

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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*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

**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

57 training program shall hold the commercial learner's permit for a minimum of 14 days prior to taking  
 58 the behind-the-wheel examination for the commercial driver's license, *provided that the program*  
 59 *complies with the requirements provided in Article 2 (§ 46.2-1708 et seq.) of Chapter 17, unless such*  
 60 *entity is otherwise exempted from such requirements under federal law or regulation.*

61 E. Notwithstanding the provisions of subsection B, applicants for a commercial driver's license who  
 62 have never before held a commercial driver's license who are employed by a public school division as a  
 63 bus driver and provide written evidence of having satisfactorily completed a commercial driver training  
 64 program with a public school division shall hold the commercial learner's permit for a minimum of 14  
 65 days prior to taking the behind-the-wheel examination for the commercial driver's license.

66 **§ 46.2-341.4. Definitions.**

67 The following definitions shall apply to *As used* in this article, unless a different meaning is clearly  
 68 required by the context *requires a different meaning*:

69 "Air brake" means any braking system operating fully or partially on the air brake principle.

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

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

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

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

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

84 "Commercial learner's permit" means a permit issued to an individual in accordance with the  
 85 provisions of this article or, if issued by another state, a permit issued in accordance with the standards  
 86 contained in the Federal Motor Carrier Safety Regulations, which, when carried with a valid driver's  
 87 license issued by the same state or jurisdiction, authorizes the individual to operate a class of  
 88 commercial motor vehicle when accompanied by a holder of a valid commercial driver's license for  
 89 purposes of behind-the-wheel training. When issued to a commercial driver's license holder, a  
 90 commercial learner's permit serves as authorization for accompanied behind-the-wheel training in a  
 91 commercial motor vehicle for which the holder's current commercial driver's license is not valid.

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

100 The following ~~shall be~~ *are* excluded from the definition of commercial motor vehicle: ~~any~~

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

103 2. Any vehicle ~~which that~~ (i) is controlled and operated by a farmer, whether or not it is owned by  
 104 the farmer, and ~~which that~~ is used exclusively for farm use, as provided in §§ 46.2-649.3 and 46.2-698.3;  
 105 (ii) is used to transport either agricultural products, farm machinery, or farm supplies to or from a farm;  
 106 (iii) is not used in the operation of a common or contract motor carrier; and (iv) is used within 150  
 107 miles of the farmer's farm; ~~or any~~

108 3. Any vehicle operated for military purposes by ~~(a)~~ (i) active duty military personnel; ~~(b)~~; (ii)  
 109 members of the military reserves; ~~(c)~~; (iii) members of the national guard on active duty, including  
 110 personnel on full-time national guard duty, personnel on part-time national guard training, and national  
 111 guard military technicians (civilians who are required to wear military uniforms), but not U.S. Reserve  
 112 technicians; and ~~(d)~~ (iv) active duty U.S. Coast Guard personnel; or ~~emergency~~

113 4. *Emergency* equipment operated by a member of a firefighting, rescue, or emergency entity in the  
 114 performance of his official duties.

115 "Commercial Motor Vehicle Safety Act" means the federal Commercial Motor Vehicle Safety Act of  
 116 1986, Title XII of ~~Public Law~~ *P.L.* 99-570, as amended.

117 "Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated

118 or failed to comply with the law in a court of original jurisdiction, an unvacated forfeiture of bond, bail,  
 119 or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere  
 120 accepted by the court, the payment of a fine or court costs in lieu of trial, a violation of a condition of  
 121 release without bail, regardless of whether the penalty is rebated, suspended, or probated, or, for the  
 122 purposes of alcohol or drug-related offenses involving the operation of a motor vehicle, a civil or an  
 123 administrative determination of a violation. For the purposes of this definition, an administrative  
 124 determination ~~shall include~~ *includes* an unvacated certification or finding by an administrative or  
 125 authorized law-enforcement official that a person has violated a provision of law.

