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HOUSE BILL NO. 14

Offered January 9, 2002

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A BILL to amend and reenact §§ 46.2-105.2, 46.2-308, 46.2-323, 46.2-330, 46.2-341.9, 46.2-341.12, 46.2-343, and 46.2-345 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 46.2-323.2 and 46.2-341.12:1, relating to driver's licenses, commercial driver's licenses, and special identification cards; penalties.

Patrons—Rollison, Black, Councill, Drake, Dudley, Hamilton, Ingram, Plum, Robinson, Rust, Sherwood, Stump, Welch and Wright

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-105.2, 46.2-308, 46.2-323, 46.2-330, 46.2-341.9, 46.2-341.12, 46.2-343, and 46.2-345 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding sections numbered 46.2-323.2 and 46.2-341.12:1 as follows:

§ 46.2-105.2. Obtaining documents from the Department when not entitled thereto; penalty.

A. It shall be unlawful for any person to obtain a Virginia driver's license, special identification card, vehicle registration, certificate of title, or other document issued by the Department if such person has not satisfied all legal and procedural requirements for the issuance thereof, or is otherwise not legally entitled thereto.

B. It shall be unlawful to aid any person to obtain any driver's license, special identification card, vehicle registration, certificate of title, or other document in violation of the provisions of subsection A.

C. It shall be unlawful to knowingly possess or use for any purpose any driver's license, special identification card, vehicle registration, certificate of title, or other document obtained in violation of the provisions of subsection A.

D. A violation of any provision of this section shall constitute a ~~Class 2 misdemeanor; however, if a person is charged and convicted of a violation of subsection B which involved aid to five or more persons, such offense shall constitute a Class 4 felony.~~

E. Whenever it appears to the satisfaction of the Commissioner that any driver's license, special identification card, vehicle registration, certificate of title, or other document issued by the Department has been obtained in violation of this section, it may be cancelled by the Commissioner, who shall mail notice of the cancellation to the address of record maintained by the Department.

§ 46.2-308. Temporary exemption for new resident licensed under laws of another state; privately owned vehicle driver's licenses.

A resident over the age of sixteen years who has been duly licensed as a driver under a law of another state or country requiring the licensing of drivers shall, for the first ~~thirty~~ sixty days of his residency in the Commonwealth, be permitted, without a Virginia license, to drive a motor vehicle on the highways of the Commonwealth.

Persons to whom military privately-owned vehicle driver's licenses have been issued by the Department of Defense shall, for the first ~~thirty~~ sixty days of their residency in the Commonwealth, be permitted, without a Virginia license, to drive motor vehicles on the highways of the Commonwealth.

§ 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

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58 motorcycle learner's permit may require the surrender of any driver's license or, in the case of a
59 motorcycle learner's permit, a motorcycle license issued by another state and held by the applicant. The
60 applicant shall also answer any questions on the application form or otherwise propounded by the
61 Department incidental to the examination. The applicant may also be required to present to the person
62 conducting the examination a birth certificate or other evidence, reasonably acceptable to the
63 Department, of his name and date of birth.

64 The applicant shall also certify that he is a resident of the Commonwealth by signing a certification
65 statement, on a form prescribed by the Commissioner, and by providing satisfactory proof that he is a
66 resident of the Commonwealth. The Commissioner may adopt regulations to determine the process by
67 which applicants prove that they are residents of the Commonwealth. *The applicant shall also (i) certify,*
68 *on a form prescribed by the Commissioner, that his presence in the United States is in conformity with*
69 *federal law and (ii) provide proof satisfactory to the Commissioner that his presence in the United*
70 *States is in conformity with federal law.*

71 If the applicant either (i) fails or refuses to sign the certification statement or (ii) fails to follow the
72 process determined by the Commissioner for proving *Virginia residency and lawful presence in the*
73 *United States*, the Department shall not issue the applicant a driver's license, temporary driver's permit,
74 learner's permit or motorcycle learner's permit.

