

# VIRGINIA ACTS OF ASSEMBLY -- 2019 SESSION

## CHAPTER 750

*An Act to amend and reenact §§ 46.2-324.1, 46.2-341.4, 46.2-341.10, 46.2-341.12, 46.2-341.14, 46.2-341.14:01, 46.2-341.14:1, 46.2-341.19, 46.2-341.22, 46.2-380, 46.2-382, 46.2-1700, and 46.2-1701.1 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 17 of Title 46.2 an article numbered 2, consisting of sections numbered 46.2-1708 through 46.2-1711, relating to commercial driver's licenses; entry-level driver training.*

[S 1481]

Approved March 21, 2019

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

**1. That §§ 46.2-324.1, 46.2-341.4, 46.2-341.10, 46.2-341.12, 46.2-341.14, 46.2-341.14:01, 46.2-341.14:1, 46.2-341.19, 46.2-341.22, 46.2-380, 46.2-382, 46.2-1700, and 46.2-1701.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 17 of Title 46.2 an article numbered 2, consisting of sections numbered 46.2-1708 through 46.2-1711, 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 the 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 18 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 (i) is 18 years old or older ~~and~~, (ii) has complied with the requirements of subsection A of § 46.2-341.9, (iii) *has completed both the theory and the behind-the-wheel portions of the training course within one year from the date instruction was first commenced*, and (iv) *has completed both the range and the public road portions of the behind-the-wheel curriculum with the same training provider*. Applicants for a commercial driver's license who have never before held a commercial driver's license shall apply for a commercial 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 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 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 (a) *complete an entry-level driver training course applicable to the license, classification, or endorsement for the type of commercial motor vehicle they propose to operate* and (b) apply for a commercial 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* 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, *provided that the program*

complies with the requirements provided in Article 2 (§ 46.2-1708 et seq.) of Chapter 17, unless such entity is otherwise exempted from such requirements under federal law or regulation.

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 As used in this article, unless a different meaning is clearly required by the context requires a different meaning:

"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 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 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" (~~or "CDLIS"~~) means the ~~CDLIS~~ commercial driver's license information system 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~~

1. Any vehicle when used by an individual solely for his own personal purposes, such as personal recreational activities; ~~or any~~

2. Any vehicle ~~which that~~ (i) is controlled and operated by a farmer, whether or not it is owned by the farmer, and ~~which that~~ is used exclusively for farm use, as 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~~

3. Any vehicle operated for military purposes by ~~(a)~~ (i) active duty military personnel; ~~(b)~~; (ii) members of the military reserves; ~~(c)~~; (iii) 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)~~ (iv) active duty U.S. Coast Guard personnel; or emergency

4. 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 P.L. 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~~ *includes* 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 learner's permit required to permit the individual to operate certain types of commercial motor vehicles.

"Entry-level driver" means an individual who (i) must complete the commercial driver's license skills test requirements under FMCSA regulations prior to receiving a commercial driver's license for the first time, (ii) is upgrading to a Class A or Class B commercial driver's license for the first time, or (iii) is obtaining a hazardous materials, passenger, or school bus endorsement for the first time. This definition does not include individuals exempt from such requirements under 49 C.F.R. § 380.603.

"Entry-level driver training" means training an entry-level driver receives from an entity listed on the FMCSA's Training Provider Registry, as provided for in 49 C.F.R. § 380.700 et seq., prior to taking the (i) commercial driver's license skills test required to (a) receive a commercial driver's license for the first time, (b) receive the Class A or Class B commercial driver's license for the first time, (c) upgrade to a Class A or B commercial driver's license for the first time, or (d) obtain a passenger or school bus endorsement for the first time or (ii) commercial driver's license knowledge test required to obtain a hazardous materials endorsement for the first time.

"FMCSA" means the Federal Motor Carrier Safety Administration of the U.S. Department of Transportation.