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

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

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

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

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

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

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

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

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

153 "Gross combination weight rating" means the value specified by the manufacturers of an articulated  
 154 vehicle or combination of vehicles as the maximum loaded weight of such vehicles. In the absence of  
 155 such a value specified by the manufacturer, for law-enforcement purposes, the gross combination weight  
 156 rating shall be the greater of (i) the gross vehicle weight rating of the power units of the combination  
 157 vehicle plus the total weight of the towed units, including any loads thereon, or (ii) the gross weight at  
 158 which the articulated vehicle or combination of vehicles is registered in its state of registration; however,  
 159 the registered gross weight shall not be applicable for determining the classification of an articulated  
 160 vehicle or combination of vehicles for purposes of skills testing pursuant to § 46.2-341.14 or  
 161 46.2-341.16.

162 "Gross vehicle weight rating" means the value specified by the manufacturer of the vehicle as the  
 163 maximum loaded weight of a single vehicle. In the absence of such a value specified by the  
 164 manufacturer, for law-enforcement purposes, the gross vehicle weight rating shall be the greater of (i)  
 165 the actual gross weight of the vehicle, including any load thereon; or (ii) the gross weight at which the  
 166 vehicle is registered in its state of registration; however, the registered gross weight of the vehicle shall  
 167 not be applicable for determining the classification of a vehicle for purposes of skills testing pursuant to  
 168 § 46.2-341.14 or 46.2-341.16.

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

174 "Manual transmission," (also known as a stick shift, stick, straight drive, or standard transmission),  
 175 means a transmission utilizing a driver-operated clutch that is activated by a pedal or lever and a  
 176 gear-shift mechanism operated by either hand or foot.

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

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

187 "Out-of-service order" or "out-of-service declaration" means an order by a judicial officer pursuant to  
 188 § 46.2-341.26:2 or 46.2-341.26:3 or an order or declaration by an authorized law-enforcement officer  
 189 under § 46.2-1001 or regulations promulgated pursuant to § 52-8.4 relating to Motor Carrier Safety, and  
 190 including similar actions by authorized judicial officers or enforcement officers acting pursuant to similar  
 191 laws of other states, the United States, the Canadian Provinces, Canada, Mexico, and localities within  
 192 them, and also including actions by federal or other jurisdictions' officers pursuant to Federal Motor  
 193 Carrier Safety Regulations, that a driver, a commercial motor vehicle, or a motor carrier is out of  
 194 service. Such order or declaration as to a driver means that the driver is prohibited from operating a  
 195 commercial motor vehicle for the duration of the out-of-service period. Such order or declaration as to a  
 196 vehicle means that such vehicle cannot be operated until the hazardous condition that resulted in the  
 197 order or declaration has been removed and the vehicle has been cleared for further operation. Such order  
 198 or declaration as to a motor carrier means that no vehicle may be operated for or on behalf of such  
 199 carrier until the out-of-service order or declaration has been lifted. For purposes of this article, the  
 200 provisions of the Federal Motor Carrier Safety Regulations (, 49 C.F.R. Parts 390 through 397),  
 201 including such regulations or any substantially similar regulations as may have been adopted by any  
 202 state of the United States, the Provinces of Canada, Canada, Mexico, or any locality shall be considered  
 203 laws similar to the laws of the Commonwealth referenced herein.

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

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

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

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

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

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

226 *"Third party instructor" means an individual who is an employee of a third party tester or a training  
 227 provider and who (i) is authorized by the Department to provide entry-level driver training required for  
 228 a commercial driver's license and (ii) meets the requirements for either a theory or behind-the-wheel  
 229 instructor as defined in § 46.2-1700.*

230 "Third party tester" means a person (including another state, a motor carrier, a private institution, the  
 231 military, a government entity, including each comprehensive community college in the Virginia  
 232 Community College System established by the State Board for Community Colleges pursuant to Chapter  
 233 29 (§ 23.1-2900 et seq.) of Title 23.1, or a department, agency, or instrumentality of a local government)  
 234 certified by the Department to employ third party examiners to administer a test program for testing  
 235 commercial driver's license applicants in accordance with this article.

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

240 of another state and is listed on the federal Training Provider Registry.

