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**HOUSE BILL NO. 662**

Offered January 8, 2014

Prefiled January 7, 2014

A *BILL to amend and reenact §§ 46.2-341.4, 46.2-341.8, 46.2-341.10, 46.2-341.12, 46.2-341.14, 46.2-341.14:1, 46.2-341.14:2, 46.2-341.14:5, 46.2-341.14:6, 46.2-341.16, 46.2-341.20, 46.2-341.20:2, 46.2-341.20:4, 46.2-341.20:5, 46.2-348, 46.2-379, and 46.2-1078.1 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 46.2-341.14:01 and 46.2-341.20:6, relating to commercial driver's licenses, driver's license examinations, and disclosure of crash reports by Department of Motor Vehicles.*

Patron—Brink

Referred to Committee on Transportation

**Be it enacted by the General Assembly of Virginia:**

1. That §§ 46.2-341.4, 46.2-341.8, 46.2-341.10, 46.2-341.12, 46.2-341.14, 46.2-341.14:1, 46.2-341.14:2, 46.2-341.14:5, 46.2-341.14:6, 46.2-341.16, 46.2-341.20, 46.2-341.20:2, 46.2-341.20:4, 46.2-341.20:5, 46.2-348, 46.2-379, and 46.2-1078.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 46.2-341.14:01 and 46.2-341.20:6 as follows:

**§ 46.2-341.4. Definitions.**

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

"Air brake" means, ~~for the purposes of the skills test and the restriction,~~ any braking system operating fully or partially on the air brake principle.

"Applicant" means *an individual who applies to obtain, transfer, upgrade, or renew a commercial driver's license or to obtain or renew a commercial driver's instruction permit.*

"Automatic transmission" means, for the purposes of the skills test and the restriction, any transmission other than a manual transmission.

"CDLIS driver record" means the electronic record of the individual commercial driver's status and history stored by the State of Record as part of the Commercial Driver's License Information System (CDLIS).

"Commercial driver's instruction permit" means a permit issued to an individual in accordance with the provisions of this article, or if issued by another state, a permit issued in accordance with the standards contained in the Federal Motor Carrier Safety Regulations, which, when carried with a valid driver's license issued by the same state or jurisdiction, authorizes the individual to operate a class of commercial motor vehicle when accompanied by a holder of a valid commercial driver's license for purposes of behind-the-wheel training. When issued to a commercial driver's license holder, a commercial driver's instruction permit serves as authorization for accompanied behind-the-wheel training in a commercial motor vehicle for which the holder's current commercial driver's license is not valid. For purposes of this article "Commercial driver's instruction permit" shall have the same meaning as "Commercial learner's permit (CLP)" in 49 C.F.R. § 383.5 of the Federal Motor Carrier Safety regulations.

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

"Commercial driver's license information system" (CDLIS) means the CDLIS established by the Federal Motor Carrier Safety Administration pursuant to § 12007 of the Commercial Motor Vehicle Safety Act of 1986.

"Commercial motor vehicle" means, except for those vehicles specifically excluded in this definition, every motor vehicle, vehicle or combination of vehicles used to transport passengers or property which either: (i) has a gross vehicle weight rating of 26,001 or more pounds; or (ii) has a gross combination weight rating of 26,001 or more pounds inclusive of a towed vehicle with a gross vehicle weight rating of more than 10,000 pounds; or (iii) is designed to transport 16 or more passengers including the driver; or (iv) is of any size and is used in the transportation of hazardous materials as defined in this section. Every such motor vehicle or combination of vehicles shall be considered a commercial motor vehicle whether or not it is used in a commercial or profit-making activity.

The following shall be excluded from the definition of commercial motor vehicle: any vehicle when

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59 used by an individual solely for his own personal purposes, such as personal recreational activities; or  
60 any vehicle which (i) is controlled and operated by a farmer, whether or not it is owned by the farmer,  
61 and which is used exclusively for farm use, as defined in § 46.2-698, (ii) is used to transport either  
62 agricultural products, farm machinery or farm supplies to or from a farm, (iii) is not used in the  
63 operation of a common or contract motor carrier, and (iv) is used within 150 miles of the farmer's farm;  
64 or any vehicle operated for military purposes by (a) active duty military personnel, (b) members of the  
65 military reserves, (c) members of the national guard on active duty, including personnel on full-time  
66 national guard duty, personnel on part-time national guard training, and national guard military  
67 technicians (civilians who are required to wear military uniforms), but not U.S. Reserve technicians, and  
68 (d) active duty U.S. Coast Guard personnel; or emergency equipment operated by a member of a  
69 firefighting, rescue, or emergency entity in the performance of his official duties.

70 "Commercial Motor Vehicle Safety Act" means the federal Commercial Motor Vehicle Safety Act of  
71 1986, Title XII of Public Law 99-570, as amended.

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

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

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

86 "Employee" means a payroll employee or person employed under lease or contract, or a person who  
87 has applied for employment and whose employment is contingent upon obtaining a commercial driver's  
88 license.

89 "Employer" means a person who owns or leases commercial motor vehicles and assigns employees to  
90 drive such vehicles.

91 "Endorsement" means an authorization to an individual's commercial driver's license or commercial  
92 driver's instruction permit required to permit the individual to operate certain types of commercial motor  
93 vehicles.

94 "FMCSA" means the Federal Motor Carrier Safety Administration.

95 "Full air brake restriction" means, ~~for the purposes of the skills test and restriction, air over hydraulic~~  
96 ~~brakes, including any braking system operating partially fully on the air brake and partially on the~~  
97 ~~hydraulic brake principle.~~

98 "Gross combination weight rating" means the value specified by the manufacturers of an articulated  
99 vehicle or combination of vehicles as the maximum loaded weight of such vehicles. In the absence of  
100 such a value specified by the manufacturer, for law-enforcement purposes, the gross combination weight  
101 rating shall be the greater of (i) the gross vehicle weight rating of the power units of the combination  
102 vehicle plus the total weight of the towed units, including any loads thereon, or (ii) the gross weight at  
103 which the articulated vehicle or combination of vehicles is registered in its state of registration; however,  
104 the registered gross weight shall not be applicable for determining the classification of an articulated  
105 vehicle or combination of vehicles for purposes of skills testing pursuant to § 46.2-341.14 or  
106 46.2-341.16.