75 Any applicant who knowingly makes a false certification of *Virginia residency or lawful presence in*
76 *the United States* or supplies false or fictitious evidence of *Virginia residency or lawful presence in the*
77 *United States* shall be punished as provided in § 46.2-348.

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

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

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

86 § 46.2-323.2. *Certification of legal presence precondition to issuance of driver's license, commercial*
87 *driver's license, or learner's permit; penalty.*

88 *No driver's license, commercial driver's license, or learner's permit shall be issued to any person*
89 *whose presence in the United States is not in conformity with federal law. Every person applying for a*
90 *driver's license, commercial driver's license, or learner's permit shall execute and furnish to the*
91 *Commissioner his certificate this his presence in the United States is in conformity with federal law. The*
92 *Commissioner or his duly authorized agent may require any such applicant to supply, along with his*
93 *application, such evidence of his presence in the United States in conformity with federal law as the*
94 *Commissioner may deem appropriate and adequate. It shall be unlawful for any applicant knowingly to*
95 *make a false certification that his presence in the United States is in conformity with federal law or to*
96 *supply false or fictitious evidence thereof. Any violation of this section shall be punished as provided in*
97 *§ 46.2-348.*

98 § 46.2-330. Expiration and renewal of licenses; examinations required.

99 A. Every driver's license shall expire on the last day of the month of birth of the applicant in years
100 in which the applicant attains an age equally divisible by five. At no time shall any driver's license be
101 issued for less than three nor more than seven years. Thereafter the driver's license shall be renewed in
102 the birthday month of the licensee and shall be valid for five years, expiring in the next year in which
103 the licensee's age is equally divisible by five. *Notwithstanding any other provision of this section, no*
104 *driver's license issued to any applicant shall be valid for a length of time that exceeds the length of time*
105 *during which the applicant is permitted by federal law to be present in the United States.*

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

111 Any driver's license may be renewed by application, which shall include the applicant's certification
112 of *Virginia residency and certification and proof that his presence in the United States is in conformity*
113 *with federal law*, after the applicant has taken and successfully completed those parts of the examination
114 provided for in §§ 46.2-311, 46.2-325 and the Virginia Commercial Driver's License Act (§ 46.2-341.1
115 et seq.), including vision and written tests, other than the parts of the examination requiring the
116 applicant to drive a motor vehicle. All drivers applying in person for renewal of a license shall take and
117 successfully complete the examination each renewal year.

118 C. Notwithstanding any other provision of this section, the Commissioner, in his discretion, may
119 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 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 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.

§ 46.2-341.9. Eligibility for commercial driver's license.

A Virginia commercial driver's license shall be issued only to a person who drives or intends to drive a commercial motor vehicle and who is domiciled in the Commonwealth, provided that any person who is domiciled in a jurisdiction outside the United States, but has resided in the Commonwealth for a period of six weeks, shall be eligible for a commercial driver's license under such terms and conditions as the Department may require.

No commercial driver's license shall be issued to any person whose presence in the United States is not in conformity with federal law.

No person shall be eligible for a Virginia commercial driver's license until he has applied for such license and has passed the applicable vision, knowledge and skills tests required by this article, and has satisfied all other applicable licensing requirements imposed by the laws of the Commonwealth.

No person shall be eligible for a Virginia commercial driver's license during any period in which he is disqualified from driving a commercial motor vehicle, or his driver's license or privilege to drive is suspended, revoked or cancelled in any state, or during any period wherein the restoration of his license or privilege is contingent upon the furnishing of proof of financial responsibility.

No person shall be eligible for a Virginia commercial driver's license until he surrenders all other driver's licenses issued to him by any state.

No person under the age of twenty-one years shall be eligible for a commercial driver's license, except that a person who is at least eighteen years of age may be issued a commercial driver's license, provided that such person is exempt from or is not subject to the age requirements of the federal Motor Carrier Safety Regulations contained in 49 C.F.R. Part 391, and is not prohibited from operating a commercial motor vehicle by the Virginia Motor Carrier Safety Regulations, and has so certified. No person under the age of twenty-one years shall be issued a hazardous materials endorsement.