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

243 **§ 46.2-341.10. Special provisions relating to commercial learner's permit.**

244 A. The Department, upon receiving an application on forms prescribed by the Commissioner and  
245 upon the applicant's satisfactory completion of the vision and knowledge tests required for the class and  
246 type of commercial motor vehicle to be driven by the applicant may, in its discretion, issue to such  
247 applicant a commercial learner's permit. Such permit shall be valid for no more than 180 days one year  
248 from the date of issuance. The Department may renew the commercial learner's permit for an additional  
249 180 days without requiring the commercial learner's permit holder to retake the general and endorsement  
250 knowledge tests. No additional renewals are permitted. A commercial learner's permit shall entitle the  
251 applicant to drive a commercial motor vehicle of the class and type designated on the permit, but only  
252 when accompanied by a person licensed to drive the class and type of commercial motor vehicle driven  
253 by the applicant. The person accompanying the permit holder shall occupy the seat closest to the driver's  
254 seat for the purpose of giving instruction to the permit holder in driving the commercial motor vehicle.

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

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

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

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

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

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

281 H. The Department shall charge a fee of \$3 for each commercial learner's permit issued under the  
282 provisions of this section.

283 **§ 46.2-341.12. Application for commercial driver's license or commercial learner's permit.**

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

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

- 296 1. Full legal name;
- 297 2. Current mailing and residential addresses;
- 298 3. Physical description including sex, height, weight, and eye and hair color;
- 299 4. Year, month, and date of birth;
- 300 5. Social security number;

301 6. Domicile or, if not domiciled in the Commonwealth, proof of status as a member of the active  
 302 duty military, military reserves, National Guard, active duty United States Coast Guard, or Coast Guard  
 303 Auxiliary pursuant to 49 U.S.C. § 31311(a)(12); and

304 7. Any other information required on the application form.

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

307 ~~B.~~ C. Every applicant for a commercial driver's license or commercial learner's permit shall also  
 308 submit to the Department the following:

309 1. A consent to release driving record information;

310 2. Certifications that:

311 a. He either meets the federal qualification requirements of 49 C.F.R. Parts 383 and 391, or he is  
 312 exempt from or is not subject to such federal requirements;

313 b. He either meets the state qualification requirements established pursuant to § 52-8.4, or he is  
 314 exempt from or is not subject to such requirements;

315 c. The motor vehicle in which the applicant takes the skills test is representative of the class and, if  
 316 applicable, the type of motor vehicle for which the applicant seeks to be licensed;

317 d. He is not subject to any disqualification, suspension, revocation or cancellation of his driving  
 318 privileges;

319 e. He does not have more than one driver's license;

320 3. Other certifications required by the Department;

321 4. Any evidence required by the Department to establish proof of identity, citizenship or lawful  
 322 permanent residency, domicile, and social security number notwithstanding the provisions of  
 323 § 46.2-328.1 and pursuant to 49 C.F.R. Part 383;

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

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

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

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

339 ~~E.~~ F. The Department shall review the driving record of any person who applies for a Virginia  
 340 commercial driver's license or commercial learner's permit, for the renewal or reinstatement of such  
 341 license or permit or for an additional commercial classification or endorsement, including the driving  
 342 record from all jurisdictions where, during the previous 10 years, the applicant was licensed to drive any  
 343 type of motor vehicle. Such review shall include checking the photograph on record whenever the  
 344 applicant or holder appears in person to renew, upgrade, transfer, reinstate, or obtain a duplicate  
 345 commercial driver's license or to renew, upgrade, reinstate, or obtain a duplicate commercial learner's  
 346 permit. If appropriate, the Department shall incorporate information from such other jurisdictions' records  
 347 into the applicant's Virginia driving record, and shall make a notation on the applicant's driving record  
 348 confirming that such review has been completed and the date it was completed. The Department's  
 349 review shall include (i) research through the Commercial Driver License Information System established  
 350 pursuant to the Commercial Motor Vehicle Safety Act and the National Driver Register Problem Driver  
 351 Pointer System in addition to the driver record maintained by the applicant's previous jurisdictions of  
 352 licensure and (ii) *requesting information from the Drug and Alcohol Clearinghouse in accordance with*  
 353 *49 C.F.R. § 382.725.* This research shall be completed prior to the issuance, renewal, transfer, or  
 354 reinstatement of a commercial driver's license or additional commercial classification or endorsement.