"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.), as amended, 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~~ "Noncommercial 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 Motor Carrier Safety Regulations, that a driver, a commercial motor vehicle, or a motor carrier is out of service. Such order or declaration as to a driver means that the driver is prohibited from operating a commercial motor vehicle for the duration of the out-of-service period. Such order or declaration as to a vehicle means that such vehicle cannot be operated until the hazardous condition that resulted in the order or declaration has been removed and the vehicle has been cleared for further operation. Such order or declaration as to a motor carrier means that no vehicle may be operated for or on behalf of such carrier until the out-of-service order or declaration has been lifted. For purposes of this article, the provisions of the Federal Motor Carrier Safety Regulations (49 C.F.R. Parts 390 through 397), including such regulations or any substantially similar regulations as may have been adopted by any state of the United States, the Provinces of Canada, Canada, Mexico, or any locality shall be considered laws similar to the laws of the Commonwealth 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 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 the Commonwealth 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 instructor" means an individual who is an employee of a third party tester or a training provider and who (i) is authorized by the Department to provide entry-level driver training required for a commercial driver's license and (ii) meets the requirements for either a theory or behind-the-wheel instructor as defined in § 46.2-1700.*

"Third party tester" means a person (including another state, a motor carrier, a private institution, the military, a government entity, including each comprehensive community college in the Virginia Community College System established by the State Board for Community Colleges pursuant to Chapter 29 (§ 23.1-2900 et seq.) of Title 23.1, 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.

*"Training provider" means a person that provides entry-level driver training and that is (i) a Virginia licensed Class A driver training school or a Virginia certified third party tester and is listed on the federal Training Provider Registry or (ii) an entity that is otherwise licensed, certified, registered, or authorized to provide training in accordance with the laws of the Commonwealth or the applicable laws of another state and is listed on the federal Training Provider Registry.*

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

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

D. A commercial 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 learner's permit holder. No person shall be issued a commercial 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 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 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 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 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 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. No entry-level driver shall be eligible to (i) apply for a Virginia Class A or Class B commercial driver's license for the first time, (ii) upgrade to a Class A or Class B commercial driver's license for the first time, or (iii) apply for a hazardous materials, passenger, or school bus endorsement for the first time, unless he has completed an entry-level driver training course related to the license, classification, or endorsement he is applying for and the training is provided by a training provider. An individual is not required to complete an entry-level driver training course related to the license, classification, or endorsement he is applying for if he is exempted from such requirements under 49 C.F.R. § 380.603.*

B. Every application to the Department for a commercial driver's license or 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 number;
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 number shall be provided to the Commercial Driver's License Information System as required by 49 C.F.R. § 383.153.

~~B.~~ C. Every applicant for a commercial driver's license or commercial 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, 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;

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~~ *canceled* 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.~~ *D.* 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.~~ *E.* 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 learner's permit. The Department shall take such action within 30 days after discovering such falsification.

~~E.~~ *F.* The Department shall review the driving record of any person who applies for a Virginia commercial driver's license or commercial 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 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 (i) 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 and (ii) *requesting information from the Drug and Alcohol Clearinghouse in accordance with 49 C.F.R. § 382.725.* 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~~ *social security* number provided by the applicant with the information on file with the Social Security Administration for initial issuance of a commercial learner's permit or transfer of a commercial driver's license from another state. 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.~~ *G.* Every new applicant for a commercial driver's license or commercial 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 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 learner's permit by the Department.

~~G.~~ *H.* Every existing holder of a commercial driver's license or commercial 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.~~ *I.* Any person who provides a medical certificate to the Department pursuant to the requirements of subsections ~~F~~ and ~~G~~ and *H* 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.~~ *J.* 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.~~ *K.* 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.~~ *L.* 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.

*No skills test shall be conducted by the Department for a first-time applicant for a Class A or Class B commercial driver's license, a passenger endorsement, or a school bus endorsement, or knowledge test for a first-time applicant for a hazardous materials endorsement, until (i) the Department has verified that the applicant has completed the appropriate entry-level driver training course administered by a training provider required for that skills or knowledge test, if the applicant is so required, or (ii) the applicant has certified that he is exempted from such requirement under § 46.2-341.12.*

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. The Commissioner may designate such persons as he deems fit, including private or governmental entities, including comprehensive community colleges in the Virginia Community College System, 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.

D. 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~~ *that* 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.

E. 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 comprehensive community college in the Virginia Community College System, 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 comprehensive community college in the Virginia Community College System, or a comparable course approved by the Department or the Department of Education. All persons required to attend a driver training school, a comprehensive community college, or a comparable course pursuant to this section shall be required, after successful completion of necessary courses, to have the applicable examination administered by the Department.

Comprehensive community colleges offering courses pursuant to this section shall meet course curriculum requirements established and made available by the Department and be comparable to the curriculum offered by Class A licensed schools. A course curriculum meeting the established requirements shall be submitted to the Department and shall be approved by the Department prior to the beginning of course instruction.

