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HOUSE BILL NO. 2745

Offered January 19, 2001

A BILL to amend and reenact §§ 22.1-205, 46.2-334, and 46.2-335 of the Code of Virginia, relating to minors of school age and driver's licenses.

Patrons—Keister, Abbitt, Amundson, Armstrong, Bennett, Clement, Deeds, Jackson, Shuler and Watts

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-205, 46.2-334, and 46.2-335 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-205. Driver education programs.

A. The Board of Education shall establish for the public school system a standardized program of driver education in the safe operation of motor vehicles. Such program shall consist of classroom training and behind-the-wheel driver training. However, any student who participates in such a program of driver education shall meet the academic requirements established by the Board, and no student in a course shall be permitted to operate a motor vehicle without a license or permit to do so issued by the Department of Motor Vehicles. The program shall include instruction concerning (i) alcohol and drug abuse, (ii) aggressive driving, and (iii) motorcycle awareness. Such instruction shall be developed by the Department in cooperation with the Virginia Alcohol Safety Action Program and the Department of Mental Health, Mental Retardation and Substance Abuse Services.

B. The Board shall assist school divisions by preparation, publication and distribution of competent driver education instructional materials to ensure a more complete understanding of the responsibilities and duties of motor vehicle operators.

C. Each school board shall determine whether to offer the program of driver education in the safe operation of motor vehicles and, if offered, whether such program shall be an elective or a required course. Only school divisions complying with the standardized program and regulations established by the Board of Education and the provisions of § 46.2-335 shall be entitled to participate in the distribution of state funds appropriated for driver education.

D. The actual initial driving instruction shall be conducted, with motor vehicles equipped as may be required by regulation of the Board of Education, on private or public property removed from public highways if practicable; if impracticable, then, at the request of the school board, the Commonwealth Transportation Board shall designate a suitable section of road near the school to be used for such instruction. Such section of road shall be marked with signs, which the Commonwealth Transportation Board shall supply, giving notice of its use for driving instruction. Such signs shall be removed at the close of the instruction period. No vehicle other than those used for driver training shall be operated between such signs at a speed in excess of twenty-five miles per hour. Violation of this limit shall be a Class 4 misdemeanor.

E. The Board of Education may, in its discretion, promulgate regulations for the use and certification of paraprofessionals as teaching assistants in the driver education programs of school divisions.

F. The Board of Education shall approve correspondence courses for the classroom training component of driver education. These correspondence courses shall be consistent in quality with instructional programs developed by the Board for classroom training in the public schools. Students completing the correspondence courses for classroom training, who are eligible to take behind-the-wheel driver training, may receive behind-the-wheel driver training (i) from a public school, upon payment of the required fee, if the school division offers behind-the-wheel driver training and space is available or (ii) from a commercial driver training school licensed by the Department of Motor Vehicles. Nothing herein shall be construed to require any school division to provide behind-the-wheel driver training to nonpublic school students.

G. Pursuant to §§ 46.2-334 and 46.2-335, any school board supervising a school in which an unmarried or unemancipated minor is enrolled may, after the issuance of a learner's permit or a permanent driver's license to such minor, file with the Department of Motor Vehicles a written request that the learner's permit or license of the minor be canceled because of failure to comply with the Compulsory School Attendance Law pursuant to Article 1 (§ 22.1-254 et seq.) of Chapter 14 of Title 22.1 or because the minor has received a long-term suspension or expulsion from regular school attendance.

§ 46.2-334. Conditions and requirements for licensure of persons under eighteen; requests for cancellation of minor's driver's license; temporary driver's licenses; Board of Education approved

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HB2745

59 programs; fee.

60 A. Minors at least sixteen years old may be issued driver's licenses under the following conditions:

61 1. The minor shall submit a proper application and satisfactory evidence that he (i) is a resident of
62 the Commonwealth; (ii) has successfully completed a driver education course approved by either the
63 State Department of Education or, in the case of a course offered by a commercial driver training school
64 licensed under Chapter 17 (§ 46.2-1700 et seq.) of this title, by the Department of Motor Vehicles; and
65 (iii) is mentally, physically, and otherwise qualified to drive a motor vehicle safely.

