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SENATE BILL NO. 1330

Offered January 12, 2001

A BILL to amend and reenact §§ 46.2-334 and 46.2-335 of the Code of Virginia, relating to driver's licenses; learner's permits.

 Patron—Mims

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:**1. That §§ 46.2-334 and 46.2-335 of the Code of Virginia are amended and reenacted as follows:**

§ 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

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59 accompanied by proper evidence of the solemnization of the minor's marriage or a certified copy of a
60 court order, issued under the provisions of Article 15 (§ 16.1-331 et seq.) of Chapter 11 of Title 16.1,
61 declaring the applicant to be an emancipated minor.

62 D. A learner's permit accompanied by documentation verifying the minor's successful completion of
63 an approved driver education course, signed by the minor's parent, guardian, legal custodian or other
64 person standing in loco parentis, shall constitute a temporary driver's license for purposes of driving
65 unaccompanied by a licensed driver as required in § 46.2-335, if all other requirements of this chapter
66 have been met. The temporary license shall only be valid until the permanent license is presented as
67 provided in § 46.2-336.

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

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

84 G. Driver's licenses shall be issued by the Department to minors successfully completing driver
85 education courses approved by the Department of Education (i) when the Department receives from the
86 school proper certification that the student (a) has successfully completed such course, including a road
87 skills examination and (b) is regularly attending school and is in good academic standing or, if not in
88 such standing or submitting evidence thereof, whose parent or guardian, having custody of such minor,
89 provides written authorization for the minor to obtain a driver's license, which written authorization shall
90 be obtained on forms provided by the Department and indicating the Commonwealth's interest in the
91 good academic standing and regular school attendance of such minors; and (ii) upon payment of a fee of
92 \$2.40 per year, based on the period of the license's validity. For applicants attending public schools,
93 good academic standing may be certified by the public school principal or any of his designees. For
94 applicants attending nonpublic schools, such certification shall be made by the private school principal
95 or any of his designees; for minors receiving home schooling, such certification shall be made by the
96 home schooling parent or tutor. Any minor providing proper evidence of the solemnization of his
97 marriage or a certified copy of a court order of emancipation shall not be required to provide the
98 certification of good academic standing or any written authorization from his parent or guardian to
99 obtain a driver's license.

100 § 46.2-335. Learner's permits; fees.

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

113 The Department shall not, however, issue a learner's permit or motorcycle learner's permit to any
114 minor applicant required to provide evidence of compliance with the compulsory school attendance law
115 set forth in Article 1 (§ 22.1-254 et seq.) of Chapter 14 of Title 22.1, unless such applicant is in good
116 academic standing or, if not in such standing or submitting evidence thereof, whose parent or guardian,
117 having custody of such minor, provides written authorization for the minor to obtain a learner's permit
118 or motorcycle learner's permit, which written authorization shall be obtained on forms provided by the
119 Department and indicating the Commonwealth's interest in the good academic standing and regular
120 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. 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.

C. 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.

D. 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 six months old~~ 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.

E. 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.).

F. The following limitations shall apply to operation of motorcycles by 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.

G. 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.

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