355 The Department shall verify the name, date of birth, and ~~Social Security~~ *social security* number  
 356 provided by the applicant with the information on file with the Social Security Administration for initial  
 357 issuance of a commercial learner's permit or transfer of a commercial driver's license from another state.  
 358 The Department shall make a notation in the driver's record confirming that the necessary verification  
 359 has been completed and noting the date it was done. The Department shall also make a notation  
 360 confirming that proof of citizenship or lawful permanent residency has been presented and the date it  
 361 was done.

362 F. G. Every new applicant for a commercial driver's license or commercial learner's permit, including  
 363 any person applying for a commercial driver's license or permit after revocation of his driving privileges,  
 364 who certifies that he will operate a commercial motor vehicle in non-excepted interstate or intrastate  
 365 commerce shall provide the Department with an original or certified copy of a medical examiner's  
 366 certificate prepared by a medical examiner as defined in 49 C.F.R. § 390.5. Upon receipt of an  
 367 appropriate medical examiner's certificate, the Department shall post a certification status of "certified"  
 368 on the record of the driver on the Commercial Driver's License Information System. Any new applicant  
 369 for a commercial driver's license or commercial learner's permit who fails to comply with the  
 370 requirements of this subsection shall be denied the issuance of a commercial driver's license or  
 371 commercial learner's permit by the Department.

372 G. H. Every existing holder of a commercial driver's license or commercial learner's permit who  
 373 certifies that he will operate a commercial motor vehicle in non-excepted interstate or intrastate  
 374 commerce shall provide the Department with an original or certified copy of a medical examiner's  
 375 certificate prepared by a medical examiner as defined in 49 C.F.R. § 390.5. Upon receipt of an  
 376 appropriate medical examiner's certificate, the Department shall post a certification status of "certified"  
 377 and any other necessary information on the record of the driver on the Commercial Driver's License  
 378 Information System. If an existing holder of a commercial driver's license fails to provide the  
 379 Department with a medical certificate as required by this subsection, the Department shall post a  
 380 certification status of "noncertified" on the record of the driver on the Commercial Driver's License  
 381 Information System and initiate a downgrade of his commercial driver's license as defined in 49 C.F.R.  
 382 § 383.5.

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

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

392 J. K. Any holder of a commercial driver's license who has been issued a medical variance shall keep  
 393 the medical variance information current and shall notify the Department of any change in the status of  
 394 the medical variance. If the Department determines that the medical variance is no longer valid, the  
 395 Department shall initiate a downgrade of the driver's commercial driver's license as defined in 49 C.F.R.  
 396 § 383.5.

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

401 **§ 46.2-341.14. Testing requirements for commercial driver's license; behind-the-wheel and**  
 402 **knowledge examinations.**

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

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

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

419 C. The Commissioner may designate such persons as he deems fit, including private or governmental  
 420 entities, including comprehensive community colleges in the Virginia Community College System, to  
 421 administer the knowledge and skills tests required of applicants for a commercial driver's license. Any  
 422 person so designated shall comply with all statutes and regulations with respect to the administration of

423 such tests.

424 The Commissioner shall require all state and third party test examiners to successfully complete a  
425 formal commercial driver's license test examiner training course and examination before certifying them  
426 to administer commercial driver's license knowledge and skills tests. All state and third party test  
427 examiners shall complete a refresher training course and examination every four years to maintain their  
428 commercial driver's license test examiner certification. The refresher training course shall comply with  
429 49 C.F.R. § 384.228. At least once every two years, the Department shall conduct covert and overt  
430 monitoring of examinations performed by state and third party commercial driver's license test  
431 examiners.