66 2. The minor's application for a driver's license must be signed by a parent of the applicant,
67 otherwise by the guardian having custody of him. However, in the event a minor has no parent or
68 guardian, then a driver's license shall not be issued to him unless his application is signed by the judge
69 of the juvenile and domestic relations district court of the city or county in which he resides. If the
70 minor making the application is married or otherwise emancipated, in lieu of any parent's, guardian's or
71 judge's signature, the minor may present proper evidence of the solemnization of the marriage or the
72 order of emancipation.

73 3. The minor shall be required to state in his application whether or not he has been convicted of an
74 offense triable by, or tried in, a juvenile and domestic relations district court or found by such court to
75 be a child in need of supervision, as defined in § 16.1-228. If it appears that the minor has been
76 adjudged not innocent of the offense alleged or has been found to be a child in need of supervision, the
77 Department shall not issue a license without the written approval of the judge of the juvenile and
78 domestic relations district court making an adjudication as to the minor or the like approval of a similar
79 court of the county or city in which the parent or guardian, respectively, of the minor resides.

80 4. The application for a permanent driver's license by a minor of the age of persons required to
81 attend school pursuant to § 22.1-254 shall be accompanied by evidence of compliance with the
82 compulsory school attendance law set forth in Article 1 (§ 22.1-254 et seq.) of Chapter 14 of Title 22.1.
83 This evidence shall be provided in writing by the minor's parent. If the minor is unable to provide such
84 evidence, he shall not be granted a driver's license until he reaches the age of eighteen or presents
85 proper evidence of the solemnization of his marriage or an order of emancipation, or the parent, as
86 defined in § 22.1-1, or other person standing in loco parentis has provided written authorization for the
87 minor to obtain a driver's license.

88 A minor may, however, present a high school diploma or its equivalent or a certificate indicating
89 completion of a prescribed course of study as defined by the local school board pursuant to
90 § 22.1-253.13:4 as evidence of compulsory school attendance compliance.

91 5. The minor applicant shall certify in writing, on a form prescribed by the Commissioner, that he is
92 a resident of the Commonwealth. The applicant's parent or guardian shall also certify that the applicant
93 is a resident by signing the certification. Any minor providing proper evidence of the solemnization of
94 his marriage or a certified copy of a court order of emancipation shall not be required to provide the
95 parent's certification of residence.

96 B. Any custodial parent or guardian of an unmarried or unemancipated minor may, after the issuance
97 of a permanent driver's license to such minor, file with the Department a written request that the license
98 of the minor be canceled. When such request is filed, the Department shall cancel the license of the
99 minor and the license shall not thereafter be reissued by the Department until a period of six months has
100 elapsed from the date of cancellation or the minor reaches his eighteenth birthday, whichever shall occur
101 sooner.

102 *Further, any school board supervising a school in which an unmarried or unemancipated minor is*
103 *enrolled may, after the issuance of a permanent driver's license to such minor, file with the Department*
104 *a written request that the license of the minor be canceled because of failure to comply with the*
105 *Compulsory School Attendance Law pursuant to Article 1 (§ 22.1-254 et seq.) of Chapter 14 of Title*
106 *22.1 or because the minor has received a long-term suspension or expulsion from regular school*
107 *attendance. If the minor has enrolled in an alternative education program, including, but not limited to,*
108 *a general educational development preparatory program, or the minor has regular employment, the*
109 *minor may file with the Department a written request to retain driving privileges for the purpose of*
110 *transportation to and from the alternative education program or the job.*

111 C. The provisions of subsection A of ~~this section~~ requiring that an application for a driver's license
112 be signed by the parent or guardian shall be waived by the Commissioner if the application is
113 accompanied by proper evidence of the solemnization of the minor's marriage or a certified copy of a
114 court order, issued under the provisions of Article 15 (§ 16.1-331 et seq.) of Chapter 11 of Title 16.1,
115 declaring the applicant to be an emancipated minor.

