth.

2. Three percent of the sale price of each motor vehicle, or three percent of the sale price of each manufactured home as defined in § 36-85.3, or two percent of the sale price of each mobile office as defined in § 58.1-2401, not sold in Virginia but used or stored for use in this Commonwealth. When any such motor vehicle or manufactured home is first used or stored for use in Virginia six months or more after its acquisition, the tax shall be based on its current market value.

3. Four percent of the gross proceeds from the rental in Virginia of any motor vehicle, except those with a gross vehicle weight rating or gross combination weight rating of 26,001 pounds or more.

4. In addition to the tax levied pursuant to subdivision A 3, a tax of four percent of the gross proceeds shall be levied on the rental in Virginia of any daily rental vehicle, whether or not such vehicle is required to be licensed in the Commonwealth.

5. In addition to all other applicable taxes and fees, a fee of two percent of the gross proceeds shall be imposed on the rental in Virginia of any daily rental vehicle, whether or not such vehicle is required to be licensed in the Commonwealth. For purposes of this chapter, the rental fee shall be implemented,

enforced, and collected in the same manner that rental taxes are implemented, enforced, and collected.

6. The minimum tax levied on the sale of any motor vehicle in the Commonwealth shall be \$35, except as provided by those exemptions defined in § 58.1-2403.

7. *Zero percent of the sale price of each truck, tractor truck, trailer, or semitrailer, with a gross vehicle weight rating or gross combination weight rating of 26,001 pounds or more sold, used, or stored for use in the Commonwealth.*

B. A transaction taxed under subdivision A 1 shall not also be taxed under subdivision A 2, nor shall the same transaction be taxed more than once under either subdivision. A motor vehicle subject to the tax imposed under subdivision A 3 shall be subject to the tax under either subdivision A 1 or A 2 when it ceases to be used for rental as an established business or part of an established business, or incidental or germane to such business.

C. Any motor vehicle, trailer or semitrailer exempt from this tax under subdivision 1 or 2 of § 58.1-2403 shall be subject to the tax, based on the current market value when such vehicle is no longer owned, rented or used by the United States government or any governmental agency, or the Commonwealth of Virginia or any political subdivision thereof. Further, any motor vehicle, trailer or semitrailer exempt from the tax imposed by this chapter under subdivision 11 of § 58.1-2403 or §§ 46.2-663 through 46.2-674 shall be subject to the tax, based on the current market value, when such vehicle is subsequently licensed to operate on the highways of this Commonwealth.

D. Any person who with intent to evade or to aid another person to evade the tax provided for herein, falsely states the selling price of a vehicle on a bill of sale, assignment of title, application for title, or any other document or paper submitted to the Commissioner pursuant to any provisions of this title or Title 46.2, shall be guilty of a Class 3 misdemeanor.

E. Effective January 1, 1997, any amount designated as a "processing fee" and any amount charged by a dealer for processing a transaction, which is required to be included on a buyer's order pursuant to subdivision A 10 of § 46.2-1530, shall be subject to the tax.

§ 58.1-2426. Application to Commissioner for correction; appeal.

A. *Any person assessed with any tax administered by the Department pursuant to this chapter may, within 30 days from the date of such assessment, apply for relief to the Commissioner. Such application shall be in the form prescribed by the Department, and shall fully set forth the grounds upon which the taxpayer relies and all facts relevant to the taxpayer's contention. The Commissioner may also require such additional information, testimony, or documentary evidence as he deems necessary to a fair determination of the application.*

B. *On receipt of a written notice of intent to file under subsection A, the Commissioner shall refrain from collecting the tax until the time for filing hereunder has expired, unless he determines that collection is in jeopardy.*

C. Any person against whom an order or decision of the Commissioner has been adversely rendered relating to the tax imposed by this chapter may, within fifteen days of such order or decision, appeal from such order or decision to the Circuit Court of the City of Richmond.

§ 58.1-2701. (Contingent expiration date - see Editor's notes) Amount of tax.

A. Except as provided in subsection B, every motor carrier shall pay a road tax equivalent to \$0.21 per gallon calculated on the amount of motor fuel, diesel fuel or liquefied gases (which would not exist as liquids at a temperature of sixty degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute), used in its operations within the Commonwealth.

The tax imposed by this chapter shall be in addition to all other taxes of whatever character imposed on a motor carrier by any other provision of law.

B. In lieu of the tax imposed in subsection A, motor carriers registering qualified highway vehicles that are not registered under the International Registration Plan shall pay a fee of \$150 per year for each qualified highway vehicle *regardless of whether such vehicle will be included on the motor carrier's IFTA return*. The fee is due and payable when the vehicle registration fees are paid pursuant to the provisions of Article 7 (§ 46.2-685 et seq.) of Chapter 6 of Title 46.2.

If a vehicle becomes a qualified highway vehicle before the end of its registration period, the fee due at the time the vehicle becomes a qualified highway vehicle shall be prorated monthly to the registration expiration month. Fees paid under this subsection shall not be refunded unless a full refund of the registration fee paid is authorized by law.

C. All taxes and fees paid under the provisions of this chapter shall be credited to the Highway Maintenance and Operating Fund, a special fund within the Commonwealth Transportation Fund.

§ 58.1-2701. (Contingent effective date - see Editor's notes) Amount of tax.

A. Except as provided in subsection B, every motor carrier shall pay a road tax equivalent to nineteen and one-half cents per gallon calculated on the amount of motor fuel, diesel fuel or liquefied gases (which would not exist as liquids at a temperature of sixty degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute), used in its operations within the Commonwealth.

The tax imposed by this chapter shall be in addition to all other taxes of whatever character imposed on a motor carrier by any other provision of law.

B. In lieu of the tax imposed in subsection A, motor carriers registering qualified highway vehicles

that are not registered under the International Registration Plan shall pay a fee of \$100 per year for each qualified highway vehicle, *regardless of whether such vehicle will be included on the motor carrier's IFTA return*. The fee is due and payable when the vehicle registration fees are paid pursuant to the provisions of Article 7 (§ 46.2-685 et seq.) of Chapter 6 of Title 46.2.

If a vehicle becomes a qualified highway vehicle before the end of its registration period, the fee due at the time the vehicle becomes a qualified highway vehicle shall be prorated monthly to the registration expiration month. Fees paid under this subsection shall not be refunded unless a full refund of the registration fee paid is authorized by law.

C. All taxes and fees paid under the provisions of this chapter shall be credited to the Highway Maintenance and Operating Fund, a special fund within the Commonwealth Transportation Fund.

2. That §§ 46.2-696, 46.2-2084, 46.2-2097, 46.2-2097.1, and 46.2-2099.6 of the Code of Virginia are repealed.