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

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

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

448 E. No person who fails the behind-the-wheel examination for a commercial driver's license  
449 administered by the Department three times shall be permitted to take such examination a fourth time  
450 until he successfully completes, subsequent to the third examination failure, the in-vehicle component of  
451 driver instruction at a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) or a  
452 comprehensive community college in the Virginia Community College System, or a comparable course  
453 approved by the Department or the Department of Education. In addition, no person who fails the  
454 general knowledge examination for a commercial driver's license administered by the Department three  
455 times shall be permitted to take such examination a fourth time until he successfully completes,  
456 subsequent to the third examination failure, the knowledge component of driver instruction at a driver  
457 training school licensed under Chapter 17 (§ 46.2-1700 et seq.) or a comprehensive community college  
458 in the Virginia Community College System, or a comparable course approved by the Department or the  
459 Department of Education. All persons required to attend a driver training school, a comprehensive  
460 community college, or a comparable course pursuant to this section shall be required, after successful  
461 completion of necessary courses, to have the applicable examination administered by the Department.

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

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

474 The provisions of this subsection shall not apply to persons placed under medical control pursuant to  
475 § 46.2-322.

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

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

482 H. Skills tests may be administered to an applicant who has taken training in the Commonwealth at a  
483 driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) or a comprehensive community

484 college in the Virginia Community College System, or a comparable course approved by the Department  
 485 or the Department of Education, and is to be licensed in another state. Such test results shall be  
 486 electronically transmitted directly from the Commonwealth to the licensing state in an efficient and  
 487 secure manner. The Department may charge a fee of not more than \$85 to any such applicant.

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

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

493 **§ 46.2-341.14:01. Military third party testers and military third party examiners; substitute for**  
 494 **knowledge and driving skills tests for drivers with military commercial motor vehicle experience.**

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

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

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

506 1. An applicant must certify that, during the two-year period immediately prior to applying for a  
 507 commercial driver's license, he:

508 a. Has not ~~had~~ *simultaneously held* more than one license except for a military license;

509 b. Has not had any license suspended, revoked, canceled, or disqualified;

510 c. Has not had any convictions for any type of motor vehicle for the disqualifying offenses contained  
 511 in this article;

512 d. Has not had more than one conviction for any type of motor vehicle for serious traffic violations  
 513 contained in this article; and

514 e. Has not had any conviction for a violation of military, state, or local law relating to motor vehicle  
 515 traffic control, other than a parking violation, arising in connection with any traffic crash and has no  
 516 record of a crash in which he was at fault; and

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

518 a. Is regularly employed or was regularly employed within the last ~~90 days~~ *year* or any other period  
 519 authorized by the FMCSA in a military position requiring operation of a commercial motor vehicle;

520 b. Was exempted from the commercial driver's license requirements in 49 C.F.R. § 383.3(c); and

521 c. Was operating a vehicle representative of the commercial motor vehicle the driver applicant  
 522 operates, or expects to operate, for at least the two years immediately preceding discharge from the  
 523 military.

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

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

532 **§ 46.2-341.14:1. Requirements for third party testers.**

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

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

538 1. Make application to and enter into an agreement with the Department as provided in  
 539 § 46.2-341.14:3;

540 2. Maintain a place of business in the Commonwealth;

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

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

544 5. Permit the Department and the FMCSA of the U.S. Department of Transportation to conduct

545 random examinations, inspections, and audits of its records, facilities, and operations that relate to the  
 546 third party testing program without prior notice;

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

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

552 a. The complete name of the driver;

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

555 c. The date the driver took the skills test;

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

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

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

564 g. Notwithstanding the provisions of subdivision f, evidence of the student's enrollment in a  
 565 commercial driver training course offered by a community college at the time the test was taken if the  
 566 third party tester is a comprehensive community college in the Virginia Community College System.

