

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 46.2-613.1, 46.2-613.3, 46.2-613.4, and 46.2-613.5 of the Code of Virginia,*
 3 *relating to motor carrier violations; authority of law-enforcement officers.*

4 [H 498]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**
 7 **1. That §§ 46.2-613.1, 46.2-613.3, 46.2-613.4, and 46.2-613.5 of the Code of Virginia are amended and**
 8 **reenacted as follows:**

9 **§ 46.2-613.1. Civil penalty for violation of license, registration, and tax requirements and vehicle**
 10 **size limitations.**

11 A. A civil penalty of \$250 and a processing fee of \$20 shall be levied against any person who ~~while at a~~
 12 ~~permanent weighing station:~~

13 1. Operates or permits the operation of a truck or tractor truck with a gross weight greater than 7,500
 14 pounds, a trailer, or a semitrailer owned, leased, or otherwise controlled by him on any highway in the
 15 Commonwealth unless (i) it is registered, (ii) a certificate of title therefor has been issued, and (iii) it has
 16 displayed on it the license plate or plates and decal or decals required by this title.

17 2. Operates or causes to be operated on any highway in the Commonwealth any motor vehicle that is not
 18 in compliance with the Unified Carrier Registration System authorized under 49 U.S.C. § 14504a, enacted
 19 pursuant to the Unified Carrier Registration Act of 2005, and the federal regulations promulgated thereunder.

20 3. Operates or permits the operation of any truck or tractor truck for which the fee for registration is
 21 prescribed by § 46.2-697 on any highway in the Commonwealth (i) without first having paid the registration
 22 fee hereinabove prescribed or (ii) if at the time of operation the gross weight of the vehicle or of the
 23 combination of vehicles of which it is a part is in excess of the gross weight on the basis of which it is
 24 registered. In any case where a pickup truck is used in combination with another vehicle, the civil penalty and
 25 processing fee shall be assessed only if the combined gross weight exceeds the combined gross weight on the
 26 basis of which each vehicle is registered.

27 4. (i) Fails to declare a motor vehicle to be operated for hire when required by § 46.2-2121.1 or obtain a
 28 proper registration card or other evidence of registration as required by this chapter; (ii) operates or causes to
 29 be operated on any highway in the Commonwealth any motor vehicle that does not carry the proper
 30 registration and identification required by this title, display an identification marker issued for the vehicle by
 31 the Department in the manner prescribed by the Department, or display any other identifying information
 32 required by this title; or (iii) operates or causes to be operated on any highway in the Commonwealth any
 33 motor vehicle requiring registration cards or identification markers from the Department after such
 34 registration cards or identification markers have been revoked, canceled, or suspended.

35 5. (i) Fails to obtain a proper registration card, identification marker, or other evidence of registration
 36 required by Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1 or the terms and provisions of the International
 37 Fuel Tax Agreement, as amended by the International Fuel Tax Association, Inc.; (ii) operates or causes to be
 38 operated on any highway in the Commonwealth any motor vehicle that does not carry the proper registration
 39 and identification marker required by Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1 or the terms and
 40 provisions of the International Fuel Tax Agreement, as amended by the International Fuel Tax Association,
 41 Inc., or any motor vehicle that does not display an identification marker or other identifying information as
 42 prescribed by the Department or required by Title 58.1 or the terms of the International Fuel Tax Agreement,
 43 as amended by the International Fuel Tax Association, Inc.; or (iii) operates or causes to be operated on any
 44 highway in the Commonwealth any motor vehicle requiring registration cards or identification markers from
 45 the Department after such registration cards or identification markers have been revoked, canceled, or
 46 suspended.

47 6. Operates or causes to be operated on any highway in the Commonwealth any truck or tractor truck or
 48 combination of vehicles exceeding the size limitations of Articles 14 (§ 46.2-1101 et seq.), 15 (§ 46.2-1105 et
 49 seq.), 16 (§ 46.2-1112 et seq.), and 18 (§ 46.2-1139 et seq.) of Chapter 10.

50 B. Upon collection by the Department, civil penalties levied pursuant to subdivisions A 1 and A 3 through
 51 5 shall be paid into the Commonwealth Transportation Fund, but civil penalties levied pursuant to
 52 subdivisions A 2 and 6 and all processing fees levied pursuant to this section shall be paid into the state
 53 treasury and shall be set aside as a special fund to meet the expenses of the Department of Motor Vehicles.

54 C. The penalties and fees specified in this section shall be in addition to any other penalty, fee, tax, or
 55 liability that may be imposed by law.

56 **§ 46.2-613.3. Special processing provisions for civil penalties levied for violation of license,**

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57 **registration, and tax requirements and vehicle size limitations.**

58 Notwithstanding any other provision of law, all civil penalties levied pursuant to § 46.2-613.1 shall be
59 processed in the following manner:

60 1. The *law-enforcement officer* or size and weight compliance agent charging the violation shall serve a
61 citation on the operator of the vehicle. The citation shall be directed to the owner, operator, or other person
62 responsible for the violation as determined by the *law-enforcement officer* or size and weight compliance
63 agent. Service of the citation on the vehicle operator shall constitute service of process upon the owner,
64 operator, or other person charged with the violation as provided in § 46.2-613.5.

65 2. The *law-enforcement officer* or size and weight compliance agent charging the violation shall cause the
66 citation to be delivered or sent by first-class mail to the Department within 24 hours after it is served.

67 3. The owner, operator, or other person charged with the violation shall, within 21 days after the citation is
68 served upon the vehicle operator, either make full payment to the Department of the civil penalty and
69 processing fee as stated on the citation or deliver to the Department a written notice of his election to contest
70 the charges in court.

