



COMMONWEALTH of VIRGINIA

Department of Motor Vehicles
2300 West Broad Street

Richard D. Holcomb
Commissioner

Post Office Box 27412
Richmond, VA 23269-0001

December 1, 2021

The Honorable David W. Marsden
Chair, Senate Committee on Transportation
Pocahontas Building, Room E618
900 East Main Street
Richmond, Virginia 23219

The Honorable Delores L. McQuinn
Chair, House Committee on Transportation
Pocahontas Building, Room E324
900 East Main Street
Richmond, Virginia 23219

RE: Report on Commercial Driver's Licenses and Third Party Testing pursuant to Chapters 78 and 155, Enactment Clause 3 (Regular Session, 2019)

Dear Chairs Marsden and McQuinn:

The 2019 General Assembly enacted Chapters 78 and 155, permitting the Department of Motor Vehicles ("DMV" or "the agency") to certify driver training schools (DTSs) that offer their students training in commercial motor vehicle (CMV) operation to administer the skills test required for the issuance of a commercial driver's license (CDL) pursuant to 49 C.F.R. § 383.23(a) and § 46.2-341.9(A) of the *Code of Virginia* (Va. Code). This legislation created Va. Code § 46.2-326.1, which establishes the requirements that a DTS must meet to be certified as a third party tester (TPT) and to administer CDL skills tests. To help understand the impact of this legislative change, enactment clause three requires DMV to report to the Chairs of the House and Senate Transportation Committees by December 1, 2021 on the wait time for a DMV-administered CDL skills test and the growth of the agency's TPT program, as well as on infractions incurred by holders of a CDL while driving a CMV, aggregated by the type of tester.

This letter provides the data required by enactment clause three and a brief analysis of that data. To help further understand the highway safety impact of the changes made in the legislation, DMV also includes data on CMV crashes where the operator held a CDL and was considered "at-fault" for the accident. Because of the impact of COVID-19 and the resulting

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state of emergency, DMV has determined that the data as it relates to the growth of the TPT program and the wait time for a CDL skills test is inconclusive. DMV determined that the legislative changes have had no significant impact on highway safety. This determination is made with the caveat that DMV is unaware of the impact of the COVID-19 declared state of emergency on citing infractions by law enforcement officers, convictions, and the reporting of that information to the agency.

Implementation and Growth of TPT Program

DMV has statutory authority to certify three types of entities as TPTs so long as the entity meets the requirements provided in the Virginia CDL Act (§ 46.2-341.14 et seq.). These entities include: businesses that train and test their own employees (Employer); Community Colleges that train and test students enrolled in one of their CDL training courses (CC); and under the new provisions of Chapters 78 and 155, DTSs that train and test students to operate CMVs.

Chapters 78 and 155 became effective on October 1, 2019. Since then, 10 new entities have been certified as TPTs. The name of each entity, date of certification, and type of entity are provided in the following table.

Name	Date of Certification	Type
Pepsi-Cola Bottling Company of Central VA	10/24/2019	Employer
Clarke County Public Schools	12/19/2019	Employer
Abilene Motor Express	02/05/2020	Employer
Shipper's Choice of VA	02/12/2020	DTS
CDS Tractor Trailer Training	03/13/2020	DTS
Mountain Empire Community College	04/06/2020	CC
160 Driving Academy	09/17/2020	DTS
5 Star CDL Training LLC	09/17/2020	DTS
Patrick County Public Schools	08/17/2021	Employer
1 st CDL Training Center of Northern Virginia	08/20/2021	Employer