The Department shall provide and update the list of course curriculum requirements from time to time, as deemed appropriate and necessary by the Department. The Department shall notify the affected schools and comprehensive community colleges if new relevant topics are added to the course curriculum. Schools and comprehensive community colleges shall have 45 calendar days after such notice is issued to update their course curriculum and to certify to the Department in a format prescribed by the Department that the school or comprehensive community college has added the new topics to the course curriculum.

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

F. 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.

G. 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 the Commonwealth at a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) or a comprehensive community college in the Virginia Community College System, or a comparable course approved by the Department or the Department of Education, and is to be licensed in another state. Such test results shall be electronically transmitted directly from the Commonwealth 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.

*J. The Department may administer skills performance evaluations in accordance with its agreement with the FMCSA. Notwithstanding the provisions of § 46.2-208, any medical information that is collected as part of the evaluation may be released to and inspected by the FMCSA.*

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

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

B. Pursuant to 49 C.F.R. § 383.77, the Commissioner ~~may~~ *shall* waive the driving skills test *required by 49 C.F.R. § 383.23 and as specified in 49 C.F.R. § 383.113* for a commercial motor vehicle driver with military commercial motor vehicle experience who is currently licensed at the time of his application for a commercial driver's license and substitute an applicant's driving record in combination with certain driving experience for the skills test.

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

1. An applicant must certify that, during the two-year period immediately prior to applying for a

commercial driver's license, he:

- a. Has not ~~had~~ *simultaneously held* more than one license except for a military license;
- b. Has not had any license suspended, revoked, canceled, or disqualified;
- c. Has not had any convictions for any type of motor vehicle for the disqualifying offenses contained in this article;
- d. Has not had more than one conviction for any type of motor vehicle for serious traffic violations contained in this article; and
- e. Has not had any conviction for a violation of military, state, or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with any traffic crash and has no record of a crash in which he was at fault; and

2. An applicant must provide evidence and certify that he:

- a. Is regularly employed or was regularly employed within the last ~~90 days~~ *year* or any other period authorized by the FMCSA in a military position requiring operation of a commercial motor vehicle;
- b. Was exempted from the commercial driver's license requirements in 49 C.F.R. § 383.3(c); and
- c. Was operating a vehicle representative of the commercial motor vehicle the driver applicant operates, or expects to operate, for at least the two years immediately preceding discharge from the military.

*D. The Commissioner shall waive the knowledge test for certain current or former military service members applying for a commercial learner's permit or commercial driver's license as permitted by 49 C.F.R. § 383.77, provided that such current or former military service member meets the conditions and limitations provided by 49 C.F.R. § 383.77.*

*E. The Commissioner shall waive the knowledge test and driving skills test for certain current or former military service members applying for certain endorsements as permitted by 49 C.F.R. § 383.77, provided that such current or former military service member meets the conditions and limitations provided by 49 C.F.R. § 383.77.*

**§ 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 the Commonwealth;
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 location in the Commonwealth, 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~~ *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;
  - 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; and
  - g. Notwithstanding the provisions of subdivision f, evidence of the student's enrollment in a commercial driver training course offered by a community college at the time the test was taken if the third party tester is a comprehensive community college in the Virginia Community College System.
8. Maintain at a location in the Commonwealth a record of each third party examiner in the employ of the third party tester. Each record shall include:
  - a. Name and ~~Social Security~~ *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 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, including a comprehensive community college in the Virginia Community College System, shall:

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

2. Employ at least 75 drivers of commercial motor vehicles licensed in the Commonwealth, 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";

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~~ *third party* tester or one or more of its examiners are involved in fraudulent activities related to conducting knowledge or skills testing for applicants.

