

LD0283819

HOUSE BILL NO. 1963

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Roads & Internal Navigation
on February 2, 1995)

(Patron Prior to Substitute—Delegate Dickinson)

A *BILL to amend and reenact §§ 46.2-106, 46.2-200, 46.2-703, 52-8.4, 58.1-2700, 58.1-2702, 58.1-2705 through 58.1-2709, and 58.1-2711 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 6 of Title 46.2 an article numbered 12, consisting of sections numbered 46.2-757 through 46.2-769, and by adding sections numbered 58.1-2700.1, 58.1-2700.2, 58.1-2700.3 and 58.1-2712.1; and to repeal § 58.1-2712 of the Code of Virginia, relating to the Reciprocity Board; organization, powers, and duties of the Department of Motor Vehicles; insurance requirements for motor carriers; penalties.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-106, 46.2-200, 46.2-703, 52-8.4, 58.1-2700, 58.1-2702, 58.1-2705 through 58.1-2709, and 58.1-2711 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 6 of Title 46.2 an article numbered 12, consisting of sections numbered 46.2-757 through 46.2-769, and by adding sections numbered 58.1-2700.1, 58.1-2700.2, 58.1-2700.3 and 58.1-2712.1 as follows:

§ 46.2-106. Reciprocity Board; reciprocal agreements entered into by Governor.

The Reciprocity Board, hereinafter called the Board, is hereby created. The Board shall consist of three ex officio members: the Commissioner of the Department of Motor Vehicles, the Commonwealth Transportation Commissioner, and one of the members of the State Corporation Commission. A majority of the members of the Board shall constitute a quorum and the action of the majority of the members in attendance at any meeting shall be the action of the Board. Whenever a member of the Board is absent from a meeting of the Board, he may designate one of his assistants or employees to attend on his behalf. The assistant or employee shall be entitled to participate in the discussion and proceedings of the Board, but he shall not vote.

The Governor may, with the advice of the Board, enter into reciprocal agreements on behalf of the Commonwealth with the appropriate authorities of any state of the United States with respect to all taxes imposed by the Commonwealth and by any other state of the United States on motor vehicles, the operation of motor vehicles, or any transaction incident to the operation of motor vehicles. ~~However, no reciprocal agreement or other similar arrangement shall be entered into with respect to the road tax imposed by Chapter 27, Title 58.1, either under this section or any other section.~~

Except as provided in this section, all agreements entered into by the Governor with respect to any subject of reciprocity as to which provision is expressly made by statute shall conform to the provisions of that statute. As to any other subject of reciprocity appropriate to the powers vested in the Governor by this section, the Governor may, with the advice of the Board, agree to whatever terms and conditions as in his judgment are best calculated to promote the interests of the Commonwealth. Except as provided in this section, it is the policy of the Commonwealth to grant reciprocity to the residents of another state when that state grants reciprocity to the residents of the Commonwealth.

All agreements entered into by the Governor pursuant to this section shall be reduced to writing, and a copy shall be furnished to the Secretary of the Commonwealth, each member of the Reciprocity Board, and the Superintendent of State Police.

§ 46.2-200. Department of Motor Vehicles.

There shall be a Department of Motor Vehicles in the executive department, responsible to the Secretary of Transportation. The Department shall be under the supervision and management of the Commissioner of the Department of Motor Vehicles.

The Department shall be responsible for the administration of the motor vehicle license, registration and title laws; the issuance, suspension, and revocation of driver's licenses; the examination of applicants for and holders of driver's licenses; the administration, training, disciplining, and assignment of examiners of applicants for driver's licenses; the administration of the safety responsibility laws, fuel tax laws, the provisions of this title relating to transportation safety, and dealer licensing laws; *the registration of property-carrying motor carriers and vehicles that may be required to be registered under the International Registration Plan or pay road tax as described under Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1 under the International Fuel Tax Agreement; the auditing of property carrying motor carriers for compliance with registration and road tax requirements; proof of financial responsibility; and any other services that may be required to create a single point of contact for motor carriers operating within and without the Commonwealth.*

§ 46.2-703. Reciprocal agreement with other states; assessment and collection of fees on an

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60 apportionment or allocation basis; registration of vehicles and reporting of road tax.

