

028100872

HOUSE BILL NO. 638

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Transportation
on February 28, 2002)

(Patrons Prior to Substitute—Delegates O'Brien, Hamilton [HB 415], and Rollison [HB14])

A BILL to amend and reenact §§ 46.2-323, 46.2-341.12, and 46.2-345 of the Code of Virginia, relating to applications for driver's licenses, temporary driver's permits, learner's permits, motorcycle learner's permits, commercial driver's licenses, and special identification cards.

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-323, 46.2-341.12, and 46.2-345 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 include* the name, year, month and date of birth, social security number, sex, and residence address of the applicant; *the name of the county, city, or town in which the applicant resides; whether or not the applicant is a citizen of the United States;* 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. *An immigration visa shall not be acceptable as evidence of the applicant's name or 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. *If the applicant presents a foreign passport or some form of identification issued by another state as evidence of his name and date of birth, the Department shall require the applicant to submit at least two proofs that he is a resident of Virginia. Neither an immigration visa nor a signed written statement or affidavit wherein the maker of the statement vouches for the Virginia residency of the applicant, shall be an acceptable proof of Virginia residency.* The Commissioner may adopt regulations to determine the process by which applicants prove that they are residents of the Commonwealth. *The Commissioner may, on a case-by-case basis, waive any provision of such regulations for good cause shown.*

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.

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

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

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

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

- 71 1. A consent to release driving record information;
- 72 2. Certifications that:
 - 73 a. He either meets the federal qualification requirements of 49 C.F.R. Part 391, or he is exempt from
 - 74 or is not subject to such federal requirements;
 - 75 b. He either meets the state qualification requirements established pursuant to § 52-8.4, or he is
 - 76 exempt from or is not subject to such requirements;
 - 77 c. The motor vehicle in which the applicant takes the skills test is representative of the class and, if
 - 78 applicable, the type of motor vehicle for which the applicant seeks to be licensed;
 - 79 d. He is not subject to any disqualification, suspension, revocation or cancellation of his driving
 - 80 privileges;
 - 81 e. He does not have more than one driver's license;
- 82 3. Other certifications required by the Department;
- 83 4. Any evidence required by the Department to establish proof of identity, including but not limited
- 84 to a birth certificate; *an immigration visa shall not be acceptable as evidence of the applicant's identity;*
- 85 and

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

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

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

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

101 F. *The applicant shall also certify that he is a resident of the Commonwealth by signing a*
102 *certification statement, on a form prescribed by the Commissioner, and by providing satisfactory proof*
103 *that he is a resident of the Commonwealth. If the applicant presents a foreign passport as evidence of*
104 *his name and date of birth, the Department shall require the applicant to submit at least two proofs that*
105 *he is a resident of Virginia. Neither an immigration visa nor a signed written statement, whether or not*
106 *such statement is notarized, wherein the maker of the statement vouches for the Virginia residency of the*
107 *applicant, shall be an acceptable proof of Virginia residency. The Commissioner may adopt regulations*
108 *to determine the process by which applicants prove that they are residents of the Commonwealth.*

109 § 46.2-345. Issuance of special identification cards; fee; confidentiality; penalties.

110 A. On the application of any person who is a resident of the Commonwealth or the parent or legal
111 guardian of any such person who is under the age of fifteen, the Department shall issue a special
112 identification card to the person provided:

- 113 1. Application is made on a form prescribed by the Department;
- 114 2. The applicant presents a birth certificate or other evidence acceptable to the Department of his
115 name and date of birth; *an immigration visa shall not be acceptable as evidence of the applicant's*
116 *identity;* and
- 117 3. The Department is satisfied that the applicant needs an identification card or the applicant shows
118 he has a bona fide need for such a card.

119 B. *The applicant shall also certify that he is a resident of the Commonwealth by signing a*
120 *certification statement, on a form prescribed by the Commissioner, and by providing satisfactory proof*
121 *that he is a resident of the Commonwealth. If the applicant presents a foreign passport as evidence of*

122 *his name and date of birth, the Department shall require the applicant to submit at least two proofs that*
123 *he is a resident of Virginia. Neither an immigration visa nor a signed written statement, whether or not*
124 *such statement is notarized, wherein the maker of the statement vouches for the Virginia residency of the*
125 *applicant, shall be an acceptable proof of Virginia residency. The Commissioner may adopt regulations*
126 *to determine the process by which applicants prove that they are residents of the Commonwealth.*

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

129 C D. A special identification card shall expire five years from its date of issuance except that those
130 cards issued to children under the age of fifteen shall expire on the child's fifteenth birthday or five
131 years from the date of issuance, whichever occurs first.

132 D E. A special identification card issued under this section may be similar in size, shape, and design
133 to a driver's license, and include a color photograph of its holder, but the card shall be readily
134 distinguishable from a driver's license and shall clearly state that it does not authorize the person to
135 whom it is issued to drive a motor vehicle.

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

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

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

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

160 I J. The Department may promulgate regulations necessary for the effective implementation of the
161 provisions of this section. J K. The Department shall utilize the various communications media
162 throughout the Commonwealth to inform Virginia residents of the provisions of this section and to
163 promote and encourage the public to take advantage of its provisions.