

VIRGINIA ACTS OF ASSEMBLY -- 2023 SESSION

CHAPTER 308

An Act to amend and reenact §§ 46.2-326.1, 46.2-490, and 46.2-1701 of the Code of Virginia, relating to driver improvement clinics and driver training schools.

[H 2247]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-326.1, 46.2-490, and 46.2-1701 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-326.1. Designation of commercial driver's license skills testing examiners.

A. Notwithstanding the provisions of § 46.2-1702 and unless the Commissioner identifies grounds that would be cause for cancellation of a certification pursuant to subsection D of § 46.2-341.14:5 during the application process, the Department shall certify a licensed Class A driver training school as a third party tester, as defined in § 46.2-341.4, to conduct skills tests if, in addition to the requirements listed in subsections B and C of § 46.2-341.14:1, the school (i) has a program length of 160 hours or more and (ii) maintains a bond in the amount of \$100,000 to pay for retesting drivers in the event that the third party tester or one or more of its third party examiners, as defined in § 46.2-341.4, are involved in fraudulent activities related to conducting knowledge or skills testing for applicants.

The bond required by this subsection shall be in lieu of the bond required in subdivision C 5 of § 46.2-341.14:1 but in addition to the bond required for a licensed Class A driver training school.

B. Licensed Class A driver training schools meeting the requirements of subsection A may apply to the Department for certification as a third party tester. Such application shall include the information required in the application in § 46.2-341.14:3 and shall include (i) evidence of the requirements listed in subsection A; (ii) an application for an employee who will act as a third party examiner; (iii) evidence that the licensed Class A driver training school has maintained a place of business in the Commonwealth for at least three years and has maintained its licensure in good standing or that the third party examiner has been licensed as an instructor, as defined in § 46.2-1700, at a licensed Class A driver training school for a minimum of two years and has maintained such licensure in good standing; and (iv) a ~~\$100 nonrefundable~~ \$150 application fee. ~~Such application must be renewed annually~~ certification shall be valid for a period of two years.

The first third party tester certification issued to a licensed Class A driver training school shall expire on the same date as such Class A driver training school's license, and the first application fee may be prorated on a monthly basis. Thereafter, the renewal period for the third party tester certification shall match that of the Class A driver training school license.

For the purposes of this subsection, "good standing" means that the instructor has not had sanctions levied against him by the Department for actions related to his role as an instructor or that the driver training school has not had sanctions levied by the Department for actions related to participation in the Class A driver training school program.

C. If the Department fails to certify a licensed Class A driver training school applicant, the Department shall communicate to the applicant its decision and the reason for denial in writing within 60 days of submission of the application.

D. Licensed Class A driver training schools operating as third party testers shall:

1. Remit \$50 per skills test to the Department in accordance with § 46.2-341.13;

2. Submit to the Department the results of each skills test administered in a form prescribed by the Department;

3. Test only individuals receiving instruction and training from that school; and

4. Not require their students to be tested at their driver training school.

E. Individuals intending to act as third party examiners for a licensed Class A driver training school that is operating as a third party tester shall meet the requirements in § 46.2-341.14:2 and submit to the Department an application that includes (i) the information in the application required by § 46.2-341.14:3, (ii) evidence of their employment by a licensed Class A driver training school that is operating as a third party tester, and (iii) a ~~\$50 nonrefundable~~ \$75 application fee. ~~Such application must be renewed annually~~ certification shall be valid for a period of two years.

The first third party examiner certification issued to an individual shall expire on the same date as the third party tester's certification, and the first application fee may be prorated on a monthly basis. Thereafter, the renewal period for the third party examiner certification shall match that of the third party tester certification.

F. The Department shall have the authority to revoke or cancel the third party tester certification of a licensed Class A driver training school permitted to administer skills tests pursuant to the provisions of

this section or any third party examiner employed by such Class A driver training school, effective immediately, for any reason enumerated in § 46.2-341.14:5. A licensed Class A driver training school permitted to administer skills tests pursuant to the provisions of this section or any third party examiner employed by such Class A driver training school shall not administer skills tests if its authority to provide training has been revoked, canceled, or suspended by the Department pursuant to § 46.2-1705 or any other provision of law.

§ 46.2-490. Establishment of driver improvement clinic program; application fees.