107 "Gross vehicle weight rating" means the value specified by the manufacturer of the vehicle as the  
108 maximum loaded weight of a single vehicle. In the absence of such a value specified by the  
109 manufacturer, for law-enforcement purposes, the gross vehicle weight rating shall be the greater of (i)  
110 the actual gross weight of the vehicle, including any load thereon; or (ii) the gross weight at which the  
111 vehicle is registered in its state of registration; however, the registered gross weight of the vehicle shall  
112 not be applicable for determining the classification of a vehicle for purposes of skills testing pursuant to  
113 § 46.2-341.14 or 46.2-341.16.

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

119 "Manual transmission" (also known as a stick shift, stick, straight drive, or standard transmission)  
120 means a transmission utilizing a driver-operated clutch that is activated by a pedal or lever and a

gear-shift mechanism operated by either hand or foot.

"Non-commercial driver's license" means any other type of motor vehicle license, such as an automobile driver's license, a chauffeur's license, or a motorcycle license.

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

"Person" means a natural person, firm, partnership, association, corporation, or a governmental entity including a school board.

"Restriction" means a prohibition on a commercial driver's license or commercial driver's instruction permit that prohibits the holder from operating certain commercial motor vehicles.

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

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

"Tank vehicle" means any commercial motor vehicle that is designed to transport any liquid or gaseous materials within a tank or tanks having an individual rated capacity of more than 119 gallons and an aggregate rated capacity of 1,000 gallons or more that is either permanently or temporarily attached to the vehicle or the chassis. Such vehicles include, but are not limited to, cargo tanks and portable tanks, as defined in 49 C.F.R. Part 171. However, this definition does not include portable tanks having a rated capacity under 1,000 gallons as provided in 49 C.F.R. Part 383. A commercial motor vehicle transporting an empty storage container tank, not designed for transportation, with a rated capacity of 1,000 gallons or more that is temporarily attached to a flatbed trailer is not considered a tank vehicle.

"Third party examiner" means an individual who is an employee of a third party tester and who is certified by the Department to administer ~~the skills test~~ tests required for a commercial driver's license.

"Third party tester" means a person (including, but not limited to, another state, a motor carrier, a private institution, *the military*, or a department, agency, or instrumentality of a local government) certified by the Department to employ third party examiners to administer a skills test program for testing commercial driver's license applicants in accordance with this article.

"VAMCSR" means the Virginia Motor Carrier Safety Regulations (~~49 VAC 30-20-10 et seq.~~) (19VAC30-20) adopted by the Department of State Police pursuant to § 52-8.4.

#### **§ 46.2-341.8. Nonresidents and new residents.**

Any person who is not domiciled in the Commonwealth, who has been duly issued a commercial driver's license or commercial driver's instruction permit by his state of domicile, who has such license or permit in his immediate possession, whose privilege or license to drive any motor vehicle is not suspended, revoked, or cancelled, and who has not been disqualified from driving a commercial motor vehicle, shall be permitted without further examination or licensure by the Commonwealth, to drive a commercial motor vehicle in the Commonwealth.

Within 30 days after becoming domiciled in this Commonwealth, any person who has been issued a commercial driver's license ~~or commercial driver's instruction permit~~ by another state and who intends to drive a commercial motor vehicle shall apply to the Department for a Virginia commercial driver's license ~~or commercial driver's instruction permit~~. If the Commissioner determines that such applicant is otherwise eligible for a commercial driver's license ~~or commercial driver's instruction permit~~, the Department will issue him a Virginia commercial driver's license ~~or commercial driver's instruction~~

permit with the same classification and endorsements as his commercial driver's license or commercial driver's instruction permit from another state, without requiring him to take the knowledge or skills test required for such commercial driver's license or commercial driver's instruction permit in accordance with § 46.2-330. The Commissioner may establish, by regulation, the criteria by which the test requirements for a commercial driver's license may be waived for any such applicant. However, any such applicant seeking to transfer his commercial driver's license and to retain a hazardous materials endorsement shall have, within the two-year period preceding his application for a Virginia commercial driver's license, either (i) passed the required test for such endorsement specified in 49 C.F.R. § 383.121 or (ii) successfully completed a hazardous materials test or training that is given by a third party and that is deemed to substantially cover the same knowledge base as described in 49 C.F.R. § 383.121.

**§ 46.2-341.10. Special provisions relating to commercial driver's instruction permit.**

A. The Department, upon receiving an application on forms prescribed by the Commissioner and upon the applicant's satisfactory completion of the vision and knowledge tests required for the class and type of commercial motor vehicle to be driven by the applicant may, in its discretion, issue to such applicant a commercial driver's instruction permit. Such permit shall expire one year after issuance and be valid for no more than 180 days from the date of issuance. The Department may renew the commercial driver's instruction permit for an additional 180 days without requiring the commercial driver's instruction permit holder to retake the general and endorsement knowledge tests. No additional renewals are permitted. A commercial driver's instruction permit shall entitle the applicant to drive a commercial motor vehicle of the class and type designated on the permit, but only when accompanied by a person licensed to drive the class and type of commercial motor vehicle driven by the applicant. The person accompanying the permit holder shall occupy the seat closest to the driver's seat for the purpose of giving instruction to the permit holder in driving the commercial motor vehicle.

B. No person shall be issued a commercial driver's instruction permit unless he possesses a valid Virginia driver's license or has satisfied all the requirements necessary to obtain such a license.

C. A commercial driver's instruction permit holder with a passenger (P) endorsement (i) must have taken and passed the P endorsement knowledge test and (ii) is prohibited from operating a commercial motor vehicle carrying passengers, other than federal or state auditors and inspectors, test examiners, other trainees, and the commercial driver's license holder accompanying the commercial driver's instruction permit holder. The P endorsement must be class specific.

D. A commercial driver's instruction permit holder with a school bus (S) endorsement (i) must have taken and passed the S endorsement knowledge test and (ii) is prohibited from operating a school bus with passengers other than federal or state auditors and inspectors, test examiners, other trainees, and the commercial driver's license holder accompanying the commercial driver's instruction permit holder. No person shall be issued a commercial driver's instruction permit to drive school buses or to drive any commercial vehicle to transport children to or from activities sponsored by a school or by a child day care facility licensed, regulated, or approved by the Virginia Department of Social Services during any period in which he is a person for whom registration with the Sex Offender and Crimes Against Minors Registry is required pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1.

