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SENATE BILL NO. 1329

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Transportation
on January 25, 2001)

(Patron Prior to Substitute—Senators Mims [SB 1330 and 1357], Howell [SB 937], and Quayle [SB 1066])
A BILL to amend and reenact §§ 46.2-330, 46.2-334, 46.2-334.01, 46.2-335, and 46.2-335.2 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 46.2-334.02, relating to driver's license renewals; driver's licenses and learner's permits issued to persons less than twenty years old; penalties.

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-330, 46.2-334, 46.2-334.01, 46.2-335, and 46.2-335.2 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 46.2-334.02 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. 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 programs; fee.

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

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

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

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

4. The application for a permanent driver's license by a minor of the age of persons required to attend school pursuant to § 22.1-254 shall be accompanied by 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. This evidence shall be provided in writing by the minor's parent. If the minor is unable to provide such evidence, he shall not be granted a driver's license until he reaches the age of eighteen or presents proper evidence of the solemnization of his marriage or an order of emancipation, or the parent, as defined in § 22.1-1, or other person standing in loco parentis has provided written authorization for the minor to obtain a driver's license.

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

5. The minor applicant shall certify in writing, on a form prescribed by the Commissioner, that he is a resident of the Commonwealth. The applicant's parent or guardian shall also certify that the applicant is a resident by signing the certification. 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 parent's certification of residence.

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

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

D. A learner's permit accompanied by documentation verifying the minor's successful completion of an approved driver 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 purposes of driving unaccompanied by a licensed driver as required in § 46.2-335, if all other requirements of this chapter 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 and six months old but less than eighteen years of age old, 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.

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

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

b. No motor vehicle, while being operated by any person holding a learner's permit or driver's license subject to the restrictions contained in this section, *except when driving to or from either school or his place of employment or during the course of his employment*, shall (i) *be operated between midnight and four o'clock a.m. or* (ii) transport more than ~~three~~ two passengers, in addition to the driver, who are less than eighteen years old. This *passenger* limitation, however, shall not apply to (i) members of the driver's family or household ~~or~~ (ii) ~~a driver less than eighteen years old who is driving to or from either school or his place of employment~~. No citation for a violation of this subdivision shall be issued unless the officer issuing such citation has cause to stop or arrest the driver of such motor vehicle for the violation of some other provision of this Code or local ordinance relating to the operation, ownership, or maintenance of a motor vehicle or any criminal statute. For the purpose of this subdivision section, "members of the driver's family or household" means (i) the driver's spouse, ~~whether or not he or she resides in the same home with the driver;~~ (ii) the driver's former spouse, ~~whether or not he or she resides in the same home with the driver;~~ (iii) the driver's children, stepchildren, brothers, sisters, half brothers, ~~and~~ half sisters, *and any individual who has a child in common with the driver*, whether or not they reside in the same home with the driver; (iv) ~~(ii)~~ the driver's brothers-in-law and sisters-in-law who reside in the same home with the driver; ~~(v) any individual who has a child in common with the driver, whether or not the driver and that individual have been married or have resided together at any time; or~~ (vi) ~~(iii)~~ any individual who cohabits ~~or who, within the previous twelve months, cohabited with the driver, and any children of either of them~~ *such individual* residing in the same home with the driver.

2. If any person less than eighteen years old is convicted a second time 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, the Commissioner shall suspend such person's driver's license or privilege to operate a motor vehicle for ninety days. Such suspension shall be consecutive to, and not concurrent with, any other period of license suspension, revocation, or denial.

3. If any such person is convicted a third time 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, the Commissioner shall revoke such person's driver's license or privilege to operate a motor vehicle for one year or until such person reaches the age of eighteen years, whichever is longer. Such revocation shall be consecutive to, and not concurrent with, any other period of license suspension, revocation or

183 denial.

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

187 *B. The initial license issued to any such person shall be deemed a provisional driver's license. A*
188 *provisional driver's license shall not authorize its holder to operate a motor vehicle with more than two*
189 *passengers who are less than eighteen years old for the first year after issuance. This passenger*
190 *limitation, however, shall not apply to members of the driver's family or household or after the driver*
191 *becomes eighteen years old.*

192 *C. No citation for a violation of this section shall be issued unless the officer issuing such citation*
193 *has cause to stop or arrest the driver of such motor vehicle for the violation of some other provision of*
194 *this Code or local ordinance relating to the operation, ownership, or maintenance of a motor vehicle or*
195 *any criminal statute.*

196 § 46.2-334.02. Licenses issued to persons less than twenty years old subject to certain restrictions.

197 *Notwithstanding the provisions of § 46.2-498, whenever the driving record of a person who is at*
198 *least eighteen years old but less than twenty years old shows that he has been convicted of (i) an*
199 *offense for which demerit points have been assessed or are assessable under Article 19 (§ 46.2-489 et*
200 *seq.) of this chapter or (ii) a violation of any provision of Article 12 (§ 46.2-1091 et seq.) or Article 13*
201 *(§ 46.2-1095 et seq.) of Chapter 10 of this title, the Commissioner shall direct such person to attend a*
202 *driver improvement clinic. No safe driving points shall be awarded for such clinic attendance, nor shall*
203 *any safe driving points be awarded for voluntary or court-assigned clinic attendance.*

204 § 46.2-335. Learner's permits; fees.

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

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

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

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

239 *C. No learner's permit shall authorize its holder to operate any motor vehicle between midnight and*
240 *four o'clock a.m.*

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

245 C *E.* For persons qualifying for a driver's license through driver education courses approved by the
 246 Department of Education or courses offered by commercial driver training schools licensed by the
 247 Department, the application for the learner's permit shall be used as the application for the driver's
 248 license.

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

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

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

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

269 2. Operation on limited access highways is prohibited.

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

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

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

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

278 H *J.* Any violation of this section shall be punishable as a Class 2 misdemeanor.

279 § 46.2-335.2. Learner's permits; required before driver's license; minimum holding period.

280 A. Effective July 1, 1996, no person under the age of eighteen years shall be eligible to receive a
 281 driver's license pursuant to § 46.2-334 unless the Department has previously issued such person a
 282 learner's permit pursuant to § 46.2-335 and such person has satisfied the minimum holding period
 283 requirements set forth in subsection B, or unless such person is the holder of a valid driver's license
 284 from another state and qualifies for a temporary license under subdivision 3 of § 46.2-334. However,
 285 persons under the age of eighteen years to whom the Department has issued a learner's permit prior to
 286 July 1, 1996, shall not be subject to the minimum holding period requirements set forth in subsection B
 287 before obtaining a driver's license pursuant to § 46.2-334.

288 B. Effective July 1, ~~1996~~ 2001, any person under the age of eighteen years issued a learner's permit
 289 pursuant to § 46.2-335 shall hold such permit for a minimum period of ~~six~~ *nine* months or until he
 290 reaches the age of eighteen years, whichever occurs first.

291 **2. That the provisions of this act increasing the minimum age for applicants for Virginia driver's**
 292 **licenses to sixteen years and six months shall not apply to applicants to whom Virginia learner's**
 293 **permits were issued prior to July 1, 2001.**

294 **3. That the Department of Motor Vehicles shall make five annual reports to the Chairmen of the**
 295 **Senate and House Transportation Committees, summarizing accident rates and associated injuries**
 296 **and fatalities involving persons between the ages of fifteen and nineteen during the preceding year.**
 297 **The first such report shall be made prior to the 2003 Session of the General Assembly.**