71 4. Failure of the owner, operator, or other person charged with the violation to timely deliver to the
72 Department either payment in full of the uncontested civil penalty and processing fee or a notice of contest of
73 the violation shall cause the Department to issue an administrative order of assessment against such person. A
74 copy of the order shall be sent by first-class mail to the person charged with the violation. Any such
75 administrative order shall have the same effect as a judgment entered by a general district court.

76 5. Upon timely receipt of a notice of contest of a violation under § 46.2-613.1, the Department shall:

77 a. Forward the citation to the general district court named in the citation; and

78 b. Send by first-class mail to the person charged with the violation and to the *law-enforcement officer* or
79 size and weight compliance agent who issued the citation confirmation that the citation has been forwarded to
80 the court for trial.

81 6. Notices and pleadings may be served by first-class mail to the address shown on the citation as the
82 address of the person charged with the weight violation or, if none is shown, to the address of record for the
83 person to whom the vehicle is registered.

84 7. An alleged violation that is contested shall be tried as a civil case. The attorney for the Commonwealth
85 shall represent the interests of the Commonwealth. The disposition of the case shall be recorded in an
86 appropriate order, a copy of which shall be sent to the Department in lieu of any record that may be otherwise
87 required by § 46.2-383. If judgment is for the Commonwealth, payment shall be made to the Department.

88 8. Notwithstanding any other provisions of this section, any and all citations and notices required by this
89 section to be provided to the person charged with a violation or received from the person charged with a
90 violation, with the exclusion of the citation as set out in subdivision 1, may be served or provided in an
91 electronic manner if the Department and the person charged with the violation have agreed to utilize
92 electronic notification.

93 **§ 46.2-613.4. Special seizure provisions for unpaid fees and penalties.**

94 Any *law-enforcement officer* or size and weight compliance agent authorized to serve process under the
95 provisions of this chapter may hold a vehicle without an attachment summons or court order, but only for
96 such time as is reasonably necessary to promptly petition for an attachment summons to attach the vehicle.

97 After finding reasonable cause for the issuance of an attachment summons, the judicial officer conducting
98 the hearing shall inform the operator of the vehicle of his option to either pay the previously assessed fees and
99 penalties due the Commonwealth or contest the charge through the attachment proceeding. If the operator
100 chooses to make payment, he shall do so to the judicial officer, who shall transmit the citation along with the
101 fees and penalties to the Department for distribution in accordance with subsection B of § 46.2-613.1.

102 The Commonwealth shall not be required to post bond in order to attach a vehicle pursuant to this section.
103 The *law-enforcement officer* or size and weight compliance agent authorized to hold the vehicle pending a
104 hearing on the attachment petition shall also be empowered to execute the attachment summons if issued.
105 Any bond for the retention of the vehicle or for release of the attachment shall be given in accordance with
106 § 8.01-553 except that the bond shall be taken by a judicial officer. The judicial officer shall return the bond
107 to the clerk of the appropriate court in place of the officer serving the attachment as otherwise provided in
108 § 8.01-554.

109 In the event the fees and penalties are not paid in full, or no bond is given by, or for the person responsible
110 for paying the fees and penalties, the vehicle shall be stored in a secure place, as may be designated by the
111 owner or operator of the vehicle. If no place is designated, the officer or size and weight compliance agent
112 executing the attachment summons shall designate the place of storage. The owner or operator shall be
113 afforded the right of unloading and removing the cargo from the vehicle. The risk and cost of the storage
114 shall be borne by the owner or operator of the vehicle.

115 Whenever an attachment summons is issued for unpaid fees and penalties the court shall forward to the
116 Department both a copy of the order disposing of the case and the citation prepared by the *law-enforcement*
117 *officer* or size and weight compliance agent but not served.

118 Upon notification of the judgment or administrative order entered for such unpaid fees and penalties and

119 notification of the failure of such person to satisfy the judgment or order, the Department, the Department of
120 State Police, or any law-enforcement officer or size and weight compliance agent shall thereafter deny the
121 offending person the right to operate a motor vehicle or vehicles on any highway of the Commonwealth until
122 the judgment or order has been satisfied and a reinstatement fee of \$50 has been paid to the Department.
123 Reinstatement fees collected under the provisions of this section shall be paid by the Commissioner into the
124 state treasury and shall be set aside as a special fund to be used to meet the expenses of the Department.

125 When informed that the right to operate the motor vehicle has been denied, the driver shall drive the
126 motor vehicle to a nearby location off the public highways and not move it or permit it to be moved until such
127 judgment or order has been satisfied. Failure by the driver to comply with this provision shall constitute a
128 Class 4 misdemeanor.

129 All costs incurred by the Commonwealth and all judgments, if any, against the Commonwealth due to
130 action taken pursuant to this section shall be paid from the fund into which the civil penalties levied pursuant
131 to § 46.2-613.1 are paid.

132 Officers of the Department of State Police and all other law-enforcement officers are vested with the same
133 powers with respect to the enforcement of this chapter as they have with respect to the enforcement of the
134 criminal laws of the Commonwealth.

135 **§ 46.2-613.5. Procedures for issuing and serving process in civil penalty cases.**

136 Any *law-enforcement officer or size and weight compliance agent* authorized to enforce the provisions of
137 § 46.2-613.1 may issue a citation for a violation of such provisions. Such *law-enforcement officer or size and*
138 *weight compliance agent* may also serve an attachment summons issued by a judge or magistrate in
139 connection with a violation of § 46.2-613.1.

140 Service of any such citation shall be made upon the driver of the motor vehicle involved in the violation.
141 Such service on the driver shall have the same legal force and validity as if served within the Commonwealth
142 personally upon the owner, operator, or other person charged with the violation, whether such owner,
143 operator, or other person charged is a resident or nonresident.