61 Notwithstanding any other provision of this title, the Governor may, ~~with the advice of the~~
62 ~~Reciprocity Board, as authorized in § 46.2-106 on the advise of the Department,~~ enter into reciprocal
63 agreements on behalf of the Commonwealth with the appropriate authorities of any state of the United
64 States or a state or province of a country providing for the assessing and collecting of license fees for
65 motor vehicles, tractor trucks, trucks, trailers, and semitrailers on an apportionment or allocation basis,
66 as outlined in the International Registration Plan developed by the ~~American Association of Motor~~
67 ~~Vehicle Administrators International Registration Plan, Inc.~~

68 The Commissioner is authorized to audit the records of any owner, lessor, or lessee to verify the
69 accuracy of any information required by any jurisdiction to determine the registration fees due. Based on
70 this audit, the Commissioner may assess any owner, lessor, or lessee for any license fees due this
71 Commonwealth, including interest and penalties as provided in this section. In addition to any other
72 penalties prescribed by law, the Commissioner or the Reciprocity Board may deny the owner, lessor, or
73 lessee the right to operate any motor vehicle on the highways in the Commonwealth until the assessment
74 has been paid.

75 Trip permit registration may be issued for any vehicle or combination of vehicles which could be
76 lawfully operated in the jurisdiction if full registration or proportional registration were obtained. The
77 fee for this permit shall be fifteen dollars and the permit shall be valid for ten days.

78 Any person who operates or permits the operation of any motor vehicle, trailer, or semitrailer over
79 any highway in the Commonwealth without first having paid to the Commissioner the fees prescribed
80 and payable under this section shall be guilty of a Class 2 misdemeanor.

81 If the Commissioner ascertains that any fees which he is authorized to assess any owner, lessor, or
82 lessee for any license year have not been assessed or have been assessed for less than the law required
83 for the year because of failure or refusal of any owner, lessor, or lessee to make his records available
84 for audit as provided herein, or if any owner, lessor, or lessee misrepresents, falsifies, or conceals any of
85 these records, the Commissioner shall determine from any information obtainable the lawful fees at the
86 rate prescribed for that year, plus a penalty of five percent and interest at the rate of six percent per
87 year, which shall be computed on the fees and penalty from the date the fees became due to the date of
88 assessment, and is authorized to make an assessment therefor against the owner, lessor, or lessee. If the
89 assessment is not paid within thirty days after its date, interest at the rate of six percent per year shall
90 accrue thereon from the date of such assessment until the fees and penalty are paid. The notice of the
91 assessment shall be forthwith sent to the owner, lessor, or lessee by registered or certified mail to the
92 address of the owner, lessor, or lessee as it appears on the records in the office of the Department. The
93 notice, when sent in accordance with these requirements, shall be sufficient regardless of whether it was
94 received.

95 If any owner, lessor, or lessee fails to pay the fees, penalty, and interest, or any portion thereof,
96 assessed pursuant to this section, in addition to any other provision of law, the Attorney General or the
97 Commissioner shall bring an appropriate action before the State Corporation Commission for the
98 recovery of the fees, penalty, and interest, and judgment shall be rendered for the amount found to be
99 due together with costs. If it is found that the failure to pay was willful on the part of the owner, lessor
100 or lessee, judgment shall be rendered for double the amount of the fees found to be due, plus costs.

101 *Notwithstanding any other provision of this title or Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1,*
102 *the Governor, on the advice of the Department, may enter into reciprocal agreements on behalf of the*
103 *Commonwealth with the duly authorized representatives of other jurisdictions providing for the road tax*
104 *registration of vehicles, establishing periodic road tax reporting and road tax payment requirements*
105 *from owners of such vehicles, and disbursement of funds collected due to other jurisdictions based on*
106 *mileage traveled and fuel used in those jurisdictions.*

107 *Notwithstanding any statute contrary to the provisions of any reciprocal agreement entered into by*
108 *the Governor or his duly authorized representative as authorized by this title, the provision of the*
109 *reciprocal agreement shall govern and apply to all matters relating to administration and enforcement*
110 *of the road tax. In the event the language of any reciprocal agreement entered into by the Governor as*
111 *authorized by this title is later amended so that it conflicts with or is contrary to any statute, the*
112 *Department shall consider the amended language of the reciprocal agreement controlling and shall*
113 *administer and enforce the road tax in accordance with the amended language of the reciprocal*
114 *agreement.*