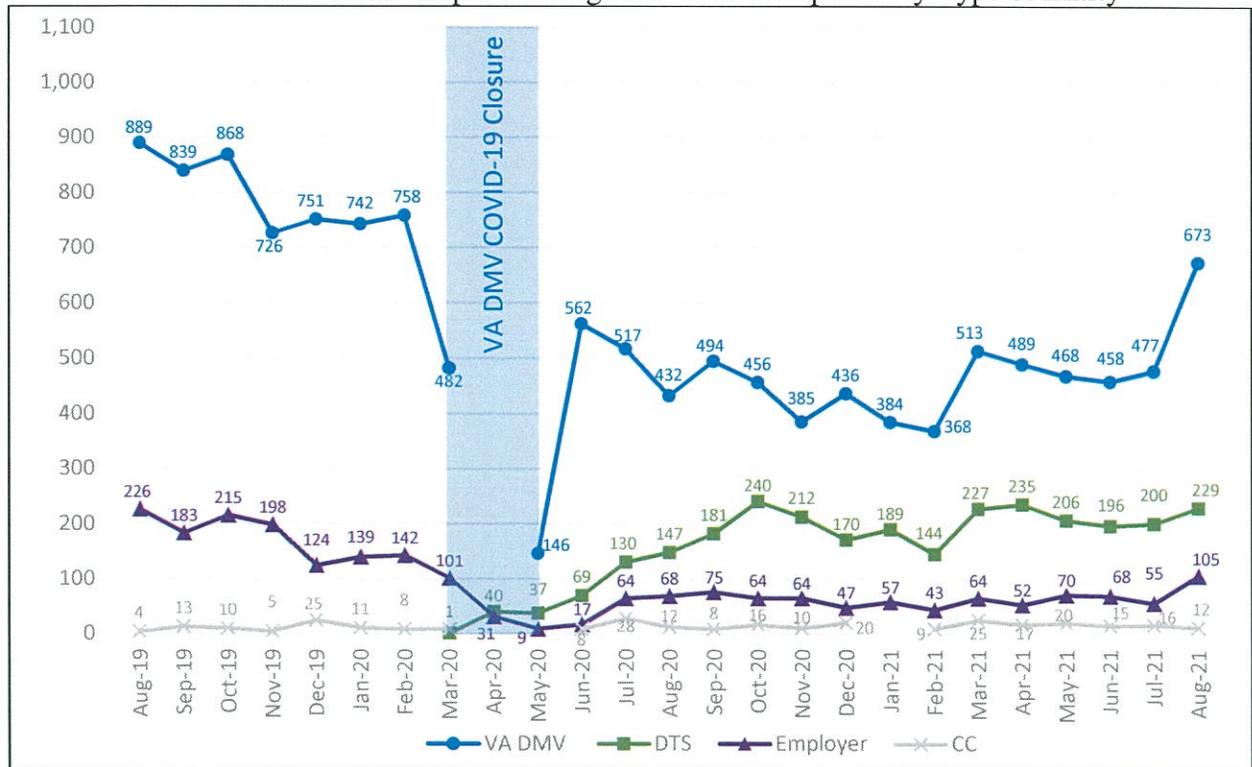
Of the 10 new entities, four were DTSs certified under the provision enacted in the legislation.¹ In May 2019, DMV met with the DTSs to discuss the requirements of the legislation and the implementation timeline for the changes. At the beginning of September 2019, DMV reached out to the DTSs to remind them that the applications for certification would become available on October 1, 2019. DMV began receiving applications on October 16, 2019, and held

¹ As of September 15th, 2021.

the training required for certification in December 2019. The first DTS, Shippers Choice of Virginia, was certified in February 2020 and began administering skills tests in March 2020.

The graph below shows the number of vehicle inspection test segments² administered by each type of CDL skills testing entity from August 1, 2019 through August 30, 2021. The data suggests that the number of skills tests administered by TPTs (CC, Employer, and DTS) has increased (e.g. in August 2019, TPTs administered 230 skills tests and in August 2021, TPTs administered 346 skills tests) and the number of DMV administered skills tests has decreased (e.g. in August 2019 DMV administered 889 skills tests and in August 2021 DMV administered 673 skills tests). However, it is important to note, as a result of the pandemic, DMV’s customer service model changed significantly around the time the DTSs began administering the skills tests. So, the data above does not only reflect the impact of the legislation, but also the impact of the necessary changes in the DMV customer service model in response to the COVID-19 pandemic.

