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SENATE BILL NO. 1387

Offered January 21, 2015

A *BILL to amend the Code of Virginia by adding in Chapter 20 of Title 46.2 an article numbered 15, consisting of sections numbered 46.2-2099.45 through 46.2-2099.54, relating to transportation of railroad employees by contract carriers; civil penalty.*

Patron—Edwards

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 20 of Title 46.2 an article numbered 15, consisting of sections numbered 46.2-2099.45 through 46.2-2099.54, as follows:

*Article 15.**Contract Carriers of Railroad Employees.***§ 46.2-2099.45. Definitions.**

As used in this article, unless the context requires a different meaning:

"Contract carrier" means a passenger contract carrier that, for compensation, transports railroad employees with a vehicle designed or used to transport seven or fewer persons, including the driver.

"On-duty time" means all time at a terminal, facility, or other property of a contract carrier or on any public property waiting to be dispatched. "On-duty time" includes time spent inspecting, servicing, or conditioning the vehicle, unless the driver has been relieved from duty by the contract carrier.

§ 46.2-2099.46. Driver qualification file.

A. A contract carrier transporting railroad employees shall maintain a driver qualification file for each driver it employs. The driver qualification file may be combined with the personnel file of the employee.

The driver qualification file shall include:

1. A certificate of physical examination conducted by a physician at least once every two years that certifies the physical ability of the driver to operate a commercial motor vehicle;

2. Documentation that establishes that the driver's driving record has been reviewed at least once per year;

3. Documentation related to the driver's violation of motor vehicle laws or ordinances, if applicable;

4. Other documentation related to the driver's qualifications or ability to drive a motor vehicle; and

5. The driver's application for employment.

B. No person shall drive a commercial motor vehicle to transport railroad employees unless he has completed and furnished the motor carrier that employs him with an application for employment that meets the requirements of this section.

The driver's application for employment shall be made on a form furnished by the motor carrier. Each application form must be completed and signed by the applicant and shall contain the following information:

1. The name and address of the employing motor carrier;

2. The applicant's name, address, date of birth, and social security number;

3. The addresses at which the applicant has resided during the three years preceding the date on which the application is submitted;

4. The date on which the application is submitted;

5. A copy of the applicant's vehicle operator's license and certificate of the driver's road test conducted by the motor carrier and signed by the individual giving the road test;

6. The nature and extent of the applicant's experience in the operation of motor vehicles;

7. A list of all motor vehicle accidents in which the applicant was involved during the three years preceding the date on which the application is submitted, specifying the date and nature of each accident and any fatalities or personal injuries that resulted;

8. A list of all violations of motor vehicle laws or ordinances, other than violations involving only parking, of which the applicant was convicted or forfeited bond or collateral during the three years preceding the date on which the application is submitted;

9. A statement setting forth in detail the facts and circumstances of any denial, revocation, or suspension of any license, permit, or privilege to operate a motor vehicle that has been issued to the applicant or a statement that no such denial, revocation, or suspension has occurred;

10. A list of the names and addresses of the applicant's employers during the three years preceding the date on which the application is submitted, including the dates the applicant was employed by each

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59 employer; and

60 11. The reason for leaving the employ of each employer together with responses from each of the
61 previous employers, if required by the current employer.

62 **§ 46.2-2099.47. Driver disqualification and limitations.**

63 A. A driver is disqualified from driving for a contract carrier under this article if the driver has
64 committed two or more serious traffic violations as listed in § 46.2-341.20 within a three-year period.

65 A contract carrier shall not allow or require a driver to drive or remain on duty for more than:

66 1. Ten hours after eight consecutive undisturbed hours off-duty;

67 2. Fifteen hours of combined on-duty time and drive time since last obtaining eight consecutive
68 undisturbed hours of off-duty time; or

69 3. Seventy hours of on-duty and drive time in any period of eight consecutive days.

70 B. After 24 hours of undisturbed rest off-duty, a driver begins a new seven-consecutive-day period
71 and on-duty time is reset to zero hours.

72 C. A transport motor vehicle driver who encounters an emergency and cannot, because of that
73 emergency, safely complete a transportation assignment within the 10-hour maximum driving time
74 permitted under this section may drive and be permitted or required to drive a transport motor vehicle
75 for not more than two additional hours in order to complete that transportation assignment or to reach
76 a place offering safety for the occupants of the transport motor vehicle and security for the transport
77 motor vehicle if the transportation assignment reasonably could have been completed within the 10-hour
78 period absent the emergency.