E. A commercial driver's instruction permit holder with a tank vehicle (N) endorsement (i) must have taken and passed the N endorsement knowledge test and (ii) may only operate an empty tank vehicle and is prohibited from operating any tank vehicle that previously contained hazardous materials that has not been purged of any residue.

F. The issuance of a commercial driver's instruction permit is a precondition to the initial issuance of a commercial driver's license and to the upgrade of a commercial driver's license if the upgrade requires a skills test. The commercial driver's instruction permit holder is not eligible to take the commercial driver's license skills test until he has held the permit for the required period of time specified in § 46.2-324.1.

G. Any instruction permit holder who operates a commercial motor vehicle without being accompanied by a licensed driver as provided in this section is guilty of a Class 2 misdemeanor.

H. The Department shall charge a fee of ~~three dollars~~ \$3 for each instruction permit issued under the provisions of this section.

**§ 46.2-341.12. Application for commercial driver's license or commercial driver's instruction permit.**

A. Every application to the Department for a commercial driver's license or commercial driver's instruction permit 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;

244 5. Social Security number; and  
 245 6. Any other information required on the application form.  
 246 The applicant's Social Security number shall be provided to the Commercial Driver's License  
 247 Information System as required by 49 C.F.R. § 383.153.  
 248 B. Every applicant for a commercial driver's license or commercial driver's instruction permit shall  
 249 also submit to the Department the following:  
 250 1. A consent to release driving record information;  
 251 2. Certifications that:  
 252 a. He either meets the federal qualification requirements of 49 C.F.R. ~~Part~~ *Parts 383 and 391*, or he  
 253 is exempt from or is not subject to such federal requirements;  
 254 b. He either meets the state qualification requirements established pursuant to § 52-8.4, or he is  
 255 exempt from or is not subject to such requirements;  
 256 c. The motor vehicle in which the applicant takes the skills test is representative of the class and, if  
 257 applicable, the type of motor vehicle for which the applicant seeks to be licensed;  
 258 d. He is not subject to any disqualification, suspension, revocation or cancellation of his driving  
 259 privileges;  
 260 e. He does not have more than one driver's license;  
 261 3. Other certifications required by the Department;  
 262 4. Any evidence required by the Department to establish proof of identity, legal presence, residency,  
 263 and social security number; and  
 264 5. A statement indicating whether (i) the applicant has previously been licensed to drive any type of  
 265 motor vehicle during the previous 10 years and, if so, all states that licensed the applicant and the dates  
 266 he was licensed, and (ii) whether or not he has ever been disqualified, or his license suspended, revoked  
 267 or cancelled and, if so, the date of and reason therefor.  
 268 C. Every application for a commercial driver's license shall include a photograph of the applicant  
 269 supplied under arrangements made therefor by the Department in accordance with § 46.2-323.  
 270 D. The Department shall disqualify any commercial driver for a period of one year when the records  
 271 of the Department clearly show to the satisfaction of the Commissioner that such person has made a  
 272 material false statement on any application or certification made for a commercial driver's license or  
 273 commercial driver's instruction permit. The Department shall take such action within 30 days after  
 274 discovering such falsification.  
 275 E. The Department shall review the driving record of any person who applies for a Virginia  
 276 commercial driver's license or commercial driver's instruction permit, for the renewal or reinstatement of  
 277 such license or permit or for an additional commercial classification or endorsement, including the  
 278 driving record from all jurisdictions where, during the previous 10 years, the applicant was licensed to  
 279 drive any type of motor vehicle. Such review shall include checking the photograph on record whenever  
 280 the applicant or holder appears in person to renew, upgrade, transfer, reinstate, or obtain a duplicate  
 281 commercial driver's license or *to renew, upgrade, reinstate, or obtain a duplicate* commercial driver's  
 282 instruction permit. If appropriate, the Department shall incorporate information from such other  
 283 jurisdictions' records into the applicant's Virginia driving record, and shall make a notation on the  
 284 applicant's driving record confirming that such review has been completed and the date it was  
 285 completed. The Department's review shall include research through the Commercial Driver License  
 286 Information System established pursuant to the Commercial Motor Vehicle Safety Act and the National  
 287 Driver Register Problem Driver Pointer System in addition to the driver record maintained by the  
 288 applicant's previous jurisdictions of licensure. This research shall be completed prior to the issuance,  
 289 renewal, *transfer*, or reinstatement of a commercial driver's license or additional commercial  
 290 classification or endorsement.  
 291 The Department shall verify the name, date of birth, and Social Security number provided by the  
 292 applicant with the information on file with the Social Security Administration for initial issuance of a  
 293 commercial driver's instruction permit, transfer of a commercial driver's license from another state or for  
 294 drivers renewing a commercial driver's license for the first time after July 8, 2011, who have not  
 295 previously had their Social Security number information verified. The Department shall make a notation  
 296 in the driver's record confirming that the necessary verification has been completed and noting the date  
 297 it was done.  
 298 F. On and after January 30, 2012, every new applicant for a commercial driver's license or  
 299 commercial driver's instruction permit, including any person applying for a commercial driver's license  
 300 or permit after revocation of his driving privileges, who certifies that he will operate a commercial  
 301 motor vehicle in non-excepted interstate or intrastate commerce shall provide the Department with an  
 302 original or certified copy of a medical examiner's certificate prepared by a medical examiner as defined  
 303 in 49 C.F.R. ~~Part~~ § 390.5. *Upon receipt of an appropriate medical examiner's certificate, the*  
 304 *Department shall post a certification status of "certified" on the record of the driver on the Commercial*

305 *Driver's License Information System.* Any new applicant for a commercial driver's license *or commercial*  
306 *driver's instruction permit* who fails to comply with the requirements of this subsection shall be denied  
307 the issuance of a commercial driver's license *or commercial driver's instruction permit* by the  
308 Department.

309 G. On and after January 30, 2012, but no later than January 30, 2014, every existing holder of a  
310 commercial driver's license or commercial driver's instruction permit who certifies that he will operate a  
311 commercial motor vehicle in non-excepted interstate or intrastate commerce shall provide the  
312 Department with an original or certified copy of a medical examiner's certificate prepared by a medical  
313 examiner as defined in 49 C.F.R. ~~Part~~ § 390.5. *Upon receipt of an appropriate medical examiner's*  
314 *certificate, the Department shall post a certification status of "certified" and any other necessary*  
315 *information on the record of the driver on the Commercial Driver's License Information System.* If an  
316 existing holder of a commercial driver's license fails to provide the Department with a medical  
317 certificate as required by this subsection, the Department shall post a certification status of "noncertified"  
318 on the record of the driver on the Commercial Driver's License Information System and initiate a  
319 downgrade of his commercial driver's license as defined in 49 C.F.R. ~~Part~~ § 383.5.