115 *An agreement may provide for determining the base state for motor carriers, records requirements,*
116 *audit procedures, exchange of information, persons eligible for tax licensing, defining qualified motor*
117 *vehicles, determining if bonding is required, specifying reporting requirements and periods, including*
118 *defining uniform penalties and interest rates for late reporting, determining methods for collecting and*
119 *forwarding of motor fuel taxes and penalties to another jurisdiction, and other provisions as will*
120 *facilitate the administration of the agreement.*

121 *The Governor may, as required by the terms of the agreement, forward to officers of another*

member jurisdiction any information in the Department's possession relative to the use of motor fuels by any motor carrier. The Department may disclose to officers of another state, the location of offices, motor vehicles, and other real and personal property of motor carriers.

An agreement may provide for each state to audit the records of motor carriers based in the state, to determine if the road taxes due each member jurisdiction are properly reported and paid. Each member jurisdiction shall forward the findings of the audits performed on motor carriers based in the member jurisdiction to each jurisdiction in which the carrier has taxable use of motor fuels. For motor carriers not based in the Commonwealth and who have taxable use of motor fuel in the Commonwealth, the Department may serve the audit findings received from another jurisdiction, in the form of an assessment, on the carrier as though an audit was conducted by the Department.

Any agreement entered into pursuant to this chapter does not preclude the Department from auditing the records of any motor carrier covered by the provisions of this chapter.

The Department shall not enter into any agreement which would affect the motor fuel road tax rate.

The Department may adopt and promulgate such rules, regulations and procedures as may be necessary to effectuate and administer this title. Nothing in this title is construed to affect the tax rate provisions found in Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1.

Notwithstanding any other provision in this title or Title 56, the Governor, on the advice of the Department, may participate in the reciprocal collection of proof of financial responsibility for those interstate motor carriers as authorized under Title 49 U.S.C. 11506.

Article 12.

Insurance Requirements for Motor Carriers.

§ 46.2-757. Definitions and application of article.

A. The following words and phrases when used in this article shall have the following meanings, except where the context clearly indicates a different meaning:

"Authorized insurer" means, in the case of an interstate motor carrier whose operations may or may not include intrastate activity, an insurer authorized to transact business in any one state, or, in the case of a solely intrastate motor carrier, an insurer authorized to transact business in the Commonwealth.

"Identification marker" means a decal or other visible identification issued by the Department to show that the operator of the vehicle has registered with the Department for the payment of the road tax imposed under Chapter 27 (58.1-2700 et seq.) of Title 58.1.

"Operation" means the movement on a public highway of the Commonwealth of a loaded or empty motor vehicle that is owned by, leased to, or rented to a motor carrier.

"Operator" means the employer or person actually driving a motor vehicle or combination of vehicles.

B. Unless otherwise stated, this article shall apply to all motor carriers that have registered with the Department for the payment of registration fees as required under this title.

§ 46.2-758. Surety bonds, insurance, letter of credit or securities required prior to issuance of registration.

A. No registration card or license plate or plates shall be issued by the Department to any vehicle operated by a motor carrier until the motor carrier certifies to the Department that the vehicle is covered by:

1. An insurance policy or bond;
2. A certificate of insurance in lieu of the insurance policy or bond, certifying that such policy or bond covers the liability of such motor carrier in accordance with the provisions of this article, is issued by an authorized insurer, or in the case of bonds, is an amount approved by the Department. The bonds may be issued by the Commonwealth of Virginia, the United States of America, or any municipality in the Commonwealth. Such bonds shall be deposited with the State Treasurer and the surety shall not be reduced except in accordance with an order of the Department;

3. An unconditional letter of credit, issued by a bank doing business in Virginia, for an amount approved by the Department. The letter of credit shall be in effect so long as the motor carrier operates motor vehicles in the Commonwealth;

4. In the case of a lessor who acts as a registrant for purposes of consolidating lessees' vehicle registration applications, a statement that the registrant has, before leasing a vehicle, obtained from the lessee an insurance policy, bond, or certificate of insurance in lieu of the insurance policy or bond and can make available said proof of insurance coverage upon demand; or

5. Carriers filing proof of financial responsibility according to the provisions of § 11506, Title 49, of the United States Code are deemed to have fulfilled the requirements of this title for insurance purposes.

