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SENATE BILL NO. 1329

Offered January 12, 2001

A BILL to amend and reenact §§ 46.2-330, 46.2-334.01, 46.2-335, and 46.2-335.2 of the Code of Virginia, relating to driver's license renewals; driver's licenses and learner's permits issued to persons less than eighteen years old; penalties.

Patrons—Mims, Barry, Howell, Potts, Saslaw and Ticer; Delegates: Albo, Almand, Brink, Darner, Devolites, Howell, Landes, McClure, Nixon, Parrish, Plum, Scott and Van Landingham

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-330, 46.2-334.01, 46.2-335, and 46.2-335.2 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-330. Expiration and renewal of licenses; examinations required.

A. Every driver's license shall expire on the last day of the month of birth of the applicant in years in which the applicant attains an age equally divisible by five. At no time shall any driver's license be issued for less than three nor more than seven years. Thereafter the driver's license shall be renewed in the birthday month of the licensee and shall be valid for five years, expiring in the next year in which the licensee's age is equally divisible by five.

B. Within one year prior to the date shown on the driver's license as the date of expiration, the Department shall mail notice, to the holder thereof, at the address shown on the records of the Department in its driver's license file, that his license will expire on a date specified therein, whether he must be reexamined, and when he may be reexamined. Nonreceipt of the notice shall not extend the period of validity of the driver's license beyond its expiration date.

Any driver's license may be renewed by application, which shall include the applicant's certification of Virginia residency, after the applicant has taken and successfully completed those parts of the examination provided for in §§ 46.2-311, 46.2-325 and the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.), including ~~visual~~ vision and written tests, other than the parts of the examination requiring the applicant to drive a motor vehicle. All drivers applying in person for renewal of a license shall take and successfully complete the examination each renewal year.

C. Notwithstanding any other provision of this section, the Commissioner, in his discretion, may require any applicant for renewal to be fully examined as provided in §§ 46.2-311, 46.2-325 and the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.). Furthermore, the Commissioner may waive the ~~visual~~ vision examination for any applicant for renewal of a driver's license which is not a commercial driver's license, and the requirement or the taking of the written test as provided in subsection B of this section, § 46.2-325 and the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.), for any applicant for renewal *who is at least twenty-one years old* if the applicant's driver's license record on file at the Department contains, for the five years prior to the expiration date of the license being renewed, a record of no more than one conviction for any offense reportable under §§ 46.2-382, 46.2-382.1, and 46.2-383. *Such written test shall not be waived for an applicant less than twenty-one years old if he has one or more such convictions.* However, in no case shall there be any waiver of the ~~visual~~ vision examination for applicants for renewal of a commercial driver's license or of the knowledge test required by the Virginia Commercial Driver's License Act for the hazardous materials endorsement on a commercial driver's license.

D. Every applicant for renewal of a driver's license, whether renewal shall or shall not be dependent on any examination of the applicant, shall appear in person before the Department to apply for renewal, unless specifically notified by the Department that renewal may be accomplished in another manner as provided in the notice.

E. This section shall not modify the provisions of § 46.2-331.

§ 46.2-334.01. Licenses issued to persons less than eighteen years old subject to certain restrictions.

Any learner's permit or driver's license issued on or after July 1, 1998, to any person less than eighteen years old shall be subject to the following:

1. Notwithstanding the provisions of § 46.2-498, whenever the driving record of a person less than eighteen years old shows that he has been convicted of (i) an offense for which demerit points have been assessed or are assessable under Article 19 (§ 46.2-489 et seq.) of this chapter or (ii) a violation of any provision of Article 12 (§ 46.2-1091 et seq.) or Article 13 (§ 46.2-1095 et seq.) of Chapter 10 of this title:

a. The Commissioner shall direct such person to attend a driver improvement clinic. No safe driving

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58 points shall be awarded for such clinic attendance, nor shall any safe driving points be awarded for
59 voluntary or court-assigned clinic attendance. *Such person's parent or guardian may attend such clinic
60 and receive a reduction in demerit points and/or an award of safe driving points pursuant to § 46.2-498.*

61 b. No motor vehicle, while being operated by any person holding a learner's permit or driver's license
62 subject to the restrictions contained in this section, shall (i) *be operated between midnight and five
63 o'clock a.m., except when driving to or from either school or his place of employment or during the
64 course of his employment, and (ii) transport more than three two passengers, in addition to the driver,
65 who are less than eighteen years old. This passenger limitation, however, shall not apply to (i) members
66 of the driver's family or household or (ii) a driver less than eighteen years old who is driving to or from
67 either school or his place of employment, nor shall this provision be construed to supersede the
68 provisions of this section limiting transportation of persons less than eighteen years old by holders of
69 provisional driver's licenses.* No citation for a violation of this subdivision shall be issued unless the
70 officer issuing such citation has cause to stop or arrest the driver of such motor vehicle for the violation
71 of some other provision of this Code or local ordinance relating to the operation, ownership, or
72 maintenance of a motor vehicle or any criminal statute. For the purpose of this subdivision section,
73 "members of the driver's family or household" means (i) the driver's spouse, ~~whether or not he or she~~
74 ~~resides in the same home with the driver;~~ (ii) the driver's or former spouse, ~~whether or not he or she~~
75 ~~resides in the same home with the driver;~~ (iii) the driver's or children, stepchildren, brothers, sisters, half
76 brothers, and half sisters, ~~and any individual who has a child in common with the driver,~~ whether or not
77 they reside in the same home with the driver; ~~(iv) (ii) the driver's brothers-in-law and sisters-in-law who~~
78 ~~reside in the same home with the driver; (v) any individual who has a child in common with the driver,~~
79 ~~whether or not the driver and that individual have been married or have resided together at any time; or~~
80 ~~(vi) (iii) any individual who cohabits or who, within the previous twelve months, cohabited with the~~
81 ~~driver, and any children of either of them residing in the same home with the driver.~~