§ 46.2-341.12. Application for commercial driver's license.

A. Every application to the Department for a commercial driver's license shall be made upon a form approved and furnished by the Department, and the applicant shall write his usual signature in ink in the space provided. The applicant shall provide the following information:

1. Full legal name;
2. Current mailing and residential addresses;
3. Physical description including sex, height, weight and eye and hair color;
4. Year, month and date of birth;
5. Social Security number; and
6. Any other information required on the application form.

B. Every applicant for a commercial driver's license shall also submit to the Department the following:

1. A consent to release driving record information;
2. Certifications that:
 - a. He either meets the federal qualification requirements of 49 C.F.R. Part 391, or he is exempt from or is not subject to such federal requirements;
 - b. He either meets the state qualification requirements established pursuant to § 52-8.4, or he is exempt from or is not subject to such requirements;
 - c. The motor vehicle in which the applicant takes the skills test is representative of the class and, if applicable, the type of motor vehicle for which the applicant seeks to be licensed;
 - d. He is not subject to any disqualification, suspension, revocation or cancellation of his driving

181 privileges;

182 e. He does not have more than one driver's license;

183 f. *His presence in the United States is in conformity with federal law;*

184 3. Other certifications required by the Department;

185 4. Any evidence required by the Department to establish proof of identity *and legality of presence in*
186 *the United States*, including but not limited to a birth certificate; and

187 5. A statement indicating whether the applicant has ever been licensed as a driver and, if so, when
188 and by what state and whether or not he has ever been disqualified, or his license suspended, revoked or
189 cancelled and, if so, the date of and reason therefor.

190 C. Every application for a commercial driver's license shall include a color photograph of the
191 applicant supplied under arrangements made therefor by the Department in accordance with § 46.2-323.

192 D. The Department shall disqualify any commercial driver for a period of one year when the records
193 of the Department clearly show to the satisfaction of the Commissioner that such person has made a
194 material false statement on any application or certification made for a commercial driver's license. The
195 Department shall take such action within thirty days after discovering such falsification.

196 E. The Department shall review the driving record of any person who applies for a Virginia
197 commercial driver's license, for the renewal or reinstatement of such license or for an additional
198 commercial classification or endorsement. The Department's review shall include research through the
199 Commercial Driver License Information System established pursuant to the Commercial Motor Vehicle
200 Safety Act, the National Driver Register, and the driver record maintained by the applicant's state of
201 licensure.

202 § 46.1-341.12:1. *Expiration of certain commercial driver's licenses. Notwithstanding any other*
203 *provision of this chapter, no commercial driver's license issued to any applicant shall be valid for a*
204 *length of time that exceeds the length of time during which the applicant is permitted by federal law to*
205 *be present in the United States.*

206 § 46.2-343. Adults whose driver's license is lost, stolen, or destroyed to apply for renewal of the
207 license; obtaining of duplicate driver's license or learner's permit by minors; reissuance of driver's
208 licenses upon termination of certain restrictions; fees.

209 A. *If a driver's license issued under the provisions of this chapter to a person who is at least*
210 *eighteen years old is lost, stolen, or destroyed, the person to whom it was issued shall apply for a*
211 *renewal of the license pursuant to § 46.2-330.*

212 B. If a driver's license or learner's permit issued under the provisions of this chapter *to a minor is*
213 *lost, stolen, or destroyed, the person minor to whom it was issued may obtain a duplicate or substitute*
214 *thereof on furnishing proof satisfactory to the Department that his license or permit has been lost, stolen,*
215 *or destroyed, or that there are good reasons why a duplicate should be issued. There shall be a fee of*
216 *five dollars for each duplicate license issued under this subsection and two dollars for each duplicate*
217 *learner's permit issued under this subsection. An additional fee of five dollars shall be charged to add or*
218 *change the scene on a duplicate license or duplicate learner's permit issued under this subsection.*

219 C. There shall be a fee of five dollars for reissuance of any driver's license upon the termination of
220 driving restrictions imposed upon the licensee by the Department or a court. An additional fee of five
221 dollars shall be charged to add or change the scene on *a any such reissued license upon reissuance.*

222 § 46.2-345. Issuance of special identification cards; fee; confidentiality; penalties.

