VIRGINIA ACTS OF ASSEMBLY -- 2002 SESSION

CHAPTER 535

An Act to amend and reenact §§ 46.2-323 and 46.2-335.2 of the Code of Virginia, relating to driver's licenses and learner's permits for persons who are nineteen years old or younger; penalty.

[H 655]

Approved April 5, 2002

Be it enacted by the General Assembly of Virginia:
1. That §§ 46.2-323 and 46.2-335.2 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-323. Application for driver's license; proof of completion of driver education program; penalty.

A. Every application for a driver's license, temporary driver's permit, learner's permit, or motorcycle learner's permit shall be made on a form prescribed by the Department and the applicant shall write his usual signature in ink in the space provided on the form. The form shall include notice to the applicant of the duty to register with the Department of State Police as provided in § 19.2-298.1, if the applicant has been convicted of a felony in violation of §§ 18.2-61, 18.2-63, 18.2-64.1, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.5, 18.2-370 or § 18.2-370.1 or, where the victim is a minor or is physically helpless or mentally incapacitated as defined in § 18.2-67.10, subsection B of § 18.2-361 or subsection B of § 18.2-366, including juveniles tried and convicted in the circuit courts pursuant to § 16.1-269.1 whether sentenced as adults or juveniles, or a felony under a substantially similar law of the United States or any other state.

B. Every application shall state the name, year, month and date of birth, social security number, sex, and residence address of the applicant; whether or not the applicant has previously been licensed as a driver and, if so, when and by what state, and whether or not his license has ever been suspended or revoked and, if so, the date of and reason for such suspension or revocation. The Department, as a condition for the issuance of any driver's license, temporary driver's permit, learner's permit, or motorcycle learner's permit may require the surrender of any driver's license or, in the case of a motorcycle learner's permit, a motorcycle license issued by another state and held by the applicant. The applicant shall also answer any questions on the application form or otherwise propounded by the Department incidental to the examination. The applicant may also be required to present to the person conducting the examination a birth certificate or other evidence, reasonably acceptable to the Department, of his name and date of birth.

The applicant shall also certify that he is a resident of the Commonwealth by signing a certification statement, on a form prescribed by the Commissioner, and by providing satisfactory proof that he is a resident of the Commonwealth. The Commissioner may adopt regulations to determine the process by which applicants prove that they are residents of the Commonwealth.

If the applicant either (i) fails or refuses to sign the certification statement or (ii) fails to follow the process determined by the Commissioner for proving residency, the Department shall not issue the applicant a driver's license, temporary driver's permit, learner's permit or motorcycle learner's permit.

Any applicant who knowingly makes a false certification of Virginia residency or supplies false or fictitious evidence of Virginia residency shall be punished as provided in § 46.2-348.

The Commissioner may, on a case-by-case basis, waive any provision of such regulations for good cause shown.

C. Every application for a driver's license shall include a color photograph of the applicant supplied under arrangements made by the Department. The photograph shall be processed by the Department so that the photograph can be made part of the issued license.

D. Notwithstanding the provisions of § 46.2-334, every ~~unlicensed~~ applicant for a driver's license who is under nineteen years of age shall furnish the Department with satisfactory proof of his successful completion of a driver education program approved by the State Department of Education.

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

A. ~~Effective July 1, 1996, no~~ *No* person under the age of ~~eighteen~~ *nineteen* 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 from another state and qualifies for a temporary license under ~~subdivision 3~~ *subsection E* of § 46.2-334 *or subsection C of this section.* ~~However, persons under the age of eighteen years to whom the Department has issued a learner's permit prior to July 1, 1996, shall not be subject to the minimum holding period requirements set forth in subsection B before obtaining a driver's license pursuant to § 46.2-334.~~

B. Effective July 1, ~~2001~~ *2002*, any person under the age of ~~eighteen~~ *nineteen* years issued a learner's permit pursuant to § 46.2-335 shall hold such permit for a minimum period of nine months or

until he reaches the age of ~~eighteen~~ *nineteen* years, whichever occurs first.

C. Notwithstanding the provisions of subsection D of § 46.2-323, requiring the successful completion of a driver education course approved by the State Department of Education, the Commissioner, on application therefor by a person who is at least eighteen years old but less than nineteen years old, shall issue to the applicant a temporary driver's license valid for six months if he (i) certifies by signing 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 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 a second or subsequent temporary license under this subsection be issued to the same applicant.