

VIRGINIA ACTS OF ASSEMBLY -- 2015 SESSION

CHAPTER 258

An Act to amend and reenact §§ 46.2-324.1, 46.2-341.4, 46.2-341.7, 46.2-341.8, 46.2-341.9, 46.2-341.10, 46.2-341.12, 46.2-341.14, 46.2-341.14:1, 46.2-341.15, 46.2-341.16, 46.2-341.18:3, 46.2-341.20, 46.2-341.20:4, 46.2-348, 46.2-2011.29, 46.2-2139, 46.2-2900, 46.2-2906, 46.2-2907, and 52-8.4 of the Code of Virginia and to amend the Code of Virginia by adding in Article 3 of Chapter 6 of Title 46.2 sections numbered 46.2-649.3 and 46.2-649.4, relating to commercial motor vehicle operators.

[H 2038]

Approved March 17, 2015

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-324.1, 46.2-341.4, 46.2-341.7, 46.2-341.8, 46.2-341.9, 46.2-341.10, 46.2-341.12, 46.2-341.14, 46.2-341.14:1, 46.2-341.15, 46.2-341.16, 46.2-341.18:3, 46.2-341.20, 46.2-341.20:4, 46.2-348, 46.2-2011.29, 46.2-2139, 46.2-2900, 46.2-2906, 46.2-2907, and 52-8.4 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 3 of Chapter 6 of Title 46.2 sections numbered 46.2-649.3 and 46.2-649.4 as follows:

§ 46.2-324.1. Requirements for initial licensure of certain applicants.

A. No driver's license shall be issued to any applicant unless he either (i) provides written evidence of having satisfactorily completed a course 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 Department of Education or (ii) has held a learner's permit issued by the Department for at least 60 days prior to his first behind-the-wheel examination by the Department when applying for a noncommercial driver's license.

The provisions of this section shall only apply to persons who are at least 19 years old and who either (a) have never held a driver's license issued by Virginia or any other state or territory of the United States or foreign country or (b) have never been licensed or held the license endorsement or classification required to operate the type of vehicle which they now propose to operate. Completion of a course of driver instruction approved by the Department or the Department of Education at a driver training school may include the final behind-the-wheel examination for a driver's license; however, a driver training school shall not administer the behind-the-wheel examination to any applicant who is under medical control pursuant to § 46.2-322. Applicants completing a course of driver instruction approved by the Department or the Department of Education at a driver training school retain the option of having the behind-the-wheel examination administered by the Department.

B. No commercial driver's license shall be issued to any applicant unless he is 18 years old or older and has complied with the requirements of *subsection A of § 46.2-341.9*. Applicants for a commercial driver's license who have never before held a commercial driver's license shall apply for a commercial ~~driver's instruction~~ learner's permit and either (i) provide written evidence of having satisfactorily completed a course 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 Department of Education and hold the commercial ~~driver's instruction~~ learner's permit for a minimum of 14 days prior to taking the behind-the-wheel examination for the commercial driver's license or (ii) hold the commercial ~~driver's instruction~~ learner's permit for a minimum of 30 days before taking the behind-the-wheel examination for the commercial driver's license.

Holders of a commercial driver's license who have never held the license endorsement or classification required to operate the type of commercial motor vehicle which they now propose to operate must apply for a commercial ~~driver's instruction~~ learner's permit if the upgrade requires a skills test and hold the permit for a minimum of 14 days prior to taking the behind-the-wheel examination for the commercial driver's license.

C. Nothing in this section shall be construed to prohibit the Department from requiring any person to complete the skills examination as prescribed in § 46.2-325 and the written or automated examinations as prescribed in § 46.2-335.

D. Notwithstanding the provisions of subsection B, applicants for a commercial driver's license who have never before held a commercial driver's license who are members of the active duty military, military reserves, National Guard, active duty United States Coast Guard, or Coast Guard Auxiliary and provide written evidence of having satisfactorily completed a military commercial driver training program shall hold the commercial learner's permit for a minimum of 14 days prior to taking the behind-the-wheel examination for the commercial driver's license.

E. Notwithstanding the provisions of subsection B, applicants for a commercial driver's license who have never before held a commercial driver's license who are employed by a public school division as a

bus driver and provide written evidence of having satisfactorily completed a commercial driver training program with a public school division shall hold the commercial learner's permit for a minimum of 14 days prior to taking the behind-the-wheel examination for the commercial driver's license.

§ 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 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 learner's 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 learner's 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 learner's 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.