223 A. On the application of any person who is (i) a resident of the Commonwealth *and whose presence*
224 *in the United States is in conformity with federal law* or (ii) the parent or legal guardian of any such
225 person who is under the age of fifteen, the Department ~~shall~~ *may* issue a special identification card to
226 the person provided:

227 1. Application is made on a form prescribed by the Department;

228 2. The applicant presents a birth certificate or other evidence acceptable to the Department of his
229 name ~~and~~, date of birth, *residency in Virginia, and presence in the United States is in conformity with*
230 *federal law; and*

231 3. The Department is satisfied that the applicant needs an identification card or the applicant shows
232 he has a bona fide need for such a card; *and*

233 4. *The applicant does not hold a driver's license, commercial driver's license, or learner's permit.*

234 B. The fee for the issuance of a special identification card is five dollars. Persons twenty-one years
235 old or older may be issued a scenic special identification card for an additional fee of five dollars.

236 C. A special identification card shall expire five years from its date of issuance except that those
237 cards issued to children under the age of fifteen shall expire on the child's fifteenth birthday or five
238 years from the date of issuance, whichever occurs first. *Notwithstanding any other provision of this*
239 *section, no special identification card issued to any applicant shall be valid for a length of time that*
240 *exceeds the length of time during which the applicant is permitted by federal law to be present in the*
241 *United States.*

242 D. A special identification card issued under this section may be similar in size, shape, and design to

a driver's license, and include a color photograph of its holder, but the card shall be readily distinguishable from a driver's license and shall clearly state that it does not authorize the person to whom it is issued to drive a motor vehicle.

E. Special identification cards, for persons at least fifteen years old but less than twenty-one years old, shall be immediately and readily distinguishable from those issued to persons twenty-one years old or older. Distinguishing characteristics shall include unique design elements of the document and descriptors within the photograph area to identify persons who are at least fifteen years old but less than twenty-one years old. These descriptors shall include the month, day, and year when the person will become twenty-one years old.

F. Special identification cards for persons under age fifteen shall bear a full face photograph. The special identification card issued to persons under age fifteen shall be readily distinguishable from a driver's license and from other special identification cards issued by the Department. Such cards shall clearly indicate that it does not authorize the person to whom it is issued to drive a motor vehicle.

G. Any personal information, as identified in § 2.2-3801, which is retained by the Department from an application for the issuance of a special identification card is confidential and shall not be divulged to any person, association, corporation, or organization, public or private, except to the legal guardian or the attorney of the applicant or to a person, association, corporation, or organization nominated in writing by the applicant, his legal guardian, or his attorney. This subsection shall not prevent the Department from furnishing the application or any information thereon to any law-enforcement agency.

H. Any person who uses a false or fictitious name or gives a false or fictitious address in any application for an identification card or knowingly makes a false statement or conceals a material fact or otherwise commits a fraud in any such application shall be guilty of a Class 2 misdemeanor. However, where the name or address is given, or false statement is made, or fact is concealed, or fraud committed, with the intent to purchase a firearm or where the identification card is obtained for the purpose of committing any offense punishable as a felony, a violation of this section shall constitute a Class 4 felony.

I. The Department may promulgate regulations necessary for the effective implementation of the provisions of this section.

J. The Department shall utilize the various communications media throughout the Commonwealth to inform Virginia residents of the provisions of this section and to promote and encourage the public to take advantage of its provisions.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to §30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.