B. All motor carriers shall keep in force at all times insurance, a bond, or bonds, in an amount required by the Department for motor carriers operating in intrastate commerce under this section for any motor vehicle used in the transportation of property alone shall in no case exceed the following:

183 \$100,000 for death or injury to any one person; \$500,000 total public liability for any one accident;
184 property damage, \$50,000; and cargo liability, \$10,000. Motor carriers engaged exclusively in the
185 transportation of commodities in bulk shall not, however, be required to file any cargo insurance bond
186 or bonds for cargo liability.

187 C. The minimum insurance for motor carriers operating in interstate commerce shall not be less than
188 the minimum required by the Interstate Commerce Commission.

189 § 46.2-759. Policies or surety bonds to be filed with the Department, and securities with State
190 Treasurer.

191 Each holder of a registration card or identification marker issued by the Department shall keep on
192 file with the Department an insurance policy or bond in accordance with this article. Such prior filings
193 as have been made on behalf of interstate motor carriers to the State Corporation Commission shall be
194 kept in full force at all times at the Department. The policy or bond shall remain in the files of the
195 Department six months after the certificate or permit is canceled for any cause. If federal, state, or
196 municipal bonds are deposited with the State Treasurer in lieu of an insurance policy, the bonds shall
197 remain deposited until six months after the registration or identification marker is canceled for any
198 cause unless otherwise ordered by the Department.

199 The Commission shall transfer such information as is necessary to complete the transition from
200 filings made at the Commission to future filings made with the Department.

201 § 46.2-760. Condition or obligation of security.

202 The insurance, bond or other security provided for in § 46.2-759 shall obligate the insurer or surety
203 to pay any final judgment for (i) damages sustained by the shippers or consignees for injury to any
204 passenger or passengers or for loss or damage to property entrusted to such motor carrier when a
205 cargo policy is required and (ii) any and all injuries to persons and loss of or damage to property
206 resulting from the negligent operation of any motor vehicle.

207 § 46.2-761. Effect of failure to give security.

208 A. Failure of any holder of a registration card or identification marker issued by and under the
209 authority of the Department to comply with any of the requirements of this article shall be cause for
210 either (i) the revocation or suspension of all registration cards and identification markers or (ii) a fine
211 not exceeding \$1,000.

212 B. When informed that the right to operate a vehicle has been denied, the driver shall drive the
213 vehicle to a nearby location off the public highways and not move it or allow it to be moved until the
214 judgment or penalty has been satisfied. Failure by the driver to comply with this provision shall
215 constitute a Class 4 misdemeanor.

216 § 46.2-762. Temporary emergency operation.

217 In an emergency, the Department may, by letter, telegram, or other means, authorize a vehicle to be
218 operated in the Commonwealth without a proper registration card or identification marker for not more
219 than ten days. Before sending such authorization, the Department shall collect from the owner or
220 operator a fee of twenty dollars for each vehicle to be so operated.

221 § 46.2-763. Title to plates and markers.

222 All registration cards and identification markers issued by the Department shall remain the property
223 of the Department.

224 § 46.2-764. Application blanks.

225 The Department shall prepare forms to be used in making applications in accordance with this
226 article, and the applicant shall furnish all material information called for by such forms.

227 § 46.2-765. Violations declared to be misdemeanors; penalties.

228 A. The following violations of laws shall be punished as follows:

229 1. Any person who does not obtain a proper registration card, identification marker, or other
230 evidence of registration as required by this article shall be guilty of a Class 4 misdemeanor.

231 2. Any person who operates or causes to be operated on any highway in the Commonwealth any
232 motor vehicle that does not carry the proper registration and identification that this article requires it to
233 carry, or any motor vehicle that (i) does not display an identification marker in such manner as is
234 prescribed by the Department or (ii) does not display other identifying information that this article
235 requires it to display shall be guilty of a Class 4 misdemeanor.