"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 used by an individual solely for his own personal purposes, such as personal recreational activities; or any vehicle which (i) is controlled and operated by a farmer, whether or not it is owned by the farmer, and which is used exclusively for farm use, as defined provided in § §§ 46.2-649.3 and 46.2-698, (ii) is used to transport either agricultural products, farm machinery or farm supplies to or from a farm, (iii) is not used in the operation of a common or contract motor carrier, and (iv) is used within 150 miles of the farmer's farm; or any vehicle operated for military purposes by (a) active duty military personnel, (b) members of the military reserves, (c) members of the national guard on active duty, including personnel on full-time national guard duty, personnel on part-time national guard training, and national guard military technicians (civilians who are required to wear military uniforms), but not U.S. Reserve technicians, and (d) active duty U.S. Coast Guard personnel; or emergency equipment operated by a member of a firefighting, rescue, or emergency entity in the performance of his official duties.

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

"Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction, an unvacated forfeiture of bond, bail

or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court costs in lieu of trial, a violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended or probated, or, for the purposes of alcohol or drug-related offenses involving the operation of a motor vehicle, a civil or an administrative determination of a violation. For the purposes of this definition, an administrative determination shall include an unvacated certification or finding by an administrative or authorized law-enforcement official that a person has violated a provision of law.

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

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

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

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

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

"FMCSA" means the Federal Motor Carrier Safety Administration.

"Full air brake" means any braking system operating fully on the air brake principle.

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

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

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

"Manual transmission" (also known as a stick shift, stick, straight drive, or standard transmission) 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.

"Nondomiciled commercial learner's permit" or "nondomiciled commercial driver's license" means a commercial learner's permit or commercial driver's license, respectively, issued to a person in accordance with the provisions of this article or, if issued by another state, under either of the following two conditions: (i) to an individual domiciled in a foreign jurisdiction that does not test drivers and issue commercial driver's licenses in accordance with, or under standards similar to, the standards contained in subparts F, G, and H of Part 383 of the Federal Motor Carrier Safety Regulations or (ii) to an individual domiciled in another state while that state is prohibited from issuing commercial driver's licenses in accordance with decertification requirements of 49 C.F.R. § 384.405.

"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~~ 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~~ *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~~ *learner's* 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 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 test program for testing commercial driver's license applicants in accordance with this article.

"VAMCSR" means the Virginia Motor Carrier Safety Regulations (19VAC30-20) adopted by the Department of State Police pursuant to § 52-8.4.

§ 46.2-341.7. Commercial driver's license required; penalty.

A. No person shall drive a commercial motor vehicle in the Commonwealth unless he has been issued a commercial driver's license or commercial ~~driver's instruction~~ *learner's* permit and unless such license or permit authorizes the operation of the type and class of vehicle so driven, and unless such license or permit is valid.

B. Every driver of a commercial motor vehicle, while driving such vehicle in the Commonwealth, shall have in his immediate possession the commercial driver's license or commercial ~~driver's instruction~~ *learner's* permit authorizing the operation of such vehicle and shall make it available to any law-enforcement officer upon request. Failure to comply with this subsection shall be punishable as provided in § 46.2-104.

C. No person shall drive a commercial vehicle in Virginia in violation of any of the restrictions or limitations stated on his commercial driver's license or commercial ~~driver's instruction~~ *learner's* permit. A violation of the subsection shall constitute a Class 2 misdemeanor.

§ 46.2-341.8. Nonresidents and new residents.

A. Any person who is not domiciled in the Commonwealth, who has been duly issued a commercial driver's license or commercial ~~driver's instruction~~ *learner's* 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 by another state and who intends to drive a commercial motor vehicle shall apply to the Department for a Virginia commercial driver's license. If the Commissioner determines that such applicant is otherwise eligible for a commercial driver's license, the Department will issue him a Virginia commercial driver's license with the same classification and endorsements as his commercial driver's license from another state, without requiring him to take the knowledge or skills test required for such commercial driver's license in accordance with § 46.2-330. 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.

B. Any person who is (i) domiciled in a foreign jurisdiction that does not test drivers and issue commercial driver's licenses in accordance with, or under standards similar to, the standards contained in subparts F, G, and H of Part 383 of the Federal Motor Carrier Safety Regulations or (ii) domiciled in another state while that state is prohibited from issuing commercial driver's licenses in accordance with decertification requirements of 49 C.F.R. § 384.405 may apply to the Department for a nondomiciled commercial learner's permit or nondomiciled commercial driver's license.

An applicant for a nondomiciled commercial learner's permit or nondomiciled commercial driver's license shall be required to meet all requirements for a commercial learner's permit or commercial driver's license, respectively.

An applicant domiciled in a foreign jurisdiction shall provide an unexpired employment authorization document (EAD) issued by the U.S. Citizenship and Immigration Services (USCIS) or an unexpired foreign passport accompanied by an approved Form I-94 documenting the applicant's most recent admittance into the United States.

An applicant for a nondomiciled commercial driver's license or nondomiciled commercial learner's permit shall not be required to surrender his foreign license.