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

569 a. Name and ~~Social Security~~ *social security* number;

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

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

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

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

576 9. Retain the records required in subdivision 8 for at least two years after the third party examiner  
 577 leaves the employ of the third party tester;

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

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

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

584 C. In addition to the requirements listed in subsection B, all third party testers who are not  
 585 governmental entities, including a comprehensive community college in the Virginia Community College  
 586 System, shall:

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

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

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

594 4. Comply with the Virginia Motor Carrier Safety Regulations; and

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

598 *D. Certified third party testers are authorized to provide entry-level driver training to individuals in  
 599 their employ or applicants for employment. If a certified third party tester elects to provide entry-level  
 600 driver training, the third party tester shall (i) employ and utilize third party instructors, as defined in  
 601 § 46.2-341.4, to provide all training and instruction to entry-level driver trainees; (ii) develop an  
 602 entry-level driver training curriculum that complies with requirements prescribed by the Department and  
 603 submit such curriculum to the Department for approval; (iii) upon notification by the Department that  
 604 curriculum requirements have been updated, certify, in a format prescribed by the Department, that the  
 605 third party tester has added the new topics to the course curriculum; and (iv) comply with the*

606 requirements provided in §§ 46.2-1708 through 46.2-1710. Notwithstanding the provisions of  
 607 § 46.2-1708, no third party tester or third party instructor shall be required to be licensed by the  
 608 Department. A certified third party tester may not provide entry-level driver training to driver trainees  
 609 until such tester has been issued a unique training provider number and appears on the federal Training  
 610 Provider Registry.

611 **§ 46.2-341.19. Controlled substance felony; disqualification.**

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

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

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

626 **§ 46.2-341.22. Requirements upon disqualification.**

627 Any person who has been disqualified pursuant to any provision of this ~~Act~~ *article* shall be subject  
 628 to the provisions of §§ 46.2-370 and 46.2-414, and shall be required to comply with the provisions of  
 629 §§ 46.2-370 and 46.2-411 as conditions to the reinstatement of his privilege to drive a commercial motor  
 630 vehicle.

631 Any person who has been disqualified pursuant to the provisions of § 46.2-341.18 ~~or § 46.2-341.19~~  
 632 shall be required as further conditions to reinstatement of his privilege to operate a commercial motor  
 633 vehicle, to (i) apply for such license; (ii) pass the knowledge and skills tests required for the class and  
 634 type of commercial motor vehicle for which he seeks to be licensed; and (iii) satisfy all other applicable  
 635 licensing requirements, including the payment of licensing fees, imposed by the laws of the  
 636 Commonwealth.

637 The provisions of this section shall not apply to out-of-service orders issued pursuant to  
 638 §§ 46.2-341.26:2 and 46.2-341.26:3.

639 **§ 46.2-380. Reports made under certain sections open to inspection by certain persons; copies;  
 640 maintenance of reports and photographs for three-year period.**

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

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

661 **§ 46.2-382. Courts to keep full records of certain cases.**

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

664 1. A person is charged with (i) a violation of any law of the Commonwealth pertaining to the  
 665 operator or operation of a motor vehicle *or commercial motor vehicle*; (ii) a violation of any ordinance  
 666 of any county, city, or town pertaining to the operator or operation of any motor vehicles, except

667 parking regulations; (iii) any theft of a motor vehicle or unauthorized use thereof or theft of any part  
 668 attached to it; or (iv) a violation of § 18.2-36.2, subsection B of § 29.1-738, or § 29.1-738.02,  
 669 29.1-738.2, or 29.1-738.4; or (v) a violation or offense involving the use of a motor vehicle or  
 670 commercial motor vehicle by a person holding a commercial learner's permit or commercial driver's  
 671 license in the commission of any felony involving manufacturing, distributing, or dispensing a controlled  
 672 substance or possession with intent to manufacture, distribute, or dispense such controlled substance;

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

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

#### 678 *Article 1.*

#### 679 *Driver Training Schools, Generally.*

#### 680 **§ 46.2-1700. Definitions.**

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

682 "*Behind-the-wheel instructor*" means an individual who meets the requirements for licensure under  
 683 § 46.2-1708 and is employed by a training provider who provides behind-the-wheel training involving  
 684 the actual operation of a commercial motor vehicle by an entry-level driver on a range or a public  
 685 road.