CDL Vehicle Inspection Segment Tests Completed by Type of Entity



² The CDL skills test has three distinct portions: the vehicle inspection or “pre-trip” segment, backing segment, and the road segment. The applicant must pass each segment before moving onto the next segment. If the driver fails any segment, the test is terminated and the applicant must schedule another skills testing appointment to pass the failed segment and any remaining segments in the skills test. This graph shows completed vehicle inspection segments, or the first portion of the CDL skills test, by each testing entity.

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Pandemic and Changes to DMV Service Model

On March 12, 2020, Governor Northam issued Executive Order 51 declaring a state of emergency due to COVID-19.³ DMV customer service centers and CDL testing sites were closed less than a week later on March 18, 2020 pursuant to Executive Directive 7 (ED 7).⁴ DMV was directed to initiate a phased reopening of its customer service locations with limited operations by appointment beginning May 18 by ED 7, third amended.⁵ Accordingly, DMV opened all but one of its CDL testing locations on May 18, 2020 and began a phased reopening of its customer service centers between May and August 2020. The remaining CDL testing site in Manassas reopened on June 1, 2020, due to Northern Virginia being a phase behind for reopening according to Governor Northam's "Forward Virginia" recovery plan.

When DMV began reopening its customer service centers, it did so with necessary COVID-19 precautions in place. As required by ED 7, DMV made services available by appointment, which was a significant change from DMV's prior walk-in service model. DMV opened a limited number of customer service counters and knowledge testing stations to ensure social distancing inside its customer service centers. This limited the availability of CDL knowledge testing for customers.

DMV requested approval from the Federal Motor Carrier Safety Administration (FMCSA) on April 23, 2020 to make modifications to its testing processes to incorporate the necessary pandemic-related safety measures. These included permitting the examiner to conduct the road segment of the test from a "follow vehicle" instead of requiring the examiner to be in the vehicle with the customer. On April 30, 2020, FMCSA approved those changes. DMV implemented those approved changes when it reopened its CDL testing locations. These changes increased the time required to administer the skills test and reduced the number of skills tests that could be administered on a single testing course in a day from four to three. This reduced the number of skills testing appointments available to CDL applicants.

In response to these changes limiting availability of DMV services, the agency leveraged its relationship with its CDL testing partners to ensure testing availability and continuity of service, and DMV's testing partners stepped up to support the agency and its customers. In late April 2020, DMV received approval from FMCSA to allow its CDL skills testing partners to also administer the CDL knowledge test. DMV's first knowledge testing partner, Brown's Distributing Company, began administering the CDL knowledge tests on June 1, 2020. As discussed previously, under the new legislation, four DTSs became certified to administer the CDL skills tests, and began administering them over the course of the pandemic. This helped make the necessary knowledge and skills testing appointments available to customers.

³ See Executive Order [51](#)