After receipt of a nondomiciled commercial driver's license or nondomiciled commercial learner's permit and for as long as it is valid, holders of such licenses or permits shall be required to notify the Department of any adverse action taken by any jurisdiction or governmental agency, foreign or domestic, against his driving privileges. Such notification shall be made before the end of the business day following the day the driver receives notice of the suspension, revocation, cancellation, lost privilege, or disqualification.

§ 46.2-341.9. Eligibility for commercial driver's license or commercial learner's permit.

A. A Virginia commercial driver's license or commercial ~~driver's instruction~~ learner's permit shall be issued only to a person who drives or intends to drive a commercial motor vehicle ~~and~~, who is domiciled in the Commonwealth, ~~provided that any person who is domiciled in a jurisdiction outside the United States, but has resided in the Commonwealth for a period of six weeks, shall be and who is~~ eligible for a commercial driver's license or commercial ~~driver's instruction~~ learner's permit under such terms and conditions as the Department may require.

No person shall be eligible for a Virginia commercial driver's license or commercial ~~driver's instruction~~ learner's permit until he has applied for such license or permit and has passed the applicable vision, knowledge and skills tests required by this article, and has satisfied all other applicable licensing requirements imposed by the laws of the Commonwealth. Such requirements shall include meeting the standards contained in subparts F, G, and H, of Part 383 of the FMCSA regulations.

No person shall be eligible for a Virginia commercial driver's license or commercial ~~driver's instruction~~ learner's permit during any period in which he is disqualified from driving a commercial motor vehicle, or his driver's license or privilege to drive is suspended, revoked or cancelled in any state, or during any period wherein the restoration of his license or privilege is contingent upon the furnishing of proof of financial responsibility.

No person shall be eligible for a Virginia commercial driver's license until he surrenders all other driver's licenses issued to him by any state.

No person shall be eligible for a Virginia commercial ~~driver's instruction~~ learner's permit until he surrenders all other driver's licenses and permits issued to him by any other state. The applicant for a commercial ~~driver's instruction~~ learner's permit is not required to surrender his Virginia noncommercial driver's license.

No person under the age of 21 years shall be eligible for a commercial driver's license, except that a person who is at least 18 years of age may be issued a commercial driver's license or commercial ~~driver's instruction~~ learner's permit, provided that such person is exempt from or is not subject to the age requirements of the Federal Motor Carrier Safety Regulations contained in 49 C.F.R. Part 391, and is not prohibited from operating a commercial motor vehicle by the Virginia Motor Carrier Safety Regulations, and has so certified. No person under the age of 21 years shall be issued a hazardous materials endorsement.

No person shall be eligible for a Virginia commercial driver's license to drive a Type S vehicle, as defined in subsection B of § 46.2-341.16, 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.

In determining the eligibility of any applicant for a Virginia commercial driver's license, the Department shall consider, to the extent not inconsistent with federal law, the applicant's military training and experience.

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 may be issued a Virginia commercial driver's license to drive a Type P vehicle, as defined in subsection B of § 46.2-341.16, provided the commercial driver's license includes a restriction prohibiting the license holder from operating a 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.

B. Notwithstanding the provisions of subsection A, pursuant to 49 U.S.C. 31311(a)(12) a commercial driver's license or commercial learner's permit may be issued to an individual who (i) operates or will operate a commercial motor vehicle; (ii) is a member of the active duty military, military reserves, National Guard, active duty United States Coast Guard, or Coast Guard Auxiliary; and (iii) is not domiciled in the Commonwealth, but whose temporary or permanent duty station is located in the Commonwealth.

§ 46.2-341.10. Special provisions relating to commercial learner's 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~~ learner's permit. Such permit shall be valid for no more than 180 days from the date of issuance. The Department may renew the commercial ~~driver's instruction~~ learner's permit for an additional 180 days without requiring the commercial ~~driver's instruction~~ learner's permit holder to retake the general and endorsement knowledge tests. No additional renewals are permitted. A commercial ~~driver's instruction~~ learner's 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~~ learner's 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~~ learner's 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~~ learner's permit holder. The P endorsement must be class specific.

D. A commercial ~~driver's instruction~~ learner's 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~~ learner's permit holder. No person shall be issued a commercial ~~driver's instruction~~ learner's 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~~ learner's 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~~ learner's 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~~ learner's 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~~ commercial learner's 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 \$3 for each ~~instruction~~ commercial learner's permit issued under the provisions of this section.

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

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

5. ~~Social Security~~ security number; and
6. *Domicile or, if not domiciled in the Commonwealth, proof of status as a member of the active duty military, military reserves, National Guard, active duty United States Coast Guard, or Coast Guard Auxiliary pursuant to 49 U.S.C. § 31311(a)(12); and*
7. Any other information required on the application form.