A. The Commissioner shall, in his discretion, contract with such entities as the Commissioner deems fit, including private or governmental entities, to develop curricula for a statewide driver improvement clinic program. Such program shall include instruction concerning but not limited to (i) alcohol and drug abuse, (ii) aggressive driving, (iii) distracted driving, (iv) motorcycle awareness, and (v) work zone safety. The driver improvement clinic program shall be established for the purpose of instructing persons identified by the Department and the court system as problem drivers in need of driver improvement education and training and for those drivers interested in improved driving safety. The clinics shall be composed of uniform education and training programs designed for the rehabilitation of problem drivers, and for the purpose of creating a lasting and corrective influence on their driving performance. The clinics shall operate in localities based on their geographical location so as to be reasonably accessible to persons attending these clinics.

B. All businesses, organizations, governmental entities or individuals that want to provide driver improvement clinic instruction as a driver improvement clinic or instructor in the Commonwealth using approved curricula shall apply to the Department to be licensed to do so, based on criteria established by the Department. *Such license shall be valid for a period of two years.* A nonrefundable ~~annual~~ license application fee of ~~\$100~~ \$150 shall be paid to the Department by all such businesses, organizations, governmental entities or individuals. A nonrefundable ~~annual~~ license fee of ~~\$25~~ \$40 shall also be paid for each additional clinic location operated by a clinic. A nonrefundable ~~annual~~ license fee of ~~\$50~~ \$75 shall be paid to the Department by a person applying for a clinic instructor license.

The first certification issued for additional clinic locations and clinic instructors shall expire on the same date the original clinic's certification expires, and the first application or license fee may be prorated on a monthly basis. Thereafter, the renewal period for any additional clinic locations and clinic instructors shall match that of the original clinic.

However, neither the ~~annual~~ license application fee for each additional clinic location nor the ~~annual~~ license application fee for a clinic instructor license shall be required of or collected from the Virginia Association of Volunteer Rescue Squads or its members in connection with clinics that are provided for emergency vehicle operation training. All such application fees collected by the Department shall be paid by the Commissioner into the state treasury and shall be set aside as a special fund to be used to meet the expenses of the Department.

§ 46.2-1701. Licenses required for school and instructor; fees.

No driver training school shall be established or continue operation unless the school obtains from the Commissioner a license authorizing the school to operate within ~~this~~ the Commonwealth.

No instructor shall perform the actions enumerated in the definition of "instructor" in § 46.2-1700 unless he obtains from the Commissioner a license authorizing him to act as driving instructor. *Such license shall be valid for a period of two years. A nonrefundable license fee of \$75 shall be paid to the Department by a person applying for an instructor license. The first license issued to an instructor shall expire on the same date the driver training school's license expires, and the first license fee may be prorated on a monthly basis. Thereafter, the renewal period for the instructor shall match that of the school.*

The Commissioner shall have authority to set and collect school and instructor licensing fees. All licensing fees collected by the Commissioner under this chapter shall be paid into the state treasury and set aside as a special fund to meet the expenses of the Department of Motor Vehicles.

Upon application of a driver training school licensed in accordance with this chapter, the Commissioner may license such driver training school using criteria established by the Commissioner pursuant to § 46.2-1702 to provide computer-based driver education courses using curricula approved by the Commissioner.

The Commissioner may issue a two-year license to driver training schools, including computer-based driver education providers. A nonrefundable ~~annual~~ ~~licensing~~ license fee of ~~\$100~~ \$150 shall be required with each *such* application. Such ~~annual~~ licensing fee shall be in addition to fees permitted under this chapter.

2. That the provisions of the first enactment of this act shall become effective on July 1, 2024.

3. That from July 1, 2023, through June 30, 2024, the Commissioner of the Department of Motor Vehicles shall have the authority to issue licenses and certifications that are valid for a period of between one and 24 months to qualified (i) licensed Class A driver training schools that are also third party testers, (ii) third party examiners for licensed Class A driver training schools, (iii) driver improvement clinics, (iv) driver training instructors, (v) driver improvement clinic instructors, and (vi) driver training schools, including computer-based driver education providers.

Such license or certification fee shall be prorated on a monthly basis. The Commissioner shall consider the even distribution of license and certification renewals over a calendar year when determining the validity period of each such license or certification.