236 3. Any person who knowingly displays or uses on any vehicle operated by him any identification
237 marker or other identification which has not been issued to the owner or operator thereof for such
238 vehicle and any person who knowingly assists him to do so shall be guilty of a Class 3 misdemeanor.

239 4. Any person who operates or causes to be operated on any highway in the Commonwealth any
240 motor vehicle requiring registration from the Department under this article after such registration cards
241 or identification markers have been revoked, canceled or suspended shall be guilty of a Class 3
242 misdemeanor.

243 B. The officer charging the violation under this article shall serve a citation on the operator of the
244 vehicle in violation. Such citation shall be directed to the owner, operator or other person responsible

for the violation as determined by the officer. Service of the citation on the vehicle operator shall constitute service of process upon the owner, operator, or other person charged with the violation under this article, and shall have the same legal force as if served within the Commonwealth personally upon the owner, operator, or other person charged with the violation, whether such owner, operator, or other person charged is a resident or nonresident.

§ 46.2-766. Other offenses; penalties.

The Department may impose a civil penalty not exceeding \$1,000 if it is proved that the defendant has:

1. Made any misrepresentation of a material fact to obtain proper operating credentials as required by this article or other requirements in the Code of Virginia regulating the operation of motor vehicles;

2. Failed to make any report required in this article;

3. Failed to pay any fee or tax properly assessed against him; or

4. Failed to comply with any lawful order, rule or, regulation of the Department.

Any such penalty shall be imposed by judgment entered after a hearing. Notice of such hearing shall be served on the defendant not less than ten days before the date of the hearing. Instead of or in addition to imposing such penalty, the Department may suspend, revoke, or cancel any of registration card or identification marker issued pursuant to this article. If, in any such case, it appears that the defendant owes any fee or tax to the Commonwealth, the Department shall enter judgment therefor.

§ 46.2-767. Participation in federal programs; regulations.

The Department may promulgate regulations implementing the requirements of any program established under federal law intended to accomplish objectives similar to those provided in this article.

§ 46.2-768. Vehicle seizure; penalty.

A. Any police officer of the Commonwealth authorized to serve process may hold a motor vehicle owned by a person against whom a judgment or penalty has been entered, but only for such time as is reasonably necessary to promptly petition for a writ of fieri facias. The Commonwealth shall not be required to post bond in order to hold and levy upon any vehicle held pursuant to this section.

B. Upon notification of the judgment or penalty entered against the owner of the vehicle and notice to such person of the failure to satisfy the judgment or penalty, any investigator, special agent, or officer of the Commonwealth shall, thereafter, deny the offending person the right to operate the motor vehicle on the highways of the Commonwealth.

§ 46.2-769. Licenses, taxes, etc., not affected.

Nothing in this article shall be construed to relieve or exempt any person from the payment of any fees, taxes, or levies now or hereafter imposed by law.

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

A. The Superintendent of State Police, with the cooperation of such other agencies of the Commonwealth as may be necessary, shall promulgate regulations pertaining to commercial motor vehicle safety pursuant to the United States Motor Carrier Act of 1984. These regulations shall set forth criteria relating to driver, vehicle, and cargo safety inspections with which motor carriers and transport vehicles shall comply, and shall be no more restrictive than the applicable provisions of the Federal Motor Carrier Safety Regulations of the United States Department of Transportation. These regulations shall not apply to hours worked by any carrier when transporting passengers or property to or from any portion of the Commonwealth for the purpose of providing relief or assistance in case of earthquake, flood, fire, famine, drought, epidemic, pestilence, major loss of utility services, or other calamity or disaster. The suspension of the regulation provided for in this subsection shall expire if the Secretary of the United States Department of Transportation determines that it is in conflict with the intent of Federal Motor Carrier Safety regulations.

B. For the purposes of this section:

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

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

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

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

306 driver and his hours of service.

307 C. Any violation of the provisions of the regulations adopted pursuant to this section shall constitute
308 a traffic infraction punishable by a fine of not more than \$1,000 for the first offense or by a fine of not
309 more than \$5,000 for a subsequent offense. Each day of violation shall constitute a separate offense.