The applicant's ~~Social Security~~ social security number shall be provided to the Commercial Driver's License Information System as required by 49 C.F.R. § 383.153.

B. Every applicant for a commercial driver's license or commercial ~~driver's instruction~~ learner's permit 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. Parts 383 and 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~~, citizenship or lawful permanent residency, domicile, and social security number notwithstanding the provisions of § 46.2-328.1 and pursuant to 49 C.F.R. Part 383; 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; and

6. *An unexpired employment authorization document (EAD) issued by the U.S. Citizenship and Immigration Services (USCIS) or an unexpired foreign passport accompanied by an approved Form I-94 documenting the applicant's most recent admittance into the United States for persons applying for a nondomiciled commercial driver's license or nondomiciled commercial learner's permit.*

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 or commercial ~~driver's instruction~~ learner's permit. 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 or commercial ~~driver's instruction~~ learner's permit, for the renewal or reinstatement of such license or permit 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. Such review shall include checking the photograph on record whenever the applicant or holder appears in person to renew, upgrade, transfer, reinstate, or obtain a duplicate commercial driver's license or to renew, upgrade, reinstate, or obtain a duplicate commercial ~~driver's instruction~~ learner's permit. 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 Problem Driver Pointer System 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, transfer, or reinstatement of a commercial driver's license or additional commercial classification or endorsement.

The Department shall verify the name, date of birth, and Social Security number provided by the applicant with the information on file with the Social Security Administration for initial issuance of a commercial ~~driver's instruction~~ learner's permit, or transfer of a commercial driver's license from another state or for drivers renewing a commercial driver's license for the first time after July 8, 2011, who have not previously had their Social Security number information verified. The Department shall make a notation in the driver's record confirming that the necessary verification has been completed and noting the date it was done. *The Department shall also make a notation confirming that proof of citizenship or lawful permanent residency has been presented and the date it was done.*

F. ~~On and after January 30, 2012, every~~ Every new applicant for a commercial driver's license or

commercial driver's instruction learner's permit, including any person applying for a commercial driver's license or permit 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. § 390.5. Upon receipt of an appropriate medical examiner's certificate, the Department shall post a certification status of "certified" on the record of the driver on the Commercial Driver's License Information System. Any new applicant for a commercial driver's license or commercial driver's instruction learner's permit who fails to comply with the requirements of this subsection shall be denied the issuance of a commercial driver's license or commercial driver's instruction learner's permit by the Department.

G. ~~On and after January 30, 2012, but no later than January 30, 2014, every~~ Every existing holder of a commercial driver's license or commercial driver's instruction learner's permit 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. § 390.5. Upon receipt of an appropriate medical examiner's certificate, the Department shall post a certification status of "certified" and any other necessary information on the record of the driver on the Commercial Driver's License Information System. 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. § 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. § 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. § 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. § 383.5.

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

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

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

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

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

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

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

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

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

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

2- The applicant certifies and provides evidence satisfactory to the Commissioner that he is regularly

employed in a job requiring the operation of a commercial motor vehicle, and either:

a. Has previously taken and successfully completed a skills test which was administered by a state with a classified licensing and testing system and that test was behind the wheel in a vehicle 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 tests.

The Commissioner shall require all state and 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. 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 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.

H. Skills tests may be administered to an applicant who has taken training in Virginia and is to be licensed in another state. Such test results shall be electronically transmitted directly from Virginia to the licensing state in an efficient and secure manner. The Department may charge a fee of not more than \$85 to any such applicant.

I. The Department shall accept the results of skills tests administered to applicants by any other state in fulfillment of the applicant's testing requirements for commercial licensure in the Commonwealth.

§ 46.2-341.14:1. Requirements for third party testers.

A. Pursuant to § 46.2-341.14, third party testers will be authorized to issue skills test certificates, which will be accepted by the Department as evidence of satisfaction of the skills test component of the commercial driver's license examination. Authority to issue skills test certificates will be granted only to third party testers certified by the Department.

B. To qualify for certification, a third party tester shall:

1. Make application to and enter into an agreement with the Department as provided in § 46.2-341.14:3;

2. Maintain a place of business in Virginia;

3. Have at least one certified third party examiner in his employ;

4. Ensure that all third party examiners in his employ are certified and comply with the requirements of §§ 46.2-341.14:2 and 46.2-341.14:7;

5. Permit the Department and the FMCSA of the U.S. Department of Transportation to conduct random examinations, inspections, and audits of its records, facilities, and operations that relate to the third party testing program without prior notice;

6. Maintain at the principal place of business a copy of the state certificate authorizing the third party tester to administer a commercial driver's license testing program and current third party agreement;