*D. Certified third party testers are authorized to provide entry-level driver training to individuals in their employ or applicants for employment. If a certified third party tester elects to provide entry-level driver training, the third party tester shall (i) employ and utilize third party instructors, as defined in § 46.2-341.4, to provide all training and instruction to entry-level driver trainees; (ii) develop an entry-level driver training curriculum that complies with requirements prescribed by the Department and submit such curriculum to the Department for approval; (iii) upon notification by the Department that curriculum requirements have been updated, certify, in a format prescribed by the Department, that the third party tester has added the new topics to the course curriculum; and (iv) comply with the requirements provided in §§ 46.2-1708 through 46.2-1710. Notwithstanding the provisions of § 46.2-1708, no third party tester or third party instructor shall be required to be licensed by the Department. A certified third party tester may not provide entry-level driver training to driver trainees until such tester has been issued a unique training provider number and appears on the federal Training Provider Registry.*

**§ 46.2-341.19. Controlled substance felony; disqualification.**

A. No person shall use a commercial motor vehicle in the commission of any felony involving manufacturing, distributing, or dispensing a controlled substance or possession with intent to manufacture, distribute, or dispense such controlled substance. *No person who holds a commercial learner's permit or commercial driver's license shall use a noncommercial motor vehicle in the commission of any felony involving manufacturing, distributing, or dispensing a controlled substance or possession with intent to manufacture, distribute, or dispense such controlled substance.* For the purpose of this section, a controlled substance ~~shall be~~ *is* defined as provided in § 102(6) of the federal Controlled Substances Act (21 U.S.C. § 802(6)) and includes all substances listed on Schedules I through V of 21 C.F.R. Part 1308 as they may be revised from time to time.

B. Violation of this section shall constitute a separate and distinct offense and any person violating this section ~~shall be~~ *is* guilty of a Class 1 misdemeanor. Punishment for a violation of this section shall be separate and apart from any punishment received from the commission of the primary felony.

C. The Commissioner shall, upon receiving a record of a conviction of a violation of this section, disqualify for life any person who is convicted of such violation.

**§ 46.2-341.22. Requirements upon disqualification.**

Any person who has been disqualified pursuant to any provision of this ~~Act~~ *article* shall be subject to the provisions of §§ 46.2-370 and 46.2-414, and shall be required to comply with the provisions of §§ 46.2-370 and 46.2-411 as conditions to the reinstatement of his privilege to drive a commercial motor vehicle.

Any person who has been disqualified pursuant to the provisions of § 46.2-341.18 ~~or § 46.2-341.19~~ shall be required as further conditions to reinstatement of his privilege to operate a commercial motor vehicle, to (i) apply for such license; (ii) pass the knowledge and skills tests required for the class and type of commercial motor vehicle for which he seeks to be licensed; and (iii) satisfy all other applicable

licensing requirements, including the payment of licensing fees, imposed by the laws of the Commonwealth.

The provisions of this section shall not apply to out-of-service orders issued pursuant to §§ 46.2-341.26:2 and 46.2-341.26:3.

**§ 46.2-380. Reports made under certain sections open to inspection by certain persons; copies; maintenance of reports and photographs for three-year period.**

A. Any report of an accident made pursuant to § 46.2-372, 46.2-373, 46.2-375, or 46.2-377 shall be maintained by the Department in either hard copy or electronic form for a period of at least 36 months from the date of the accident and shall be open to the inspection of (i) any person involved or injured in the accident or as a result thereof, or his attorney or, (ii) any authorized representative of any insurance carrier reasonably anticipating exposure to civil liability as a consequence of the accident or to which the person has applied for issuance or renewal of a policy of automobile insurance, or (iii) *the FMCSA or any authorized agent thereof*. The Commissioner shall, on written request of ~~the person or attorney or any authorized representative of any insurance carrier reasonably anticipating exposure to civil liability as a consequence of the accident or to which the person has applied for issuance or renewal of a policy of automobile insurance~~, furnish a copy of the report, in either hard copy or electronic form, at the expense of the ~~person, attorney, or representative requester~~. Any such report shall also be open to inspection by the personal representative of any person injured or killed in the accident, including his guardian, conservator, executor, committee, next of kin as defined in § 54.1-2800, or administrator, or, if the person injured or killed is under 18 years of age, his parent or guardian. The Commissioner shall only be required to furnish under this section copies of reports required by the provisions of this article to be made directly to the Commissioner. The Commissioner may set a reasonable fee for furnishing a copy of any report, provide to whom payment shall be made, and establish a procedure for payment.

B. The Commissioner or Superintendent of State Police having a copy of any photograph taken by a law-enforcement officer relating to a nonfatal accident, shall maintain the negatives for *or an electronic record of* such photographs in their records for at least 36 months from the date of the accident.