310 D. The Department of State Police, together with all other law-enforcement officers certified to
311 perform vehicle safety inspections as defined by § 46.2-1001 and those agents of the Motor Carrier
312 Enforcement Section of the State Corporation Commission who have satisfactorily completed forty hours
313 of on-the-job training and a course of instruction as prescribed by the U.S. Department of
314 Transportation, Federal Highway Administration, Office of Motor Carriers, in federal motor carrier
315 safety regulations, safety inspection procedures, and out-of-service criteria, shall enforce the regulations
316 and other requirements promulgated pursuant to this section. Those law-enforcement officers certified to
317 enforce the regulations and other requirements promulgated pursuant to this section shall annually
318 receive in-service training in current federal motor carrier safety regulations, safety inspection
319 procedures, and out-of-service criteria.

320 E. Any records required to be maintained by motor carriers pursuant to regulations promulgated by
321 the Superintendent under the authority of subsection A of this section shall be open to inspection during
322 a carrier's normal business hours by specially trained members of the Department of State Police
323 specifically designated by the Superintendent. Members of the Department of State Police designated for
324 that purpose by the Superintendent shall also be authorized, with the consent of the owner, operator, or
325 agent in charge or with an appropriate warrant obtained under the procedure prescribed in Chapter 24
326 (§ 19.2-393 et seq.) of Title 19.2, to go upon the property of motor carriers to verify the accuracy of
327 maintenance records by an inspection of the vehicles to which those records relate.

328 § 58.1-2700. Definitions.

329 Whenever used in this chapter, the term:

330 "Commission" means the State Corporation Commission, which is responsible for the administration
331 of this chapter.

332 "Carrier" means a person who operates or causes to be operated a commercial motor vehicle on any
333 highway in the Commonwealth.

334 "Department" means the Department of Motor Vehicles, acting through its officers and agents.

335 "Identification marker" means a decal issued by the Department to show that a vehicle operated by a
336 carrier is properly registered with the Department for the payment of the road tax.

337 "IFTA" means the International Fuel Tax Agreement, as entered into by the Governor, and as
338 amended by the International Fuel Tax Association, Inc.

339 "Licensee" means a carrier who holds an uncanceled IFTA license issued by the Commonwealth.

340 "Motor carrier" means every person, firm or corporation who owns or operates or causes to be
341 operated on any highway in this Commonwealth any road tractor, tractor truck, or truck having more
342 than two axles qualified motor vehicle.

343 "Operations" means the physical activities of all such vehicles, whether loaded or empty, whether for
344 compensation or not for compensation, and whether owned by or leased to the motor carrier who
345 operates them or causes them to be operated.

346 "Qualified motor vehicle" means a motor vehicle used, designed, or maintained for transportation of
347 persons or property that (i) has two axles and a gross vehicle weight or registered gross vehicle weight
348 exceeding 26,000 pounds or 11,797 kilograms, or (ii) has three or more axles regardless of weight, or
349 (iii) is used in combination, when the weight of such combination exceeds 26,000 pounds or 11,797
350 kilograms gross vehicle or registered gross vehicle weight. "Qualified motor vehicle" does not include
351 recreational vehicles.

352 "Road tractor" means every motor vehicle designed and used for drawing other vehicles and not so
353 constructed as to carry any load thereon independently or any part of the weight of a vehicle or load so
354 drawn.

355 "Tractor truck" means every motor vehicle designed and used primarily for drawing other vehicles
356 and not so constructed as to carry a load other than a part of the load and weight of the vehicle attached
357 thereto, and shall include, but not be limited to, any truck having more than four wheels used to draw
358 boats, mobile homes, sections of prefabricated houses or more than one motor vehicle.

359 § 58.1-2700.1. Interstate motor carrier road tax.

360 In accordance with the provisions of IFTA, as amended, the Department shall issue a license and
361 vehicle identification markers to each carrier that operates qualified motor vehicles in the
362 Commonwealth and at least one other jurisdiction participating in IFTA so as to report its road tax
363 liabilities. The Department shall issue vehicle identification markers to carriers that operate qualified
364 motor vehicles in the Commonwealth solely, or in the Commonwealth and at least one other jurisdiction
365 not participating in IFTA. Each application shall contain the name and address of the carrier, and such
366 other information as may be required by the Department.