7. Maintain at a Virginia location, for a minimum of two years after a skills test is conducted, a record of each driver for whom the third party tester conducts a skills test, whether the driver passes or fails the test. Each such record shall include:

a. The complete name of the driver;

b. The driver's Social Security number or other driver's license number and the name of the state or jurisdiction that issued the license held by the driver at the time of the test;

c. The date the driver took the skills test;

d. The test score sheet or sheets showing the results of the skills test and a copy of the skills test certificate, if issued;

e. The name and certification number of the third party examiner conducting the skills test; and

f. Evidence of the driver's employment with the third party tester at the time the test was taken. If the third party tester is a school board that tests drivers who are trained but not employed by the school board, evidence that (i) the driver was employed by a school board at the time of the test and (ii) the third party tester trained the driver in accordance with the Virginia School Bus Driver Training Curriculum Guide;

8. Maintain at a Virginia location a record of each third party examiner in the employ of the third party tester. Each record shall include:

a. Name and Social Security number;

b. Evidence of the third party examiner's certification by the Department;

c. A copy of the third party examiner's current training and driving record, which must be updated annually;

d. Evidence that the third party examiner is an employee of the third party tester; and

e. If the third party tester is a school board, a copy of the third party examiner's certification of instruction issued by the Virginia Department of Education;

9. Retain the records required in subdivision 8 for at least two years after the third party examiner 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;

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; *and*

5. *Initiate and maintain a bond in the amount of \$5,000 to pay for retesting drivers in the event that the third-party tester or one or more of its examiners are involved in fraudulent activities related to conducting knowledge or skills testing for applicants.*

§ 46.2-341.15. Commercial driver's license and commercial learner's permit document.

A. The commercial driver's license issued by the Department shall be identified as a Virginia commercial driver's license and shall include at least the following:

1. Full name, a Virginia address, and signature of the licensee;

2. A photograph of the licensee;

3. A physical description of the licensee, including sex and height;

4. The licensee's date of birth and license number that shall be assigned by the Department to the

licensee and shall not be the same as the licensee's Social Security number;

5. A designation of the class and type of commercial motor vehicle or vehicles which the licensee is authorized to drive, together with any restrictions; and

6. The date of license issuance and expiration.

B. The commercial ~~driver's instruction~~ *learner's* permit shall be identified as such but shall in all other respects conform to subsection A of this section. A commercial ~~driver's instruction~~ *learner's* permit shall also contain a statement that the permit is invalid unless accompanied by the underlying driver's license.

C. *A nondomiciled commercial driver's license or a nondomiciled commercial learner's permit shall contain the word "nondomiciled" on the face of the document.*

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

A. A commercial driver's license or commercial ~~driver's instruction~~ *learner's* 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~~ *learner's* 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~~ *learner's* 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~~ *learner's* 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~~ *learner's* 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~~ *learner's* 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~~ *learner's* 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.

§ 46.2-341.18:3. Cancellation of commercial driver's license endorsement for certain offenders.

The Commissioner shall cancel the Type S school bus endorsement for any person holding a commercial driver's license or commercial ~~driver's instruction~~ *learner's* permit who is convicted of an offense for which registration is required in the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1.

Any person holding a commercial driver's license or commercial ~~driver's instruction~~ *learner's* permit with a Type P passenger endorsement who is convicted of an offense for which registration is required in the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 shall surrender such license or permit to the Department, and shall be issued a license or permit that includes a restriction prohibiting the license or permit holder from operating a 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.

If the holder of a commercial driver's license or commercial ~~driver's instruction~~ *learner's* permit fails to surrender the license or permit as required under this section, the Department shall cancel the license or permit.

§ 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 or commercial ~~driver's instruction~~ *learner's* permit;
7. Driving a commercial motor vehicle without a commercial driver's license or commercial ~~driver's instruction~~ *learner's* permit in the driver's immediate possession;
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;
9. A violation of a state law, including §§ 46.2-341.20:5 and 46.2-919.1 or a local ordinance relating to motor vehicle traffic control prohibiting texting while driving; and
10. A violation of a state law, including §§ 46.2-341.20:5 and 46.2-919.1, or a local ordinance relating to motor vehicle traffic control restricting or prohibiting the use of a handheld mobile telephone while driving a commercial motor vehicle.

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 or commercial ~~driver's instruction~~ learner's permit; (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.