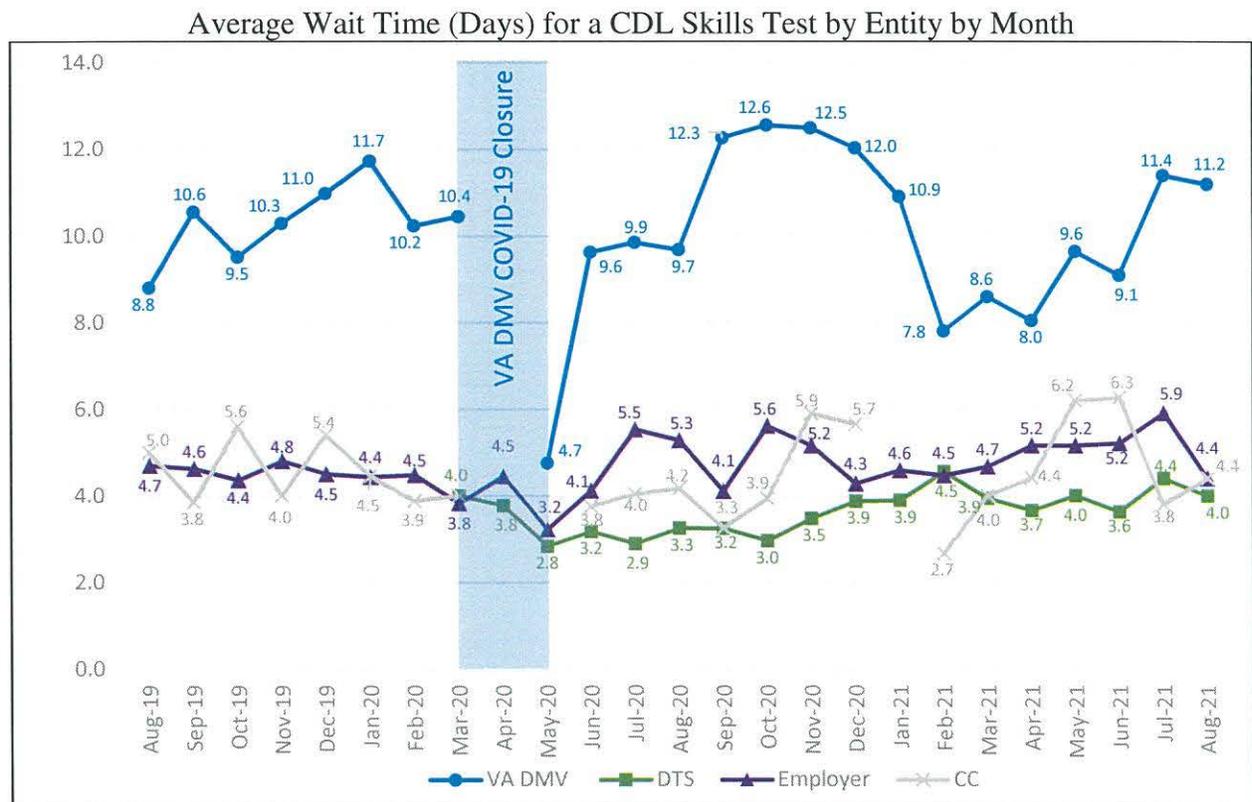
⁴ See Executive Directive [7](#)

⁵ See Executive Directive [7](#) (third amended)

The pandemic and related factors described above likely impacted the number of applicants who sought CDL licensure and the number of CDL skills tests administered by the agency or the TPTs. As such, DMV has determined that the data regarding the impact of the legislative changes on the distribution of skills tests among DMV and the TPTs is inconclusive at this time.

Wait Time Impact

The following table shows the average wait time for CDL skills tests by month from August 2019 through August 2021 for each type of entity permitted to administer the skills tests under Virginia law.



The blue line with data points represented by circles shows the average time between the date that a DMV appointment for a skills test was requested by a customer and the date that the vehicle inspection segment of the skills test (see footnote 2) was ultimately administered. Comparing the time between scheduling and testing between Fiscal Year 2019 and Fiscal Year 2021 shows a decrease in the average of approximately two days, from 11.9 days during Fiscal Year 2019 to 10.2 days during Fiscal Year 2021 when the TPTs were testing. However, as discussed previously, DMV’s customer service model changed significantly around the time that the new entities began administering the skills tests, so the data above does not only reflect the

impact of the legislation, but also the impact of the necessary changes in the DMV customer service model in response to the COVID-19 pandemic and the resulting declared state of emergency. As such, the data is inconclusive as to the impact specifically of the legislative changes on the wait time for a DMV administered CDL skills test.

There are a few factors that impact when a customer may request an appointment for a CDL skills test and when the agency can schedule the requested appointment. First, pursuant to 49 C.F.R. § 383.25(e), CDL applicants are not permitted to take a skills test within 14 days of receiving their commercial learner's permit. If an applicant requests a skills testing appointment, the agency cannot schedule an appointment any earlier than 14 days following the issuance of their commercial learner's permit.⁶ Additionally, the customer's availability and ability to obtain a vehicle to complete the testing in could impact the wait time for a skills test.

When looking at how DMV's wait time compares to that of other entities administering the skills test, there are a few factors that cause DMV to have a longer wait time than others. First, because DMV tests the general public, it administers skills tests to far more people per month than the other types of entities. Additionally, anticipating a wait for a skills test appointment, most customers seeking an appointment with DMV will call to schedule an appointment prior to the end of the mandatory 14-day wait period between the commercial learners permit issuance and the administration of the general knowledge test. However, other entities have less of a wait time because they only administer skills tests to their own employees or students and are more likely to schedule appointments closer to the end of the mandatory wait period. Federal regulation only requires that non-state driver's licensing entities or third party testers (TPTs) schedule their skills tests 48 hours prior to administration. Therefore, TPTs have no need to schedule their tests far in advance the date the skills tests will be administered.