367 The Department shall issue to the motor carrier identification markers for each vehicle in the

carrier's fleet that will be operated within the Commonwealth.

The identification markers issued to the vehicles of the IFTA-licensed carriers shall expire on December 31 of each year. All other identification markers issued to carriers shall expire on June 30 of each year. The identification markers may be renewed prior to expiration provided (i) the carrier's privilege to operate vehicles in the Commonwealth has not been revoked or canceled, (ii) all required tax reports have been filed, and (iii) all road taxes, penalties, and interest due have been paid.

The cost of the identification markers issued to each vehicle in the carrier's fleet shall be ten dollars per vehicle.

In an emergency, the Department may, by letter, telegram, or other electronic means, authorize a vehicle to be operated without identification markers for not more than ten days. Before sending such authorization, the Department shall collect from the carrier a fee of twenty dollars for each vehicle so operated.

§ 58.1-2700.2. Placement of identification markers.

All carriers licensed by the Department shall place the identification markers issued by the Department on each vehicle in the carrier's fleet in the place prescribed by the Department.

§ 58.1-2700.3. Waiver in emergency situations.

The Department shall have the authority to waive the requirements of this title for vehicles under emergency conditions.

§ 58.1-2702. Exemptions and exceptions.

The provisions of this chapter shall not apply to a person, firm or corporation owning or operating:

1. A single Virginia-licensed truck operated without compensation recreational vehicle;
2. The first two Virginia-licensed trucks, if used exclusively for farm use as defined in § 46.2-698 and if not licensed in any other state;
3. Motor vehicles regularly engaged in the transportation of passengers;
4. Tractors, tractor trucks and trucks with more than two axles. Qualified motor vehicles of a licensed motor vehicle dealer when operated without compensation for purposes incident to a sale or for demonstration; or

§ 4. Any motor vehicle owned and operated by the United States, the District of Columbia, the Commonwealth of Virginia or any municipality or any other political subdivision of the Commonwealth, or any other state.

§ 58.1-2705. Reports of carriers.

A. Every motor carrier subject to the tax imposed by this chapter or filing under the terms of the International Fuel Tax Agreement shall, on or before the last day of April, July, October and January of every year, make to the ~~Commission~~ Department such reports of its operations during the quarter ending the last day of the preceding month as the ~~Commission~~ Department may require and such other reports from time to time as the ~~Commission~~ Department may deem necessary.

B. The ~~Commission~~ Department may allow any person, who leases motor vehicles without drivers to a motor carrier by a contract under which the entire cost of fuel is included in the rental charge and the lessor purchases such fuel and maintains records of fuel used and miles traveled in such rental vehicles, to file a consolidated report covering all vehicles leased by it as though such carriers were a single carrier. Such person so filing shall be responsible for the total tax due from all such vehicles.

§ 58.1-2706. Credit for payment of motor fuel tax.

A. Every motor carrier subject to the road tax shall be entitled to a credit on such tax equivalent to sixteen cents per gallon on all gasoline or other motor fuel purchased by such carrier within the Commonwealth for use in its operations either within or without the Commonwealth and upon which gasoline or other motor fuel the tax imposed by the laws of the Commonwealth has been paid by such carrier. Evidence of the payment of such tax in such form as may be required by, or is satisfactory to, the ~~Commission~~ Department shall be furnished by each carrier claiming the credit herein allowed.

B. When the amount of the credit to which any motor carrier is entitled for any quarter exceeds the amount of the tax for which such carrier is liable for the same quarter, the excess may ~~under regulations of the Commission~~: (i) be allowed as a credit on the tax for which such carrier would be otherwise liable for any of the ~~four~~ eight succeeding quarters; or (ii) be refunded, upon application ~~within ninety days from the end of any quarter~~, duly verified and presented, ~~in accordance with regulations promulgated by the Commission~~ and supported by such evidence as may be satisfactory to the ~~Commission~~ Department.

C. The ~~Commission~~ Department may allow a refund upon receipt of proper application and review. It shall be at the discretion of the ~~Commission~~ Department to determine whether an audit is required.