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

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

If the Department receives credible information that a commercial ~~driver's instruction~~ learner's permit holder or commercial driver's license holder is suspected, but has not been convicted, of fraud related to the issuance of his commercial ~~driver's instruction~~ learner's permit or commercial driver's license, the Department shall require the driver to retake the skills test or knowledge test, or both. Within 30 days of receiving notification from the Department that ~~re-testing~~ *retesting* is necessary, the affected commercial ~~driver's instruction~~ learner's permit holder or commercial driver's license holder must make an appointment or otherwise schedule to take the next available test. If the commercial ~~driver's instruction~~ learner's permit holder or commercial driver's license holder fails to make an appointment within 30 days, the Department shall disqualify his commercial ~~driver's instruction~~ learner's 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~~ learner's permit or commercial driver's license. Once a commercial ~~driver's instruction~~ learner's permit holder's or commercial driver's license holder's commercial ~~driver's instruction~~ learner's permit or commercial driver's license has been disqualified, he must reapply for a commercial ~~driver's instruction~~ learner's permit or commercial driver's license under Department procedures applicable to all commercial ~~driver's instruction~~ learner's permit and commercial driver's license applicants.

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

§ 46.2-649.3. Registration of covered farm vehicles.

A. For the purposes of this section, a covered farm vehicle shall be registered pursuant to the provisions of § 46.2-698.

B. As defined in regulations promulgated by the Federal Motor Carrier Safety Administration (49 C.F.R. Part 390.5), a "covered farm vehicle" means a straight truck or articulated vehicle that is:

1. a. Registered in Virginia pursuant to the provisions of § 46.2-698; or
- b. Registered in another state with a license plate or other designation issued by the state of registration that allows law enforcement to identify it as a farm vehicle;
2. Operated by the owner or operator of a farm or ranch or by an employee or family member of an owner or operator of a farm or ranch;

3. Used to transport agricultural commodities, livestock, machinery, or supplies to or from a farm or ranch;

4. Not used in for-hire motor carrier operations; however, for-hire motor carrier operations do not include the operation of a vehicle meeting the requirements of subdivisions 1, 2, and 3 by a tenant pursuant to a crop share farm lease agreement to transport the landlord's portion of the crops under that agreement; and

5. Not used in transporting material found by the U.S. Secretary of Transportation to be hazardous under 49 U.S.C. § 5103 and transported in a quantity requiring placarding under regulations prescribed by the Secretary under 49 C.F.R., subtitle B, chapter I, subchapter C.

C. A straight truck or articulated vehicle meeting the requirements of subsection B and having (i) a gross vehicle weight or gross vehicle weight rating, whichever is greater, of 26,001 pounds or less may utilize the exemptions provided in § 46.2-649.4 without mileage limitations or (ii) a gross vehicle weight or gross vehicle weight rating, whichever is greater, of more than 26,001 pounds may utilize the exemptions defined in § 46.2-649.4 anywhere in the Commonwealth or across state lines within 150 air miles (176.2 miles) of the farm or ranch with respect to which the vehicle is being operated.

D. For the purposes of this section, "agricultural commodities" means any horticultural plants and crops, cultivated plants and crops, poultry, dairy, and farm products, livestock and livestock products, and products derived from bees and beekeeping, primarily for sale, consumption, propagation, or other use by man or animals.

§ 46.2-649.4. Covered farm vehicles; exemptions.

A covered farm vehicle as defined in § 46.2-649.3, including the operator of that vehicle, is exempt from the following:

1. Any requirement relating to commercial driver's licenses in Federal Motor Carrier Safety Regulations 49 C.F.R. Part 383;

2. Any requirement relating to controlled substances and alcohol use and testing in Federal Motor Carrier Safety Regulations 49 C.F.R. Part 382;

3. Any requirement in Federal Motor Carrier Safety Regulations 49 C.F.R. Part 391, Subpart E, Physical Qualifications and Examinations;

4. Any requirement in Federal Motor Carrier Safety Regulations 49 C.F.R. Part 395, Hours of Service of Drivers; and

5. Any requirement in Federal Motor Carrier Safety Regulations 49 C.F.R. Part 396, Inspection, Repair, and Maintenance.

§ 46.2-2011.29. Surrender of identification marker, license plate, and registration card; removal by law enforcement; operation of vehicle denied.

A. It shall be unlawful for a licensee, permittee, or certificate holder whose license, permit, or certificate has expired or been revoked, or suspended or whose renewal thereof has been denied pursuant to this chapter to fail or refuse to surrender, on demand, to the Department license plates, identification markers, and registration cards issued under this title.

B. It shall be unlawful for a vehicle owner who is not the holder of a valid permit or certificate or whose vehicle is not validly leased to a motor carrier holding an active permit or certificate to fail or refuse to surrender to the Department on demand license plates, identification markers, and registration cards issued under this title.

C. If any ~~law enforcement~~ law-enforcement officer finds that a ~~motor carrier~~ vehicle bearing Virginia license plates or temporary transport plates is ~~being operated~~ in violation of subsection A of this section or B, such ~~law enforcement~~ law-enforcement officer ~~shall~~ may remove the license plate, identification marker, and registration card ~~and~~. If a law-enforcement officer removes a license plate, identification marker, or registration card, he shall forward the same to the Department.