**§ 46.2-382. Courts to keep full records of certain cases.**

Every general district court or circuit court or the clerk thereof shall keep a full record of every case in which:

1. A person is charged with (i) a violation of any law of the Commonwealth pertaining to the operator or operation of a motor vehicle *or commercial motor vehicle*; (ii) a violation of any ordinance of any county, city, or town pertaining to the operator or operation of any motor vehicles, except parking regulations; (iii) any theft of a motor vehicle or unauthorized use thereof or theft of any part attached to it; ~~or~~ (iv) a violation of § 18.2-36.2, subsection B of § 29.1-738, or § 29.1-738.02, 29.1-738.2, or 29.1-738.4; *or (v) a violation or offense involving the use of a motor vehicle or commercial motor vehicle by a person holding a commercial learner's permit or commercial driver's license in the commission of any felony involving manufacturing, distributing, or dispensing a controlled substance or possession with intent to manufacture, distribute, or dispense such controlled substance;*

2. A person is charged with manslaughter or any other felony in the commission of which a motor vehicle was used; or

3. There is rendered a judgment for damages, the rendering and nonpayment of which under the terms of this title require the Commissioner to suspend the driver's license and registration in the name of the judgment debtor.

*Article 1.*

*Driver Training Schools, Generally.*

**§ 46.2-1700. Definitions.**

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

"*Behind-the-wheel instructor*" means an individual who meets the requirements for licensure under § 46.2-1708 and is employed by a training provider who provides behind-the-wheel training involving the actual operation of a commercial motor vehicle by an entry-level driver on a range or a public road.

"*Behind-the-wheel training*" means training provided by a licensed behind-the-wheel instructor when an entry-level driver has actual control of the power unit during a driving lesson conducted on a range or on a public road. "*Behind-the-wheel training*" does not include time an entry-level driver spends observing the operation of a commercial motor vehicle when he is not in control of the vehicle.

"Class A licensee" means a driver training school that provides training in the operation of commercial motor vehicles as defined in § 46.2-341.4.

"Class B licensee" means a driver training school that provides training in the operation of any type of motor vehicle other than motorcycles and commercial motor vehicles as defined in § 46.2-341.4.

"Computer-based driver education course" means the classroom portion of driver education offered by a computer-based driver education provider through the Internet or other electronic means approved by the Department whose content and quality is comparable to that of courses offered in the Commonwealth's public schools.

"Computer-based driver education provider" means a driver training school licensed by the

Department in accordance with this chapter to conduct computer-based driver education courses.

"Driver training school" or "school" means a business enterprise conducted by an individual, association, partnership, or corporation, for the education and training of persons, either practically or theoretically or both, to operate or drive motor vehicles, and charging a consideration or tuition for such services. "Driver training school" or "school" does not mean any institution of higher education, school established pursuant to § 46.2-1314, school maintained or classes conducted by employers for their own employees where no fee or tuition is charged, schools or classes owned and operated by or under the authority of bona fide religious institutions, or by the Commonwealth or any political subdivision thereof, training programs for school bus operators established pursuant to § 22.1-181, driver education programs established pursuant to § 22.1-205, or schools accredited by accrediting associations approved by the Department of Education; however, if any such entity or program excluded from the definition of "driver training school" offers driver education and training through a contractual arrangement with another person for consideration, then that other person shall be considered a driver training school subject to the requirements of this chapter.

*"Entry-level driver" means the same as defined in § 46.2-341.4.*

*"Entry-level driver training" means the same as defined in § 46.2-341.4.*

*"FMCSA" means the same as defined in § 46.2-341.4.*

"Instructor" means any person, whether acting for himself as operator of a driver training school or for such school for compensation, who teaches, conducts classes, gives demonstrations, or supervises persons learning to operate or drive a motor vehicle.

*"Key information" means the training provider name, address, phone number, type or types of training offered, training provider status, and any change in state licensure, certification, or accreditation status.*

*"Range" means an area that is free of obstructions, enables the driver to maneuver safely and free from interference from other vehicles and hazards, and has adequate sight lines.*

*"Theory instruction" means knowledge instruction on the operation of a commercial motor vehicle and related matters provided by a licensed theory instructor through lectures, demonstrations, audio-visual presentations, computer-based instruction, driving simulation devices, online training, or similar means.*

*"Theory instructor" means an individual who meets the requirements for licensure under § 46.2-1708 and is employed by a training provider and who provides knowledge instruction on the operation of a commercial motor vehicle.*