D. The refund may be allowed without a formal hearing if the amount of refund is agreed to by the applicant. Otherwise, a formal hearing on the application shall be held by the ~~Commission~~ Department after notice of not less than ten days to the applicant and the Attorney General.

E. Whenever any refund is ordered it shall be paid out of the Highway Maintenance and

429 Construction Fund.

430 F. Whenever a person operating under lease to a motor carrier to perform transport services on
431 behalf of the carrier purchases gasoline or other motor fuel relating to such services, such payments or
432 purchases may, at the discretion of the ~~Commission~~, in accordance with regulations promulgated by the
433 ~~Commission Department~~, be considered payment or purchases by the carrier.

434 § 58.1-2707. Refunds to motor carriers who give bond.

435 A motor carrier *not operating as an IFTA licensee* may be required to give a surety company bond
436 in the amount of not less than \$2,000, as shall appear sufficient in the discretion of the ~~Commission~~
437 ~~Department~~, payable to the Commonwealth and conditioned that the carrier will pay all taxes due and to
438 become due under this chapter from the date of the bond to the date when either the carrier or the
439 bonding company notifies the ~~Commission Department~~ that the bond has been canceled. The surety shall
440 be a corporation authorized to write surety bonds in Virginia. So long as the bond remains in force the
441 ~~Commission Department~~ may order refunds to the motor carrier in the amounts appearing to be due on
442 applications duly filed by the carrier under this chapter (§ 58.1-2700 et seq.) without first auditing the
443 records of the carrier. The surety shall be liable for all omitted taxes assessed pursuant to § 58.1-2025
444 against the carrier, including the penalties and interest provided in such section, even though the
445 assessment is made after cancellation of the bond, but only for taxes due and payable while the bond
446 was in force and penalties and interest on the taxes.

447 § 58.1-2708. Inspection of books and records.

448 The ~~Commission Department~~ and its authorized agents and representatives shall have the right at any
449 reasonable time to inspect the books and records of any motor carrier subject to the tax imposed by this
450 chapter.

451 § 58.1-2709. Penalties.

452 A. The ~~Commission Department~~ may, after a hearing had upon notice, duly served not less than ten
453 days prior to the date set for such hearing, impose a penalty, which shall be in addition to any other
454 penalty imposed by this chapter, not exceeding \$2,500, upon any *non-IFTA-licensed* motor carrier
455 violating any provision of this chapter, or failing to comply with any regulation of the ~~Commission~~
456 ~~Department~~ promulgated pursuant to this chapter. Each such failure or violation shall constitute a
457 separate offense. The penalty shall be collectible by the process of the ~~Commission Department~~ as
458 provided by law § 46.2-203 and subject to the provisions of Chapter 1.1:1 (§ 9-6.1-14.1 et seq.) of Title
459 9. Any person against whom an order or decision of the Commissioner has been adversely rendered
460 relating to the tax imposed by this chapter may, within fifteen days of such order or decision, appeal
461 from such an order or decision to the Circuit Court of the City of Richmond. In addition to imposing
462 such penalty, or without imposing any penalty, the ~~Commission Department~~ may suspend or revoke any
463 certificate, permit or other evidence of right issued by the ~~Commission Department~~ which the motor
464 carrier holds.

465 B. Any motor carrier convicted under this section shall have the right of appeal to the Supreme
466 Court as in other cases of appeals of right from the ~~Commission~~.

467 § 58.1-2711. Assistance of Department of Taxation.

468 At the request of the ~~Commission Department~~, the Department of Taxation shall furnish the
469 ~~Commission Department~~ the amount of deduction from income taken by any person conducting business
470 as a motor carrier as defined in § 58.1-2700 on account of the purchase of gasoline or other motor fuel.

471 § 58.1-2712.1. International Fuel Tax Agreement.

472 The Department may, with the approval of the Governor, enter into the International Fuel Tax
473 Agreement for interstate motor carriers and abide by the requirements set forth in the Agreement. All
474 requirements of the Agreement shall also apply to motor carriers operating in intrastate commerce
475 unless specific requirements are determined by the Department to be not in the best interest of motor
476 carriers industry.

477 2. That § 58.1-2712 of the Code of Virginia is repealed.