82 2. If any person less than eighteen years old is convicted a second time of (i) an offense for which
83 demerit points have been assessed or are assessable under Article 19 (§ 46.2-489 et seq.) of this chapter
84 or (ii) a violation of any provision of Article 12 (§ 46.2-1091 et seq.) or Article 13 (§ 46.2-1095 et seq.)
85 of Chapter 10 of this title, the Commissioner shall suspend such person's driver's license or privilege to
86 operate a motor vehicle for ninety days. Such suspension shall be consecutive to, and not concurrent
87 with, any other period of license suspension, revocation or denial.

88 3. If any such person is convicted a third time of (i) an offense for which demerit points have been
89 assessed or are assessable under Article 19 (§ 46.2-489 et seq.) of this chapter or (ii) a violation of any
90 provision of Article 12 (§ 46.2-1091 et seq.) or Article 13 (§ 46.2-1095 et seq.) of Chapter 10 of this
91 title, the Commissioner shall revoke such person's driver's license or privilege to operate a motor vehicle
92 for one year or until such person reaches the age of eighteen years, whichever is longer. Such revocation
93 shall be consecutive to, and not concurrent with, any other period of license suspension, revocation or
94 denial.

95 4. In no event shall a driver who is under the age of eighteen and subject to the provisions of this
96 section, be subject to the suspension or revocation provisions of subdivision 2 or 3 of this section for
97 multiple convictions arising out of the same transaction or occurrence.

98 *The initial license issued to any such person shall be deemed a provisional driver's license. A
99 provisional driver's license shall not authorize its holder to operate a motor vehicle (i) with more than
100 one passenger who is less than eighteen years old for the first six months after issuance, and (ii) with
101 more than two passengers who are less than eighteen years old for the second six months after
102 issuance. This passenger limitation, however, shall not apply to members of the driver's family or
103 household or after the driver becomes eighteen years old.*

104 § 46.2-335. Learner's permits; fees.

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

117 The Department shall not, however, issue a learner's permit or motorcycle learner's permit to any
118 minor applicant required to provide evidence of compliance with the compulsory school attendance law
119 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.

Such permit, except a motorcycle learner's permit, shall be valid until the holder thereof either is issued a driver's license as provided for in this chapter or no longer meets the qualifications for issuance of a learner's permit as provided in this section. Motorcycle learner's permits shall be valid for twelve months. When a motorcycle learner's permit expires, the permittee may, upon submission of an application, payment of the application fee, and successful completion of the examinations, be issued another motorcycle learner's permit valid for twelve months.

B. No driver's license shall be issued to any such person who is less than eighteen years old unless, while holding a learner's permit, he has driven a motor vehicle for at least forty hours, at least ten of which were between sunset and ten o'clock p.m., as certified by his parent or legal guardian unless the person is married or otherwise emancipated.

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

D. 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.

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

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

G. The following limitations shall apply to operation of motorcycles by *all* persons holding motorcycle learner's permits:

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

2. Operation on limited access highways is prohibited.

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

4. Operation shall be under the immediate supervision of a person licensed to operate a motorcycle who is 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.

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

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

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

§ 46.2-335.2. Learner's permits; required before driver's license; minimum holding period.

A. Effective July 1, 1996, no person under the age of eighteen years shall be eligible to receive a driver's license pursuant to § 46.2-334 unless the Department has previously issued such person a learner's permit pursuant to § 46.2-335 and such person has satisfied the minimum holding period requirements set forth in subsection B, or unless such person is the holder of a valid driver's license

181 from another state and qualifies for a temporary license under subdivision 3 of § 46.2-334. However,
182 persons under the age of eighteen years to whom the Department has issued a learner's permit prior to
183 July 1, 1996, shall not be subject to the minimum holding period requirements set forth in subsection B
184 before obtaining a driver's license pursuant to § 46.2-334.
185 B. Effective July 1, ~~1996~~ 2001, any person under the age of eighteen years issued a learner's permit
186 pursuant to § 46.2-335 shall hold such permit for a minimum period of six months or until he reaches
187 the age of eighteen years, whichever occurs first.