*"Training provider" means the same as defined in § 46.2-341.4.*

#### **§ 46.2-1701.1. Bond of applicants.**

The applicant shall file a surety bond in the amount of \$100,000 for a Class A licensee and \$5,000 for a Class B licensee. The bond shall be payable to the Commonwealth of Virginia and conditioned to protect the contractual rights of students. The bonding requirement for a Class A license may be reduced, at the discretion of the Department, on a showing by the school that no course of study for which tuition is collected lasts longer than thirty days or that the school collects no advance tuition other than equal monthly installments based on the length of the course of study. The minimum bond for any school shall be \$5,000. *The Department may collect against this bond in the case that the driver training school violates applicable state or federal law or regulation.*

#### *Article 2.*

#### *Entry-Level Driver Training Providers.*

#### **§ 46.2-1708. Licenses required for school and instructors.**

A. *If a Class A driver training school elects to provide entry-level driver training to driver trainees, that Class A driver training school shall not provide such training until it has (i) been licensed to provide training in the Commonwealth pursuant to this section; (ii) electronically transmitted an Entry-Level Driver Training Provider Registration Form through the federal Training Provider Registry website, maintained by FMCSA, which attests under the penalty of perjury that the training provider meets all of the applicable requirements under 49 C.F.R. § 380.703 for every campus or training location to obtain a unique Training Provider Registry number; and (iii) provided the Commissioner with its unique Training Provider Registry number issued by FMCSA pursuant to 49 C.F.R. § 380.703 in a form prescribed by the Department.*

B. *If a Class A driver training school elects to provide entry-level driver training, upon application for a Class A license by such driver training school the applicant driver training school shall also provide evidence that:*

- 1. The curriculum used for theory instruction and behind-the-wheel training complies with the curriculum requirements prescribed by the Department;*
- 2. The facilities used for entry-level driver training for both theory instruction and behind-the-wheel training comply with all federal and state safety requirements;*
- 3. The instructors employed by the applicant driver training school are licensed under this section;*
- 4. The applicant driver training school (i) uses written assessments that comply with the requirements prescribed by the Department to determine the driver trainee's proficiency in the*

knowledge objectives of each unit of instruction in the curriculum and (ii) requires driver trainees to achieve an overall minimum score of 80 percent for passage of the theory instruction portion of the course; and

5. The applicant driver training school instructors evaluate and document the driver trainee's proficiency in the behind-the-wheel skills in accordance with the curriculum requirements prescribed by the Department.

C. The Commissioner shall not license a behind-the-wheel instructor or theory instructor unless the applicant provides evidence that his commercial driver's license has not been disqualified, canceled, suspended, or revoked due to any of the disqualifying offenses identified in 49 C.F.R. § 383.51, unless his commercial driver's license was reinstated more than two years prior to the application date, and that he either:

1. Currently holds a commercial driver's license of the same class or higher with all endorsements necessary to operate the commercial motor vehicle for which training will be provided and has at least two years of experience driving a commercial motor vehicle requiring a commercial driver's license of the same or higher class or the same endorsement; or

2. Currently holds a commercial driver's license of the same class or higher with all endorsements necessary to operate the commercial motor vehicle for which training will be provided, and has at least two years of experience as a behind-the-wheel commercial motor vehicle instructor.

D. The Commissioner may issue an order suspending, revoking, cancelling, or denying renewal of a training provider's license, certification, or authorization to provide training effective immediately if the order is based upon the removal of the school from the federal Training Provider Registry pursuant to 49 C.F.R. § 380.723. Notice of such order shall be in writing and mailed to the training provider by registered mail to the address as shown on the training provider's most recent application and shall be considered served when mailed. Upon receipt of a request for a hearing appealing such order, the training provider shall be afforded the opportunity for a hearing as soon as practicable, but in no case later than 30 days from receipt of the hearing request. The order shall remain in effect pending the outcome of the hearing.

**§ 46.2-1709. Business and equipment requirements.**

A. A training provider shall:

1. Permit the Department and FMCSA to conduct random examinations, inspections, and audits of its records, facilities, and operations that relate to the entry-level driver training program without prior notice;

2. Use vehicles that comply with all federal and state safety requirements and are in the same group and type that the driver trainees intend to operate for the commercial driver's license skills test;

3. Require all driver trainees to certify that they will comply with state and federal laws and regulations and local laws related to alcohol and controlled substances testing, age requirements for driving commercial vehicles, medical certifications, licensing, and driver records;

4. Verify that all accepted behind-the-wheel applicants hold a valid commercial learner's permit or commercial driver's license;

5. Electronically transmit, by midnight of the second business day after the driver trainee completes the training, the driver trainee's certification information through the federal Training Provider Registry website including:

a. Driver-trainee name, license or permit number, and state of licensure;

b. Type of class or endorsement training the driver trainee completed;

c. Total number of clock hours the driver trainee spent to complete the behind-the-wheel training, if applicable;

d. Name of the training provider and its unique Training Provider Registry number; and

e. Date or dates of successful training completion.