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

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

329 J. Any holder of a commercial driver's license who has been issued a medical variance shall keep the  
330 medical variance information current and shall notify the Department of any change in the status of the  
331 medical variance. If the Department determines that the medical variance is no longer valid, the  
332 Department shall initiate a downgrade of the driver's commercial driver's license as defined in 49 C.F.R.  
333 ~~Part~~ § 383.5.

334 K. Any applicant applying for a hazardous materials endorsement must comply with Transportation  
335 Security Administration requirements in 49 C.F.R. Part 1572. A lawful permanent resident of the United  
336 States requesting a hazardous materials endorsement must additionally provide his U.S. Citizenship and  
337 Immigration Services (USCIS) alien registration number.

338 **§ 46.2-341.14. Testing requirements for commercial driver's license; behind-the-wheel and**  
339 **knowledge examinations.**

340 A. The Department shall conduct an examination of every applicant for a commercial driver's license,  
341 which examination shall comply with the minimum federal standards established pursuant to the federal  
342 Commercial Motor Vehicle Safety Act. The examination shall be designed to test the vision, knowledge,  
343 and skills required for the safe operation of the class and type of commercial motor vehicle for which  
344 the applicant seeks a license.

345 B. An applicant's skills test shall be conducted in a vehicle that is representative of or meets the  
346 description of the class of vehicle for which the applicant seeks to be licensed. In addition, applicants  
347 who seek to be licensed to drive vehicles with air brakes, passenger-carrying vehicles, or school buses  
348 must take the skills test in a vehicle that is representative of such vehicle type. Such vehicle shall be  
349 furnished by the applicant and shall be properly licensed, inspected and insured.

350 C. Prior to April 1, 1992, the Commissioner may waive the skills test for applicants licensed at the  
351 time they apply for a commercial driver's license if:

352 1. The applicant has not, and certifies that he has not, at any time during the two years immediately  
353 preceding the date of application:

354 a. Had more than one driver's license, except during the ten-day period beginning on the date such  
355 person is issued a driver's license, or unless, prior to December 31, 1989, such applicant was required to  
356 have more than one license by a state law enacted before June 1, 1986;

357 b. Had any driver's license or driving privilege suspended, revoked or canceled;

358 c. Had any convictions involving any kind of motor vehicle for the offenses listed in § 46.2-341.18,  
359 46.2-341.19, or 46.2-341.20; and

360 d. Been convicted of a violation of state or local laws relating to motor vehicle traffic control, other  
361 than a parking violation, which violation arose in connection with any reportable traffic accident; and

362 2. The applicant certifies and provides evidence satisfactory to the Commissioner that he is regularly  
363 employed in a job requiring the operation of a commercial motor vehicle, and either:

364 a. Has previously taken and successfully completed a skills test which was administered by a state  
365 with a classified licensing and testing system and that test was behind the wheel in a vehicle  
366 representative of the class and, if applicable, the type of commercial motor vehicle for which the

applicant seeks to be licensed; or

b. Has operated, for at least two years immediately preceding the application date, a vehicle representative of the class and, if applicable, the type of commercial motor vehicle for which the applicant seeks to be licensed.

D. The Commissioner may, in his discretion, designate such persons as he deems fit, including private or governmental entities, to administer the *knowledge and skills* tests required of applicants for a commercial driver's license. Any person so designated shall comply with all statutes and regulations with respect to the administration of such *skills* tests.

The Commissioner shall require all state ~~knowledge~~ and ~~skills~~ *third party* test examiners to successfully complete a formal commercial driver's license test examiner training course and examination before certifying them to administer commercial driver's license knowledge and skills tests. ~~State All state and third party~~ test examiners shall complete a refresher training course and examination every four years to maintain their commercial driver's license test examiner certification. The refresher training course shall comply with 49 C.F.R. § 384.228. At least once every two years, the Department shall conduct covert and overt monitoring of examinations performed by state ~~and third party~~ commercial driver's license ~~skills~~ test examiners.

*The Commissioner shall require a nationwide criminal background check of all test examiners at the time of hiring or prior to certifying them to administer commercial driver's license testing. The Commissioner shall complete a nationwide criminal background check for any state or third party test examiners who are current examiners and who have not had a nationwide criminal background check.*

*The Commissioner shall revoke the certification to administer commercial driver's license tests for any test examiner who (i) does not successfully complete the required refresher training every four years or (ii) does not pass the required nationwide criminal background check. Criteria for not passing the criminal background check include but are not limited to having a felony conviction within the past 10 years or any conviction involving fraudulent activities.*

E. Every applicant for a commercial driver's license who is required by the Commissioner to take a vision test shall either (i) appear before a license examiner of the Department of Motor Vehicles to demonstrate his visual acuity and horizontal field of vision; or (ii) submit with his application a copy of the vision examination report which was used as the basis for such examination made within 90 days of the application date by an ophthalmologist or optometrist. The Commissioner may, by regulation, determine whether any other visual tests will satisfy the requirements of this title for commercial drivers.

F. No person who fails the behind-the-wheel examination for a commercial driver's license administered by the Department three times shall be permitted to take such examination a fourth time until he successfully completes, subsequent to the third examination failure, the in-vehicle component of driver instruction at a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) or a comparable course approved by the Department or the Department of Education. In addition, no person who fails the general knowledge examination for a commercial driver's license administered by the Department three times shall be permitted to take such examination a fourth time until he successfully completes, subsequent to the third examination failure, the knowledge component of driver instruction at a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) or a comparable course approved by the Department or the Department of Education.

The provisions of this subsection shall not apply to persons placed under medical control pursuant to § 46.2-322.

G. Knowledge tests may be administered in written form, verbally, or in automated format and can be administered in a foreign language, provided no interpreter is used in administering the test.

H. Interpreters are prohibited during the administration of the skills tests. Applicants must be able to understand and respond to verbal commands and instructions in English by a skills test examiner. Neither the applicant nor the examiner may communicate in a language other than English during the skills test.