79 D. A contract carrier shall maintain and retain for a period of six months accurate time records that
80 show (i) the time that the driver reports for duty each day, (ii) the total number of hours of on-duty time
81 for each driver for each day, (iii) the time that the driver is released from duty each day, and (iv) the
82 total number of hours driven each day by each driver.

83 **§ 46.2-2099.48. Driver testing.**

84 Before a driver performs any duties for a contract carrier, the driver shall undergo the same testing
85 and requirements for alcohol and controlled substances as are required for a commercial driver's
86 license pursuant to the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.).

87 **§ 46.2-2099.49. Vehicle inspection.**

88 A contract carrier shall inspect or cause to be inspected a motor vehicle that it operates for
89 passenger transportation in the Commonwealth as required by Article 21 (§ 46.2-1157 et seq.) of
90 Chapter 10. A contract carrier shall require each of its drivers to complete a written motor vehicle
91 report on each motor vehicle that the driver operated upon completion of each day's work.

92 **§ 46.2-2099.50. Maintenance and repair program.**

93 A. A contract carrier shall establish a maintenance and repair program, to include at least weekly
94 inspections for each vehicle, including but not limited to checking parts and accessories for safety and
95 proper operation, restoring the cleanliness of the motor vehicle, and ensuring that the vehicle is
96 equipped with:

97 1. A spare tire that is fully inflated;

98 2. A secured location for personal baggage, including proper restraints;

99 3. Fully operational seatbelts for all passenger seats;

100 4. A heater and an air conditioner that are properly working with properly working fans; and

101 5. An emergency road kit that contains at least a first aid kit, flares, reflective triangles, jumper
102 cables, and a fire extinguisher.

103 No motor vehicle shall be operated in a condition that is likely to cause an accident or mechanical
104 breakdown.

105 B. A contract carrier shall maintain records for its maintenance and repair program for each motor
106 vehicle. The records shall include:

107 1. Identifying information for the motor vehicle, to include the vehicle identification number, make,
108 year manufactured, and company identification number if one is provided;

109 2. Owner information if the contract carrier is not the owner of the vehicle; and

110 3. A history of inspections, repairs, and maintenance that describes each activity and the date the
111 activity was performed.

112 The records under this subsection shall be maintained by the contract carrier at its place of business
113 for one year. If the motor vehicle leaves the contract carrier's control, the records under this subsection
114 shall be maintained by the contract carrier at its place of business for six months.

115 C. A contract carrier and its officers, drivers, agents, and employees who are required to inspect or
116 maintain motor vehicles shall comply with and be knowledgeable of the contract carrier's maintenance
117 and repair program.

118 **§ 46.2-2099.51. Access to facilities and records.**

119 A contract carrier shall allow an employee of the Department of State Police and a representative or
120 employee of the Department of Transportation access to a facility to determine compliance with this

121 article and access to records or information related to an accident investigation under this article.

122 **§ 46.2-2099.52. Liability protection.**

123 A contract carrier shall obtain and maintain an insurance policy of \$5 million for each motor
124 vehicle that transports railroad employees.

125 **§ 46.2-2099.53. Penalties.**

126 Any person who knowingly violates a provision of this article shall be subject to a civil penalty not
127 to exceed \$1,000 for each violation, which shall be assessed by the Department of Rail and Public
128 Transportation and allocated to the Rail Enhancement Fund established pursuant to § 33.2-1601. Each
129 day that a violation continues is a separate offense. The Department of Rail and Public Transportation
130 shall provide written notice of each violation to the violator. In determining the amount of the penalty,
131 the Department of Rail and Public Transportation shall evaluate (i) the nature, circumstances, extent,
132 and gravity of the violation; (ii) the degree of culpability; (iii) the history of prior offenses, if any; (iv)
133 the violator's ability to pay; (v) the effect of the penalty on the ability of the violator to continue to do
134 business; and (vi) other circumstances as justice may require.

135 **§ 46.2-2099.54. Right of railroad to contract.**

136 This article is not intended to limit, and shall not be construed as limiting, the right of a railroad to
137 contract with a contract carrier that certifies to the railroad that it is in compliance with the provisions
138 of this article or any applicable federal requirements. The railroad is entitled to rely on a contract
139 carrier's certification that it is operating in compliance with this article without further inquiry.