6. Update the Entry-Level Driver Training Provider Registration Form once every two years;

7. Electronically report to FMCSA changes to key information on the Entry-Level Driver Training Provider Registration Form within 30 days of such changes;

8. Maintain documentation of the school's licensure, registration, certification or authorization to provide training in Virginia;

9. Ensure that all records specified in § 46.2-1710 are available to FMCSA or its authorized representative, upon request, and provide such records to FMCSA within 48 hours of such request; and

10. Administer both the range and public road portion of the behind-the-wheel curriculum.

B. If a training provider receives notice of proposed removal from FMCSA pursuant to 49 C.F.R. § 380.723, the training provider shall (i) notify all current driver trainees and driver trainees scheduled for future training of such receipt and (ii) provide a copy of the notice to the Department within one business day of receiving such notice.

C. If a training provider is removed from the federal Training Provider Registry by FMCSA pursuant to 49 C.F.R. § 380.723, such training provider shall (i) cease providing entry-level driver training upon receipt and in accordance with FMCSA guidance and (ii) provide the Department with a copy of the notice of proposed removal within one business day of receipt. No training conducted after the date of

removal from the federal Training Provider Registry shall be considered valid.

**§ 46.2-1710. Records to be maintained.**

Each training provider shall retain, in addition to any other records that entity is required to retain by Virginia law or regulation, the following records:

1. Self-certifications by all accepted applicants for behind-the-wheel training attesting that they will comply with state and federal laws and regulations and local laws related to alcohol and controlled substances testing, age requirements for driving commercial vehicles, medical certifications, licensing, and driver records, as required by subdivision A 3 of § 46.2-1709;

2. A copy of all driver trainee commercial learner's permits or commercial driver's licenses;

3. Instructor qualification documentation indicating driving or training experience for each instructor and copies of commercial driver's licenses and applicable endorsements held by behind-the-wheel instructors or theory instructors;

4. The Training Provider Registration Form submitted to the federal Training Provider Registry pursuant to 49 C.F.R. § 380.703;

5. Lesson plans for theory instruction and behind-the-wheel training curricula; and

6. Records of individual entry-level driver training assessments completed pursuant to 49 C.F.R. § 380.715.

Such records shall be maintained for at least three years from the date the record was generated or received by the training provider. If any document or record has expired or been canceled, the most recent, valid record shall be maintained.

**§ 46.2-1711. Government entities authorized to provide entry-level driver training.**

Any government entity, including the military, any comprehensive community college in the Virginia Community College System established by the State Board for Community Colleges pursuant to Chapter 29 (§ 23.1-2900 et seq.) of Title 23.1, or any department, agency, or instrumentality of a local government, is authorized to provide entry-level driving training to driver trainees, provided that such government entity complies with the requirements of this article. Notwithstanding the provisions of § 46.2-1708, no government entity or trainer employed by a government entity will be required to be licensed by the Department to provide entry-level driver training.

2. That the provision in § 46.2-341.12 relating to the Drug and Alcohol Clearinghouse shall become effective the later of February 6, 2020, or at such time as the Federal Motor Carrier Safety Administration makes the Drug and Alcohol Clearinghouse available to the Department of Motor Vehicles, as certified by the Secretary of Transportation.

3. That the provisions of §§ 46.2-324.1, 46.2-341.4, 46.2-341.12 relating to eligibility for application to the Department for a Class A or Class B commercial driver's license or a school bus, passenger, or hazardous materials endorsement, 46.2-341.14, 46.2-341.14:1, 46.2-1700, 46.2-1708, 46.2-1709, 46.2-1710, and 46.2-1711 shall become effective the later of February 7, 2020, or at such time as the Federal Motor Carrier Safety Administration has made available to the Department of Motor Vehicles the information necessary to comply with such provisions through the Commercial Driver's License Information System, as certified by the Secretary of Transportation.