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**HOUSE BILL NO. 415**

Offered January 9, 2002

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A *BILL to amend and reenact §§ 46.2-323, 46.2-330, and 46.2-334 of the Code of Virginia, to amend the Code of Virginia by adding a section numbered 46.2-203.2, and to repeal § 46.2-323.1 of the Code of Virginia, relating to driver's licenses, commercial driver's licenses, temporary driver's permits, learner's permits, motorcycle learner's permits, and special identification cards; penalties.*

Patrons—Hamilton and Rapp

Referred to Committee on Transportation

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 46.2-323, 46.2-330, and 46.2-334 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 46.2-203.2 as follows:**

*§ 46.2-203.2. Proofs of identity and Virginia residency required.*

A. *On and after July 1, 2002, every applicant for a driver's license, commercial driver's license, temporary driver's permit, learner's permit, motorcycle learner's permit, special identification card, or renewal thereof shall make application therefor in person. Every application shall be accompanied by at least two documentary proofs of the name and date of birth of the applicant; at least one of these two documents shall include a photograph of the applicant. A birth certificate shall be one acceptable proof of the applicant's name and date of birth; a social security card issued to the applicant shall be one acceptable proof of the applicant's name; both documents, to satisfy the requirements of this subsection, shall be original documents, and no copy of facsimile of either document shall be acceptable. Neither an immigration visa nor a signed written statement, whether or not such statement is notarized, wherein the maker of the statement vouches for the name, date or birth, or both the name and date of birth of the applicant, shall be acceptable. The Commissioner may adopt regulations to specify other documents acceptable to prove name or date of birth as required by this subsection. Notwithstanding the foregoing provisions of this section, once the proofs of name and date of birth required by this subsection have been supplied and the applicable document has been duly issued by the Department, such document shall thereafter be sufficient proof of the name and date of birth of the person to whom it has been issued when applying for other permits and documents issued by the Department and the foregoing requirements of application in person and submission of proofs of name and date of birth shall not apply.*

B. *Every applicant for a driver's license, commercial driver's license, temporary driver's permit, learner's permit, motorcycle learner's permit, special identification card, or renewal thereof 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 documentary proof that he is a resident of the Commonwealth. No driver's license, commercial driver's license, temporary driver's permit, learner's permit, motorcycle learner's permit, or special identification card shall be issued to or renewed for any person who is not a resident of Virginia. The Commissioner may adopt regulations to determine the process by which applicants prove that they are residents of the Commonwealth. Neither an immigration visa nor a signed written statement, whether or not such statement is notarized, wherein the maker of the statement vouches for the Virginia residency of the applicant, shall be an acceptable proof of Virginia residency.*

*If the applicant is a minor, 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.*

C. *It shall be unlawful for any applicant for a driver's license, commercial driver's license, temporary driver's permit, learner's permit, motorcycle learner's permit, special identification card, or renewal thereof knowingly to make a false statement or certification or supply false or fictitious evidence in connection with any of the information required to be provided to the Department under this section. Any violation of this section shall be punished as provided in § 46.2-348.*

E. *In the event of a conflict between the provisions of this section and any provision of Chapter 3 (§ 46.2-300 et seq.) of this title, the provisions of this section shall be controlling.*

*§ 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*

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59 usual signature in ink in the space provided on the form. The form shall include notice to the applicant  
60 of the duty to register with the Department of State Police as provided in § 19.2-298.1, if the applicant  
61 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,  
62 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  
63 or mentally incapacitated as defined in § 18.2-67.10, subsection B of § 18.2-361 or subsection B of  
64 § 18.2-366, including juveniles tried and convicted in the circuit courts pursuant to § 16.1-269.1 whether  
65 sentenced as adults or juveniles, or a felony under a substantially similar law of the United States or any  
66 other state.

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

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

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

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

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

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

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

95 § 46.2-330. Expiration and renewal of licenses; examinations required.

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

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

106 Any driver's license may be renewed by application, which shall include the applicant's certification  
107 of Virginia residency, after the applicant has taken and successfully completed those parts of the  
108 examination provided for in §§ 46.2-311, 46.2-325 and the Virginia Commercial Driver's License Act  
109 (§ 46.2-341.1 et seq.), including vision and written tests, other than the parts of the examination  
110 requiring the applicant to drive a motor vehicle. All drivers applying in person for renewal of a license  
111 shall take and successfully complete the examination each renewal year.

112 C. Notwithstanding any other provision of this section, the Commissioner, in his discretion, may  
113 require any applicant for renewal to be fully examined as provided in §§ 46.2-311, 46.2-325 and the  
114 Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.). Furthermore, the Commissioner may  
115 waive the vision examination for any applicant for renewal of a driver's license which is not a  
116 commercial driver's license, and the requirement or the taking of the written test as provided in  
117 subsection B of this section, § 46.2-325 and the Virginia Commercial Driver's License Act (§ 46.2-341.1  
118 et seq.), for any applicant for renewal who is at least twenty-one years old if the applicant's driver's  
119 license record on file at the Department contains, for the five years prior to the expiration date of the  
120 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.

§ 46.2-334. 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 three 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. Notwithstanding the foregoing provisions of this subsection, in the case of a minor whose parents have been awarded joint legal custody, a request that the license of the minor be cancelled must be signed by both legal custodians. In the event one parent is not reasonably available or the parents do not agree, one parent may petition the juvenile and domestic relations district court to make a determination that the license of the minor be cancelled.

C. The provisions of subsection A of this section requiring that an application for a driver's license

182 be signed by the parent or guardian shall be waived by the Commissioner if the application is  
183 accompanied by proper evidence of the solemnization of the minor's marriage or a certified copy of a  
184 court order, issued under the provisions of Article 15 (§ 16.1-331 et seq.) of Chapter 11 of Title 16.1,  
185 declaring the applicant to be an emancipated minor.

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

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

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

208 G. Driver's licenses shall be issued by the Department to minors successfully completing driver  
209 education courses approved by the Department of Education (i) when the Department receives from the  
210 school proper certification that the student (a) has successfully completed such course, including a road  
211 skills examination and (b) is regularly attending school and is in good academic standing or, if not in  
212 such standing or submitting evidence thereof, whose parent or guardian, having custody of such minor,  
213 provides written authorization for the minor to obtain a driver's license, which written authorization shall  
214 be obtained on forms provided by the Department and indicating the Commonwealth's interest in the  
215 good academic standing and regular school attendance of such minors; and (ii) upon payment of a fee of  
216 \$2.40 per year, based on the period of the license's validity. For applicants attending public schools,  
217 good academic standing may be certified by the public school principal or any of his designees. For  
218 applicants attending nonpublic schools, such certification shall be made by the private school principal  
219 or any of his designees; for minors receiving home schooling, such certification shall be made by the  
220 home schooling parent or tutor. Any minor providing proper evidence of the solemnization of his  
221 marriage or a certified copy of a court order of emancipation shall not be required to provide the  
222 certification of good academic standing or any written authorization from his parent or guardian to  
223 obtain a driver's license.

224 2. That § 46.2-323.1 of the Code of Virginia is repealed.