**§ 46.2-341.14:01. Military third party testers and military third party examiners; substitute for driving skills tests for drivers with military commercial motor vehicle experience.**

A. Pursuant to § 46.2-341.14, the Commissioner shall permit military bases that have entered into an agreement with the Department to serve as third party testers in administering state knowledge and skills tests for issuing commercial driver's licenses. Military third party testers and military third party examiners shall comply with the requirements set forth in §§ 46.2-341.14:1 through 46.2-341.14:9 with respect to knowledge and skills tests.

B. Pursuant to 49 C.F.R. § 383.77, the Commissioner may waive the driving skills test as specified in 49 C.F.R. § 383.113 for a commercial motor vehicle driver with military commercial motor vehicle experience who is currently licensed at the time of his application for a commercial driver's license and substitute an applicant's driving record in combination with certain driving experience for the skills test.

C. To obtain a skills test waiver, the following conditions and limitations must be met:

428 1. An applicant must certify that, during the two-year period immediately prior to applying for a  
429 commercial driver's license, he:  
430 a. Has not had more than one license except for a military license;  
431 b. Has not had any license suspended, revoked, canceled, or disqualified;  
432 c. Has not had any convictions for any type of motor vehicle for the disqualifying offenses contained  
433 in this article;  
434 d. Has not had more than one conviction for any type of motor vehicle for serious traffic violations  
435 contained in this article; and  
436 e. Has not had any conviction for a violation of military, state, or local law relating to motor vehicle  
437 traffic control, other than a parking violation, arising in connection with any traffic crash and has no  
438 record of a crash in which he was at fault; and  
439 2. An applicant must provide evidence and certify that he:  
440 a. Is regularly employed or was regularly employed within the last 90 days in a military position  
441 requiring operation of a commercial motor vehicle;  
442 b. Was exempted from the commercial driver's license requirements in 49 C.F.R. § 383.3(c); and  
443 c. Was operating a vehicle representative of the commercial motor vehicle the driver applicant  
444 operates, or expects to operate, for at least the two years immediately preceding discharge from the  
445 military.

446 **§ 46.2-341.14:1. Requirements for third party testers.**  
447 A. Pursuant to § 46.2-341.14, third party testers will be authorized to issue skills test certificates,  
448 which will be accepted by the Department as evidence of satisfaction of the skills test component of the  
449 commercial driver's license examination. Authority to issue skills test certificates will be granted only to  
450 third party testers certified by the Department.  
451 B. To qualify for certification, a third party tester shall:  
452 1. Make application to and enter into an agreement with the Department as provided in  
453 § 46.2-341.14:3;  
454 2. Maintain a place of business in Virginia;  
455 3. Have at least one certified third party examiner in his employ;  
456 4. Ensure that all third party examiners in his employ are certified and comply with the requirements  
457 of §§ 46.2-341.14:2 and 46.2-341.14:7;  
458 5. Permit the Department and the FMCSA of the U.S. Department of Transportation to ~~examine~~  
459 ~~conduct random examinations, inspections, and audits of its records, facilities, and operations~~ that relate  
460 to the third party testing program ~~and to audit his testing program without prior notice~~;  
461 6. Maintain at the principal place of business a copy of the state certificate authorizing the third party  
462 tester to administer a commercial driver's license ~~skills~~ testing program and current third party  
463 agreement;  
464 7. Maintain at a Virginia location, for a minimum of two years after a skills test is conducted, a  
465 record of each driver for whom the third party tester conducts a skills test, whether the driver passes or  
466 fails the test. Each such record shall include:  
467 a. The complete name of the driver;  
468 b. The driver's Social Security number or other driver's license number and the name of the state or  
469 jurisdiction that issued the license held by the driver at the time of the test;  
470 c. The date the driver took the skills test;  
471 d. The test score sheet or sheets showing the results of the skills test and a copy of the skills test  
472 certificate, if issued;  
473 e. The name and certification number of the third party examiner conducting the skills test; and  
474 f. Evidence of the driver's employment with the third party tester at the time the test was taken. If  
475 the third party tester is a school board that tests drivers who are trained but not employed by the school  
476 board, evidence that (i) the driver was employed by a school board at the time of the test and (ii) the  
477 third party tester trained the driver in accordance with the Virginia School Bus Driver Training  
478 Curriculum Guide;  
479 8. Maintain at a Virginia location a record of each third party examiner in the employ of the third  
480 party tester. Each record shall include:  
481 a. Name and Social Security number;  
482 b. Evidence of the third party examiner's certification by the Department;  
483 c. A copy of the third party examiner's current *training and* driving record, which must be updated  
484 annually;  
485 d. Evidence that the third party examiner is an employee of the third party tester; and  
486 e. If the third party tester is a school board, a copy of the third party examiner's certification of  
487 instruction issued by the Virginia Department of Education;  
488 9. Retain the records required in subdivision 8 for at least two years after the third party examiner  
489 leaves the employ of the third party tester;



10. Ensure that skills tests are conducted, and that skills test certificates are issued in accordance with the requirements of §§ 46.2-341.14:8 and 46.2-341.14:9 and the instructions provided by the Department; ~~and~~

11. Maintain compliance with all applicable provisions of this article and the third party tester agreement executed pursuant to § 46.2-341.14:3; ~~and~~

12. *Maintain a copy of the third party tester's road test route or routes approved by the Department.*

C. In addition to the requirements listed in subsection B, all third party testers who are not governmental entities shall:

1. Be engaged in a business involving the use of commercial motor vehicles, which business has been in operation in Virginia for a minimum of one year;

2. Employ at least 75 Virginia-licensed drivers of commercial motor vehicles, during the 12-month period preceding the application, including part-time and seasonal drivers. This requirement may be waived by the Department pursuant to § 46.2-341.14:10;

3. If subject to the FMCSA regulations and rated by the U.S. Department of Transportation, maintain a rating of "satisfactory"; and

4. Comply with the Virginia Motor Carrier Safety Regulations.

**§ 46.2-341.14:2. Requirements for third party examiners.**

A. Third party examiners may be certified to conduct skills tests on behalf of only one third party tester at any given time. If a third party examiner leaves the employ of a third party tester, he must be recertified in order to conduct skills tests on behalf of a new third party tester.