~~C.~~ D. When informed that a vehicle is being operated in violation of this section, the driver shall drive the vehicle to a nearby location off the public highways and not remove it or allow it to be moved until the motor carrier is in compliance with all provisions of this chapter.

§ 46.2-2139. Surrender of identification marker, license plate, and registration card; removal by law enforcement; operation of vehicle denied.

A. It shall be unlawful for a licensee, permittee, or certificate holder whose license, permit, or certificate has expired or been revoked, or suspended, or whose renewal thereof has been denied pursuant to this chapter to fail or refuse to surrender, on demand, to the Department license plates, identification markers, and registration cards issued under this title.

B. It shall be unlawful for a vehicle owner who is not the holder of a valid permit or certificate or whose vehicle is not validly leased to a motor carrier holding an active permit or certificate to fail or refuse to surrender to the Department on demand license plates, identification markers, and registration cards issued under this title.

C. If any ~~law enforcement~~ law-enforcement officer finds that a ~~motor carrier~~ vehicle bearing Virginia license plates or temporary transport plates is ~~being operated~~ in violation of subsection A of this section or B, such ~~law enforcement~~ law-enforcement officer ~~shall~~ may remove the license plate or plates, identification marker, and registration card ~~and~~. If a law-enforcement officer removes a license plate,

identification marker, or registration card, he shall forward such license plate, identification marker, and registration card to the Department.

C. D. When informed that a motor carrier vehicle is being operated in violation of this section, the driver shall drive the vehicle to a nearby location off the public highways and not remove it or allow it to be moved until the motor carrier is in compliance with all provisions of this chapter.

§ 46.2-2900. Definitions.

As used in this chapter, the following words and terms shall have the following meaning unless the context clearly indicates otherwise:

"Certified escort vehicle driver" means a person; ~~24~~ 18 years of age or older; who holds a valid driver's license and a valid escort vehicle driver certificate issued (i) by the Commonwealth or (ii) by a state whose escort vehicle driver certification program has been determined to be substantially similar to the Commonwealth's and to which the Commonwealth has extended reciprocity.

"Escort vehicle driver certificate" means a credential issued under the laws of the Commonwealth or other state authorizing the holder to escort a permitted vehicle or vehicles.

"Permitted vehicle or vehicles" means any vehicle being operated under the provisions of a valid highway hauling permit issued pursuant to § 46.2-1139 that requires that the permitted vehicle or vehicles be accompanied by a certified escort vehicle driver or drivers.

§ 46.2-2906. Application for escort vehicle driver certificate; driving record; proof of completion of escort vehicle driver training; fee.

A. Every application for an escort vehicle driver certificate shall be made on a form prescribed by the Department, and the applicant shall write his usual signature in ink in the space provided on the form. A person who applies for an escort vehicle driver certificate must meet the following requirements:

1. Be at least ~~24~~ 18 years of age;
2. Hold a valid Virginia driver's license or a valid driver's license for another state;
3. Authorize the Department to review his driving record;
4. Present satisfactory proof of successful completion of an eight-hour escort vehicle driver certification training course, as required by § 46.2-2904;
5. Pass the escort vehicle driver certification knowledge test as required by § 46.2-2905 with a score of 80 percent or higher; and
6. Pay the appropriate fee for certificate issuance.

B. Every application shall state the applicant's full legal name; year, month, and date of birth; social security number; sex; and residence address. The applicant shall also answer any questions on the application form, or otherwise propounded, and provide any other information as required by the Department incidental to the application.

C. The Commissioner shall require that each application include a certification statement, to be signed by the applicant under penalty of perjury, certifying that the information presented on the application is true and correct. If the applicant fails or refuses to sign the certification statement, the Department shall not issue the applicant an escort vehicle driver certificate.

Any applicant who knowingly makes a false certification or supplies false or fictitious evidence shall be punished as provided in § 46.2-348.

§ 46.2-2907. Nonresident; extensions of reciprocal privileges.

A nonresident age ~~24~~ 18 years or older who has been duly licensed as a driver under a law regulating the licensure of drivers in his home state and who has in his immediate possession a valid driver's license and a valid escort vehicle driver certificate issued to him in his home state, where such state's escort vehicle driver certification program has been determined to be substantially similar to the Commonwealth's and to which the Commonwealth has extended reciprocity, shall be permitted without a Virginia license or a Virginia escort vehicle driver certificate to escort a permitted vehicle or vehicles on the highways of the Commonwealth. Such nonresident shall be exempt from the escort vehicle driver certification eligibility, training, and testing requirements of this chapter.

If such nonresident desires to also hold a Virginia escort vehicle driver certificate, in addition to the valid certificate issued to him by his home state, he must then meet all of the Virginia escort vehicle driver certification eligibility, training, and testing requirements of this chapter.