116 D. A learner's permit accompanied by documentation verifying the minor's successful completion of
117 an approved driver education course, signed by the minor's parent, guardian, legal custodian or other
118 person standing in loco parentis, shall constitute a temporary driver's license for purposes of driving
119 unaccompanied by a licensed driver as required in § 46.2-335, if all other requirements of this chapter
120 have been met. The temporary license shall only be valid until the permanent license is presented as

provided in § 46.2-336.

E. Notwithstanding the provisions of subsection A of this section requiring the successful completion of a driver education course approved by the State Department of Education, the Commissioner, on application therefor by a person at least sixteen years of age but less than eighteen years of age, shall issue to the applicant a temporary driver's license valid for six months if he (i) certifies by signing, together with his parent or guardian, on a form prescribed by the Commissioner that he is a resident of the Commonwealth; (ii) is the holder of a valid driver's license from another state; and (iii) has not been found guilty of or otherwise responsible for an offense involving the operation of a motor vehicle. No temporary license issued under this subsection shall be renewed, nor shall any second or subsequent temporary license under this subsection be issued to the same applicant. Any such minor providing proper evidence of the solemnization of his marriage or a certified copy of a court order of emancipation shall not be required to obtain the signature of his parent or guardian for the temporary driver's license.

F. For persons qualifying for a driver's license through driver education courses approved by the Department of Education or courses offered by commercial driver training schools licensed by the Department, the application for the learner's permit shall be used as the application for the driver's license pursuant to § 46.2-335.

G. Driver's licenses shall be issued by the Department to minors successfully completing driver education courses approved by the Department of Education (i) when the Department receives from the school proper certification that the student (a) has successfully completed such course, including a road skills examination and (b) is regularly attending school and is in good academic standing or, if not in such standing or submitting evidence thereof, whose parent or guardian, having custody of such minor, provides written authorization for the minor to obtain a driver's license, which written authorization shall be obtained on forms provided by the Department and indicating the Commonwealth's interest in the good academic standing and regular school attendance of such minors; and (ii) upon payment of a fee of \$2.40 per year, based on the period of the license's validity. For applicants attending public schools, good academic standing may be certified by the public school principal or any of his designees. For applicants attending nonpublic schools, such certification shall be made by the private school principal or any of his designees; for minors receiving home schooling, such certification shall be made by the home schooling parent or tutor. Any minor providing proper evidence of the solemnization of his marriage or a certified copy of a court order of emancipation shall not be required to provide the certification of good academic standing or any written authorization from his parent or guardian to obtain a driver's license.

Notwithstanding the provisions of this section allowing a parent to authorize the license of a minor who is in compliance with the Compulsory School Attendance law or who is not in good standing in school, the school board may have the minor's driver's license canceled upon filing a written request with the Department as provided in subsection B.

§ 46.2-335. Learner's permits; fees.

A. The Department, on receiving from any Virginia resident over the age of fifteen years an application for a learner's permit or motorcycle learner's permit, may, subject to the applicant's satisfactory documentation of meeting the requirements of this chapter and successful completion of the written or automated knowledge and vision examinations and, in the case of a motorcycle learner's permit applicant, the automated motorcycle test, issue a permit entitling the applicant, while having the permit in his immediate possession, to drive a motor vehicle or, if the application is made for a motorcycle learner's permit, a motorcycle, on the highways, when accompanied by any licensed driver twenty-one years of age or older or by his parent or legal guardian, or by a brother, sister, half-brother, half-sister, step-brother, or step-sister eighteen years of age or older. The accompanying person shall be (i) actually occupying a seat beside the driver or, for motorcycle instruction, providing immediate supervision from a separate accompanying motorcycle and (ii) lawfully permitted to operate the motor vehicle or accompanying motorcycle at that time.

The Department shall not, however, issue a learner's permit or motorcycle learner's permit to any minor applicant required to provide evidence of compliance with the compulsory school attendance law set forth in Article 1 (§ 22.1-254 et seq.) of Chapter 14 of Title 22.1, unless such applicant is in good academic standing or, if not in such standing or submitting evidence thereof, whose parent or guardian, having custody of such minor, provides written authorization for the minor to obtain a learner's permit or motorcycle learner's permit, which written authorization shall be obtained on forms provided by the Department and indicating the Commonwealth's interest in the good academic standing and regular school attendance of such minors. Any minor providing proper evidence of the solemnization of his marriage or a certified copy of a court order of emancipation shall not be required to provide the certification of good academic standing or any written authorization from his parent or guardian to obtain a learner's permit or motorcycle learner's permit.