B. To qualify for certification as a third party examiner, an individual must:

1. Make application to the Department as provided in § 46.2-341.14:3 *and pass the required nationwide criminal background check;*

2. Be an employee of the third party tester;

3. Possess a valid Virginia commercial driver's license with the classification and endorsements required for operation of the class and type of commercial motor vehicle used in skills tests conducted by the examiner;

4. Satisfactorily complete any third party examiner training course required by the Department;

5. Within three years prior to application, have had no driver's license suspensions, revocations, or disqualifications;

6. At the time of application, have no more than six demerit points on his driving record and not be on probation under the Virginia Driver Improvement Program;

7. Within three years prior to application, have had no conviction for any offense listed in § 46.2-341.18 or 46.2-341.19, whether or not such offense was committed in a commercial motor vehicle;

8. If the examiner is employed by a school board, be certified by the Virginia Department of Education as a school bus training instructor;

9. Conduct skills tests on behalf of the third party tester in accordance with this article and in accordance with current instructions provided by the Department; and

10. Successfully complete a training course and examination every four years to maintain the commercial driver's license test examiner certification.

**§ 46.2-341.14:5. Terminating certification of third party tester or examiner.**

A. Any third party tester or examiner may relinquish certification upon 30 days' notice to the Department. Relinquishment of certification by a third party tester or examiner shall not release such tester or examiner from any responsibility or liability that arises from his activities as a third party tester or examiner.

B. The Department reserves the right to cancel the third party testing program established by this article, in its entirety.

C. The Department shall revoke the skills testing certification of any examiner:

1. Who does not conduct skills test examinations of at least 10 different applicants per calendar year. However, examiners who do not meet the 10-test minimum must either take a refresher commercial driver's license training that complies with 49 C.F.R. § 384.228 or have a Department examiner ride along to observe the third party examiner successfully administer at least one skills test; or

2. Who does not successfully complete the required refresher training every four years pursuant to 49 C.F.R. § 384.228.

D. The Department may cancel the certification of an individual third party tester or examiner upon the following grounds:

1. Failure to comply with or satisfy any of the provisions of this article, federal standards for the commercial driver's license testing program, the Department's instructions, or the third party tester agreement;

2. Falsification of any record or information relating to the third party testing program; ~~or~~

3. Commission of any act that compromises the integrity of the third party testing program; or

4. Failure to pass the required nationwide criminal background check. Criteria for not passing the criminal background check include but are not limited to having a felony conviction within the past 10 years or any conviction involving fraudulent activities.

E. If the Department determines that grounds for cancellation exist for failure to comply with or satisfy any of the requirements of this chapter or the third party tester agreement, the Department may postpone cancellation and allow the third party tester or examiner 30 days to correct the deficiency.

**§ 46.2-341.14:6. Onsite inspections and audits.**

A. Each applicant for certification as a third party tester shall permit the Department or FMCSA to conduct random examinations and to inspect, inspections, and audit audits of its operations, facilities, and records as they relate to its third party testing program, for the purpose of determining whether the applicant is qualified for certification. Each person who has been certified as a third party tester shall permit the Department to periodically inspect and audit his third party testing program to determine whether it remains in compliance with certification requirements.

B. The Department or FMCSA will perform its random examinations, inspections, and audits of third party testers during regular business hours with or without prior notice to the third party tester.

C. Inspections and audits of third party testers will occur at a minimum once every two years and include, at a minimum, an examination of:

1. Records relating to the third party testing program;

2. Evidence of compliance with the FMCSA regulations and Virginia Motor Carrier Safety Regulations;

3. Skills testing procedures, practices, and operations;

4. Vehicles used for testing;

5. Qualifications of third party examiners;

6. Effectiveness of the skills test program by either (i) testing a sample of drivers who have been issued skills test certificates by the third party tester to compare pass/fail results, (ii) having Department employees covertly take the skills tests from a third party examiner, or (iii) having Department employees co-score along with the third party examiner during commercial driver's license applicant's skills tests to compare pass/fail results;

7. A comparison of the commercial driver's license skills test results of applicants who are issued commercial driver's licenses with the commercial driver's license scoring sheets that are maintained in the third party testers' files; and

8. Any other aspect of the third party tester's operation that the Department determines is necessary to verify that the third party tester meets or continues to meet the requirements for certification.

D. The Department will prepare a written report of the results of each inspection and audit of third party testers. A copy of the report will be provided to the third party tester.

**§ 46.2-341.16. Vehicle classifications, restrictions, and endorsements.**

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

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

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

3. Class C-Small vehicle. - Any vehicle that does not fit the definition of a Class A or Class B vehicle and is either (i) designed to transport 16 or more passengers including the driver or (ii) is used in the transportation of hazardous materials.

B. Commercial driver's licenses shall be issued with endorsements authorizing the driver to operate the types of vehicles identified as follows:

1. Type T-Vehicles with double or triple trailers;

2. Type P-Vehicles carrying passengers;

3. Type N-Vehicles with cargo tanks;

4. Type H-Vehicles required to be placarded for hazardous materials;

5. Type S-School buses carrying 16 or more passengers, including the driver;

6. Type X-combination of tank vehicle and hazardous materials endorsements for commercial driver's licenses issued on or after July 1, 2014; and

7. At the discretion of the Department, any additional codes for groupings of endorsements with an explanation of such code appearing on the front or back of the license.

C. Commercial driver's licenses shall be issued with restrictions limiting the driver to the types of vehicles identified as follows:

1. L for no air brake equipped commercial motor vehicles for licenses issued on or after July 1, 2014. *An applicant is restricted from operating a commercial motor vehicle with any type of air brake if he does not take or fails the air brake component of the knowledge test or performs the skills test in a vehicle not equipped with air brakes;*

2. Z for no full air brake equipped commercial motor vehicles. *If an applicant performs the skills test in a vehicle equipped with air over hydraulic brakes, the applicant is restricted from operating a commercial motor vehicle equipped with any braking system operating fully on the air brake principle;*

3. E for no manual transmission equipped commercial motor vehicles for commercial driver's licenses issued on or after July 1, 2014;

4. O for no tractor-trailer commercial motor vehicles;

5. M for no class A passenger vehicles;

6. N for no class A and B passenger vehicles;

7. K for vehicles not equipped with air brakes for commercial driver's licenses issued before July 1, 2014. *An applicant is restricted from operating a commercial motor vehicle with any type of air brakes if he does not take or fails the air brake component of the knowledge test or performs the skills test in a vehicle not equipped with air brakes;*

8. K for intrastate only for commercial driver's licenses issued on or after July 1, 2014;

9. V for medical variance; and

10. At the discretion of the Department, any additional codes for groupings of restrictions with an explanation of such code appearing on the front or back of the license.