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

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

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

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

698 "Computer-based driver education provider" means a driver training school licensed by the  
 699 Department in accordance with this chapter to conduct computer-based driver education courses.

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

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

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

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

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

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

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

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

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

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

732 **§ 46.2-1701.1. Bond of applicants.**

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

741 *Article 2.*

742 *Entry-Level Driver Training Providers.*

743 **§ 46.2-1708. Licenses required for school and instructors.**

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

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

756 *1. The curriculum used for theory instruction and behind-the-wheel training complies with the  
 757 curriculum requirements prescribed by the Department;*

758 *2. The facilities used for entry-level driver training for both theory instruction and behind-the-wheel  
 759 training comply with all federal and state safety requirements;*

760 *3. The instructors employed by the applicant driver training school are licensed under this section;*

761 *4. The applicant driver training school (i) uses written assessments that comply with the  
 762 requirements prescribed by the Department to determine the driver trainee's proficiency in the  
 763 knowledge objectives of each unit of instruction in the curriculum and (ii) requires driver trainees to  
 764 achieve an overall minimum score of 80 percent for passage of the theory instruction portion of the  
 765 course; and*

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

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

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

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

781 *D. The Commissioner may issue an order suspending, revoking, cancelling, or denying renewal of a  
 782 training provider's license, certification, or authorization to provide training effective immediately if the  
 783 order is based upon the removal of the school from the federal Training Provider Registry pursuant to  
 784 49 C.F.R. § 380.723. Notice of such order shall be in writing and mailed to the training provider by  
 785 registered mail to the address as shown on the training provider's most recent application and shall be  
 786 considered served when mailed. Upon receipt of a request for a hearing appealing such order, the  
 787 training provider shall be afforded the opportunity for a hearing as soon as practicable, but in no case  
 788 later than 30 days from receipt of the hearing request. The order shall remain in effect pending the*

789 *outcome of the hearing.*

790 **§ 46.2-1709. Business and equipment requirements.**

791 A. A training provider shall:

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

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

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

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

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

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

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

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

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

810 e. Date or dates of successful training completion.

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

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

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

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

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

819 B. If a training provider receives notice of proposed removal from FMCSA pursuant to 49 C.F.R.  
820 § 380.723, the training provider shall (i) notify all current driver trainees and driver trainees scheduled  
821 for future training of such receipt and (ii) provide a copy of the notice to the Department within one  
822 business day of receiving such notice.

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

828 **§ 46.2-1710. Records to be maintained.**

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

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

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

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

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

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

842 6. Records of individual entry-level driver training assessments completed pursuant to 49 C.F.R.  
843 § 380.715.

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

847 **§ 46.2-1711. Government entities authorized to provide entry-level driver training.**

848 Any government entity, including the military, any comprehensive community college in the Virginia  
849 Community College System established by the State Board for Community Colleges pursuant to Chapter

850 29 (§ 23.1-2900 et seq.) of Title 23.1, or any department, agency, or instrumentality of a local  
851 government, is authorized to provide entry-level driving training to driver trainees, provided that such  
852 government entity complies with the requirements of this article. Notwithstanding the provisions of  
853 § 46.2-1708, no government entity or trainer employed by a government entity will be required to be  
854 licensed by the Department to provide entry-level driver training.

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

859 **3. That the provisions of §§ 46.2-324.1, 46.2-341.4, 46.2-341.12 relating to eligibility for application**  
860 **to the Department for a Class A or Class B commercial driver's license or a school bus, passenger,**  
861 **or hazardous materials endorsement, 46.2-341.14, 46.2-341.14:1, 46.2-1700, 46.2-1708, 46.2-1709,**  
862 **46.2-1710, and 46.2-1711 shall become effective the later of February 7, 2020, or at such time as**  
863 **the Federal Motor Carrier Safety Administration has made available to the Department of Motor**  
864 **Vehicles the information necessary to comply with such provisions through the Commercial**  
865 **Driver's License Information System, as certified by the Secretary of Transportation.**