182 Such permit, except a motorcycle learner's permit, shall be valid until the holder thereof either is
183 issued a driver's license as provided for in this chapter or no longer meets the qualifications for issuance
184 of a learner's permit as provided in this section. *However, any school board supervising a school in*
185 *which an unmarried or unemancipated minor is enrolled may, after the issuance of a learner's permit to*
186 *such minor, file with the Department a written request that the learner's permit of the minor be*
187 *canceled because of failure to comply with the Compulsory School Attendance Law pursuant to Article 1*
188 *(§ 22.1-254 et seq.) of Chapter 14 of Title 22.1 or because the minor received a long-term suspension*
189 *or expulsion from regular school attendance.*

190 Motorcycle learner's permits shall be valid for twelve months. When a motorcycle learner's permit
191 expires, the permittee may, upon submission of an application, payment of the application fee, and
192 successful completion of the examinations, be issued another motorcycle learner's permit valid for twelve
193 months.

194 B. The provisions of §§ 46.2-323 and 46.2-334 relating to evidence and certification of Virginia
195 residence and, in the case of persons of school age, compliance with the compulsory school attendance
196 law shall apply, mutatis mutandis, to applications for learner's permits and motorcycle learner's permits
197 issued under this section.

198 C. For persons qualifying for a driver's license through driver education courses approved by the
199 Department of Education or courses offered by commercial driver training schools licensed by the
200 Department, the application for the learner's permit shall be used as the application for the driver's
201 license.

202 D. The Department shall charge a fee of three dollars for each learner's permit and motorcycle
203 learner's permit issued under this section. Fees for issuance of learner's permits shall be paid into the
204 driver education fund of the state treasury; fees for issuance of motorcycle learner's permits shall be paid
205 into the state treasury and credited to the Motorcycle Rider Safety Training Program Fund created
206 pursuant to § 46.2-1191. It shall be unlawful for any person, after having received a learner's permit, to
207 drive a motor vehicle without being accompanied by a licensed driver as provided in the foregoing
208 provisions of this section; however, a learner's permit other than a motorcycle learner's permit,
209 accompanied by documentation verifying that the driver is at least sixteen years of age and has
210 successfully completed an approved driver's education course, signed by the minor's parent, guardian,
211 legal custodian or other person standing in loco parentis, shall constitute a temporary driver's license for
212 the purpose of driving unaccompanied by a licensed driver eighteen years of age or older, if all other
213 requirements of this chapter have been met. Such temporary driver's license shall only be valid until the
214 driver has received his permanent license pursuant to § 46.2-336.

215 E. Nothing in this section shall be construed to permit the issuance of a learner's permit entitling a
216 person to drive a commercial motor vehicle, except as provided by the Virginia Commercial Driver's
217 License Act (§ 46.2-341.1 et seq.).

218 F. The following limitations shall apply to operation of motorcycles by persons holding motorcycle
219 learner's permits:

220 1. Operation shall be limited to the period between one-half hour after sunrise and one-half hour
221 before sunset.

222 2. Operation on limited access highways is prohibited.

223 3. The operator shall wear an approved safety helmet as provided in § 46.2-910.

224 4. Operation shall be under the immediate supervision of a person licensed to operate a motorcycle
225 who is twenty-one years of age or older or by his parent or legal guardian, or by a brother, sister,
226 half-brother, half-sister, step-brother, or step-sister eighteen years of age or older.

227 5. No person other than the operator shall occupy the motorcycle.

228 G. No holder of a learner's permit or motorcycle learner's permit shall be allowed to take the
229 behind-the-wheel examination administered by the Department more than three times in any three-month
230 period.

231 H. Any violation of this section shall be punishable as a Class 2 misdemeanor.