D. Commercial driver's instruction permits shall be issued with endorsements authorizing the driver to operate the types of vehicles identified as follows:

1. Type P-Vehicles carrying passengers as provided in § 46.2-341.10;

2. Type N-Vehicles with cargo tanks as provided in § 46.2-341.10; and

3. Type S-School buses carrying 16 or more passengers, including the driver as provided in § 46.2-341.10.

E. Commercial driver's instruction permits shall be issued with restrictions limiting the driver to the types of vehicles identified as follows:

1. P for no passengers in commercial motor vehicles bus;

2. X for no cargo in commercial motor vehicles tank vehicle;

3. L for no air brake equipped commercial motor vehicles for commercial driver's instruction permits issued on or after July 1, 2014. *An applicant is restricted from operating a commercial motor vehicle with any type of air brake if he does not take or fails the air brake component of the knowledge test;*

4. M for no class A passenger vehicles;

5. N for no class A and B passenger vehicles;

6. K for vehicles not equipped with air brakes for commercial driver's instruction permits issued before July 1, 2014. *An applicant is restricted from operating a commercial motor vehicle with any type of air brake if he does not take or fails the air brake component of the knowledge test;*

7. K for intrastate only for commercial driver's instruction permits issued on or after July 1, 2014;

8. V for medical variance; and

9. Any additional jurisdictional restrictions that apply to the commercial driver's instruction permit.

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

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

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

I. If any endorsement to a commercial driver's license is canceled by the Department and the licensee does not appear in person at the Department to have such endorsement removed from the license, then the Department may cancel the commercial driver's license of the licensee.

#### **§ 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;

674 6. Driving a commercial motor vehicle without obtaining a commercial driver's license or  
675 *commercial driver's instruction permit*;

676 7. Driving a commercial motor vehicle without a commercial driver's license or *commercial driver's*  
677 *instruction permit* in the driver's immediate possession;

678 8. Driving a commercial motor vehicle without the proper class of commercial driver's license and/or  
679 endorsements for the specific vehicle group being operated or for the passengers or type of cargo being  
680 transported; and

681 9. A violation of a state law, including §§ 46.2-341.20:5 and 46.2-919.1 or a local ordinance relating  
682 to motor vehicle traffic control prohibiting texting while driving; and

683 10. A violation of a state law, including §§ 46.2-341.20:5 and 46.2-919.1, or a local ordinance  
684 relating to motor vehicle traffic control restricting or prohibiting the use of a handheld mobile telephone  
685 while driving a commercial motor vehicle.

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

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

695 1. Driving at a speed 15 or more miles per hour in excess of the posted speed limits;

696 2. Reckless driving;

697 3. A violation of a state law or local ordinance relating to motor vehicle traffic control arising in  
698 connection with a fatal traffic accident;

699 4. Improper or erratic traffic lane change; or

700 5. Following the vehicle ahead too closely.

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

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

705 2. A 120-day disqualification period for any person convicted of three serious traffic violations.

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

708 **§ 46.2-341.20:2. Employer penalty; railroad/highway grade crossing violations; out-of-service**  
709 **order violation.**

710 Any employer who knowingly allows, permits, authorizes, or requires an employee to operate a  
711 commercial motor vehicle in violation of any law or regulation pertaining to railroad/highway grade  
712 crossings, or in violation of an out-of-service order, shall be subject to a civil penalty of ~~not less than~~  
713 ~~\$3,000 nor more than~~ \$15,000 for each violation pursuant to 49 C.F.R. Part 383, which shall be  
714 imposed by the Commissioner upon receipt of notification from federal or state motor carrier officials  
715 that an employer may have violated this provision, and upon notice to the employer of the charge and a  
716 hearing conducted as provided under the Administrative Process Act (§ 2.2-4000 et seq.), to determine  
717 whether such employer has violated this provision. Civil penalties collected under this section shall be  
718 deposited into the Transportation Trust Fund.

719 **§ 46.2-341.20:4. Disqualification of driver convicted of fraud related to the testing and issuance**  
720 **of a commercial driver's instruction permit or commercial driver's license.**

721 A person who has been convicted of fraud pursuant to § 46.2-348 related to the issuance of a  
722 commercial driver's instruction permit or commercial driver's license shall be disqualified for a period of  
723 one year. The application of a person so convicted who seeks to renew, transfer, or upgrade the  
724 fraudulently obtained ~~commercial driver's instruction permit~~ or commercial driver's license or seeks to  
725 renew or upgrade the fraudulently obtained commercial driver's instruction permit must also, at a  
726 minimum, be disqualified. Any disqualification must be recorded in the person's driving record. The  
727 person may not reapply for a new commercial driver's license for at least one year.

728 If a ~~the~~ Department receives credible information that a commercial driver's instruction permit holder  
729 or commercial driver's license holder is suspected, but has not been convicted, of fraud related to the  
730 issuance of his commercial driver's instruction permit or commercial driver's license, the Department  
731 shall require the driver to retake the skills test or knowledge test, or both. Within 30 days of receiving  
732 notification from the Department that re-testing is necessary, the affected commercial driver's instruction  
733 permit holder or commercial driver's license holder must make an appointment or otherwise schedule to  
734 take the next available test. If the commercial driver's instruction permit holder or commercial driver's  
735 license holder fails to make an appointment within 30 days, the Department shall disqualify his

commercial driver's instruction permit or commercial driver's license. If the driver fails either the knowledge or skills test or does not take the test, the Department shall disqualify his commercial driver's instruction permit or commercial driver's license. Once a commercial driver's instruction permit holder's or commercial driver's license holder's commercial driver's instruction permit or commercial driver's license has been disqualified, he must reapply for a commercial driver's instruction permit or commercial driver's license under Department procedures applicable to all commercial driver's instruction permit and commercial driver's license applicants.

**§ 46.2-341.20:5. Prohibition on texting and use of handheld mobile telephone; penalties.**

A. No person driving a commercial motor vehicle shall text *or use a handheld mobile telephone* while driving such vehicle. A driver who violates this section is subject to a civil penalty not to exceed \$2,750. Civil penalties collected under this section shall be deposited into the Transportation Trust Fund. Pursuant to 49 C.F.R. § 386.81, the determination of the actual civil penalties assessed is based on consideration of information available at the time the claim is made concerning the nature and gravity of the violation and, with respect to the violator, the degree of culpability, history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice and public safety may require.

B. Notwithstanding the definition of commercial motor vehicle in § 46.2-341.4, this section shall apply to any driver who drives a vehicle designed or used to transport between nine and 15 passengers, including the driver, not for direct compensation.