Highway Safety Impact

The tables included in this section show data between May 1, 2020 and September 15, 2021⁷ relating to the highway safety impact of the legislative changes in Chapters 78 and 155. The data provided below is derived from information collected by law enforcement officers and transmitted to DMV by the courts where the infractions or crashes occur.

⁶ FMCSA issued a waiver on March 24th, waiving the federal regulatory requirement for the 14-day wait period (<https://www.fmcsa.dot.gov/emergency/fmcsa-cdl-waiver-32420>). However, Va. Code § 46.2-324.1(B) codifies that 14-day wait period, and as such, DMV was not able to waive that requirement.

⁷ The data included in this section is infractions incurred between May 1, 2020 and September 15, 2021 for individuals who we licensed between May 1, 2020 and April 30, 2020. The numbers of individuals tested in March of 2020 when the first DTS began administering skills tests and the end of April 2020 was not significant enough to provide adequate data to compare with the other testing entities.

Infractions by CDL Holders by Type of Testing Entity

Testing Org	Total Infractions	Percent of Infractions to Applicants
VA DMV	51	1.8%
DTS	34	2.4%
Employer	0	0.0%
CC	0	0.0%

The table above shows the number and percentage of individuals skills tested by each type of CDL testing entity who received a CDL and were cited for an infraction while operating a commercial motor vehicle. The data provided does not include all infractions incurred by these operators. Rather, it is limited to violations that may occur as a result of inadequate testing, such as moving violations, violations under federal law that would require DMV to take action against the holder’s CDL, alcohol- or drug-related violations, and violations related to vehicle or equipment safety. Infractions related to parking or other stationary violations, vehicle registration, or overweight/size permitting that would not be reasonably related to appropriate skills testing are not included. The data shows that, while the rate of infractions is slightly higher for individuals tested at the CDL schools, it is not significantly higher than the rate of infractions for individuals tested by DMV.

Crashes In Which CMV Operator was Found “At-Fault” Aggregated by Testing Entity

	Total Crashes	Percent of Crashes to Applicants	Total At Fault Crashes	Percent of At-Fault Crashes to Applicants
VA DMV	34	1.2%	17	0.6%
DTS	21	1.5%	14	1.0%
Employer	2	0.4%	1	0.2%
CC	1	0.8%	0	0.0%

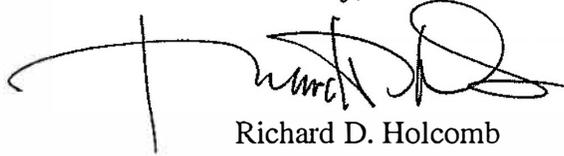
The table above shows the total number of crashes and percentage of CDL holders involved in an accident while operating a CMV who were found “at-fault” in the crash broken down by the type of testing entity. Whether the operator was “at-fault” in the crash was determined by reviewing information on the report in DMV’s Traffic Records Electronic Data System (TREDS) associated with the crash, including looking at the offenses charged against the driver at the time of the crash, the crash description, and descriptions of potential errors made by the driver that may have contributed to the accident. The data shows that the rate of crashes in which the CMV operator was “at-fault” in the crash is slightly higher for operators tested by the DTS than by the DMV. However, the difference does not appear to be significant.

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Conclusion

Overall, the data suggests that implementation of the legislative changes resulting from Chapters 78 and 155 have not negatively impacted highway safety in the Commonwealth. While the data is inconclusive on the impact of the specific legislative changes on the wait time for a CDL skills test, having this legislative authority in place during the pandemic helped ensure more CDL customers were able to be tested.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard D. Holcomb", written over a horizontal line.

Richard D. Holcomb

cc: The Honorable Senator Stephen D. Newman, Jr.
The Honorable Delegate Terry L. Austin
The Honorable Shannon R. Valentine