§ 52-8.4. Powers and duties to promulgate regulations; inspection of certain records.

A. The Superintendent of State Police, with the cooperation of such other agencies of the Commonwealth as may be necessary, shall promulgate regulations pertaining to commercial motor vehicle safety pursuant to the United States Motor Carrier Act of 1984. These regulations shall set forth criteria relating to driver, vehicle, and cargo safety inspections with which motor carriers and transport vehicles shall comply, and shall be no more restrictive than the applicable provisions of the Federal Motor Carrier Safety Regulations of the United States Department of Transportation. These regulations shall not apply to hours worked by any carrier when transporting passengers or property to or from any portion of the Commonwealth for the purpose of (i) providing relief or assistance in case of earthquake, flood, fire, famine, drought, epidemic, pestilence, or other calamity or disaster or (ii) engaging in the provision or restoration of utility services when the loss of such service is unexpected, unplanned or

unscheduled. The suspension of the regulation provided for in this subsection shall expire if the Secretary of the United States Department of Transportation determines that it is in conflict with the intent of Federal Motor Carrier Safety Regulations.

B. For the purposes of this section:

"Commercial motor vehicle" means any self-propelled or towed vehicle used on the highways in commerce to transport passengers or property if such vehicle (i) has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, whichever is greater, of more than 10,000 pounds when operated interstate or more than 26,000 pounds when operated intrastate, (ii) is designed or used to transport more than 15 passengers, including the driver, regardless of weight, or (iii) is used to transport hazardous materials in a quantity requiring placards by regulations issued under authority of Article 7 (§ 10.1-1450 et seq.) of Chapter 14 of Title 10.1.

"Motor carrier" means a common carrier by motor vehicle, a contract carrier by motor vehicle, or a private carrier of property or passengers by motor vehicle. This term also encompasses any agent, officer, representative, or employee who is responsible for the hiring, supervision, training, assignment, or dispatching of drivers.

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

"Safety inspection" means the detailed examination of a vehicle for compliance with safety regulations promulgated under this section and includes a determination of the qualifications of the driver and his hours of service.

C. Except for those offenses listed in § 52-8.4:2, any violation of the provisions of the regulations adopted pursuant to this section shall constitute a traffic infraction punishable by a fine of not more than \$1,000 for the first offense or by a fine of not more than \$5,000 for a subsequent offense. Each day of violation shall constitute a separate offense; however, any violation of any out-of-service order issued under authority of such regulations or under authority of the Federal Motor Carrier Safety regulations shall be punished as provided in § 46.2-341.21 and the disqualification provisions of § 46.2-341.21 also shall apply to any driver so convicted.

D. The Department of State Police, together with all other law-enforcement officers certified to perform vehicle safety inspections as defined by § 46.2-1001 who have satisfactorily completed 40 hours of on-the-job training and a course of instruction as prescribed by the U.S. Department of Transportation, Federal Motor Carrier Safety Administration, in federal motor carrier safety regulations, safety inspection procedures, and out-of-service criteria, shall enforce the regulations and other requirements promulgated pursuant to this section. Those law-enforcement officers certified to enforce the regulations and other requirements promulgated pursuant to this section shall annually receive in-service training in current federal motor carrier safety regulations, safety inspection procedures, and out-of-service criteria.

E. Any records required to be maintained by motor carriers pursuant to regulations promulgated by the Superintendent under the authority of subsection A of this section shall be open to inspection during a carrier's normal business hours by specially trained members of the Department of State Police specifically designated by the Superintendent. Members of the Department of State Police designated for that purpose by the Superintendent shall also be authorized, with the consent of the owner, operator, or agent in charge or with an appropriate warrant obtained under the procedure prescribed in Chapter 24 (§ 19.2-393 et seq.) of Title 19.2, to go upon the property of motor carriers to verify the accuracy of maintenance records by an inspection of the vehicles to which those records relate.

Any person holding a valid commercial driver's license shall be exempt from the hours of service of drivers provisions as defined in regulations promulgated by the Federal Motor Carrier Safety Administration (49 C.F.R. Part 395) while operating a commercial motor vehicle during planting and harvest periods to transport:

1. Agricultural commodities from the source of the agricultural commodities to a location within 150 air miles (176.2 miles) from the source;

2. Farm supplies for agricultural purposes from a wholesale or retail distribution point of the farm supplies to a farm or other location where the farm supplies are intended to be used within a 150-air-mile radius (176.2 miles) from the distribution point; or

3. Farm supplies for agricultural purposes from a wholesale distribution point of the farm supplies to a retail distribution point of the farm supplies within a 150-air-mile radius (176.2 miles) from the wholesale distribution point.