C. The provisions of this section shall not apply to drivers who are texting *or using a handheld mobile telephone* when necessary to communicate with law-enforcement officials or other emergency services.

D. The following words and phrases when used in this section only shall have the meanings respectively ascribed to them in this section except in those instances where the context clearly indicates a different meaning:

"Driving" means operating a commercial motor vehicle on a highway, including while temporarily stationary because of traffic, a traffic control device, or other momentary delays. Driving does not include operating a commercial motor vehicle when the driver has moved the vehicle to the side of or off a highway and has halted in a location where the vehicle can safely remain stationary.

"Mobile telephone" means a mobile communication device that falls under or uses any commercial mobile radio service, as defined in regulations of the Federal Communications Commission, 47 C.F.R. § 20.3. "Mobile telephone" does not include two-way or citizens band radio services.

"Texting" means manually entering alphanumeric text into, or reading text from, an electronic device. This action includes, but is not limited to, short message service, emailing, instant messaging, a command or request to access a website, pressing more than a single button to initiate or terminate a voice communication using a mobile telephone, or engaging in any other form of electronic text retrieval or entry for present or future communication. "Texting" does not include inputting, selecting, or reading information on a global positioning system or navigation system; pressing a single button to initiate or terminate a voice communication using a telephone; or using a device capable of performing multiple functions (e.g., fleet management systems, dispatching devices, smartphones, citizens band radios, music players, etc.) for a purpose that is not otherwise prohibited in this section.

"Use a handheld mobile telephone" means using at least one hand to hold a mobile telephone to conduct a voice communication; dialing or answering a mobile telephone by pressing more than a single button; or reaching for a mobile telephone in a manner that requires a driver to maneuver so that he is no longer in a seated driving position, restrained by a seat belt that is installed in accordance with 49 C.F.R. § 393.93 and adjusted in accordance with the vehicle manufacturer's instructions.

**§ 46.2-341.20:6. Prohibition on requiring use of handheld mobile telephone or texting; motor carrier penalty.**

No motor carrier shall allow or require its drivers to use a handheld mobile telephone or to text while driving a commercial motor vehicle. Motor carriers violating this section are subject to a civil penalty not to exceed \$11,000. Civil penalties collected under this section shall be deposited into the Transportation Trust Fund. Pursuant to 49 C.F.R. § 386.81, the determination of the actual civil penalties assessed is based on consideration of information available at the time the claim is made concerning the nature and gravity of the violation and, with respect to the violator, the degree of culpability, history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice and public safety may require. "Driving," "mobile telephone," "texting," and "use a handheld mobile telephone" have the same meanings as assigned to them in § 46.2-341.20:5.

**§ 46.2-348. Fraud or false statements in applications for license; penalties.**

Any person who uses a false or fictitious name or gives a false or fictitious address in any application for a driver's license or escort vehicle driver certificate, or any renewal or duplicate thereof, or knowingly makes a false statement or conceals a material fact or otherwise commits a fraud during

797 the driver's license examination, *including for a commercial driver's license or commercial driver's*  
798 *instruction permit*, or in his application is guilty of a Class 2 misdemeanor. However, where the license  
799 is used, or the fact concealed, or fraud is done, with the intent to purchase a firearm or use as proof of  
800 residency under § 9.1-903, a violation of this section shall be punishable as a Class 4 felony.

801 **§ 46.2-379. Use of crash reports made by investigating officers.**

802 All ~~accident~~ crash reports made by investigating officers shall be for the confidential use of the  
803 Department and of other state agencies for accident prevention purposes and shall not be used as  
804 evidence in any trial, civil or criminal, arising out of any accident. ~~The~~ *If otherwise authorized by law,*  
805 *the* Department ~~shall~~ *may* disclose from the reports, on request of any person, the date, time, and  
806 location of the accident, ~~and~~ the names and addresses of the drivers, the owners of the vehicles  
807 involved, the injured persons, the witnesses, and one investigating officer.

808 **§ 46.2-1078.1. Use of handheld personal communications devices in certain motor vehicles;**  
809 **exceptions; penalty.**

810 A. It is unlawful for any person to operate a moving motor vehicle on the highways in the  
811 Commonwealth while using any handheld personal communications device to:

812 1. Manually enter multiple letters or text in the device as a means of communicating with another  
813 person; or

814 2. Read any email or text message transmitted to the device or stored within the device, provided  
815 that this prohibition shall not apply to any name or number stored within the device nor to any caller  
816 identification information.

817 B. The provisions of this section shall not apply to:

818 1. The operator of any emergency vehicle while he is engaged in the performance of his official  
819 duties;

820 2. An operator who is lawfully parked or stopped;

821 3. The use of factory-installed or aftermarket global positioning systems (GPS) or wireless  
822 communications devices used to transmit or receive data as part of a digital dispatch system; or

823 4. Any person using a handheld personal communications device to report an emergency.

824 C. A violation of this section is a traffic infraction punishable, for a first offense, by a fine of \$125  
825 and, for a second or subsequent offense, by a fine of \$250.

826 For the purposes of this section, "emergency vehicle" means:

827 1. Any law-enforcement vehicle operated by or under the direction of a federal, state, or local  
828 law-enforcement officer;

829 2. Any regional detention center vehicle operated by or under the direction of a correctional officer  
830 responding to an emergency call or operating in an emergency situation;

831 3. Any vehicle used to fight fire, including publicly owned state forest warden vehicles, when  
832 traveling in response to a fire alarm or emergency call;

833 4. Any ambulance, rescue, or life-saving vehicle designed or used for the principal purpose of  
834 supplying resuscitation or emergency relief where human life is endangered;

835 5. Any Department of Emergency Management vehicle or Office of Emergency Medical Services  
836 vehicle, when responding to an emergency call or operating in an emergency situation;

837 6. Any Department of Corrections vehicle designated by the Director of the Department of  
838 Corrections, when (i) responding to an emergency call at a correctional facility, (ii) participating in a  
839 drug-related investigation, (iii) pursuing escapees from a correctional facility, or (iv) responding to a  
840 request for assistance from a law-enforcement officer; and

841 7. Any vehicle authorized to be equipped with alternating, blinking, or flashing red or red and white  
842 secondary warning lights pursuant to § 46.2-1029.2.

843 D. *Distracted driving shall be included as a part of the driver's license knowledge examination.*