

VIRGINIA ACTS OF ASSEMBLY -- 2003 SESSION

CHAPTER 308

An Act to amend and reenact § 46.2-334.01 of the Code of Virginia, relating to provisional drivers' licenses.

[H 1786]

Approved March 16, 2003

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-334.01 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-334.01. Licenses issued to persons younger than 18 years of age subject to certain restrictions.

A. Any learner's permit or driver's license issued to any person ~~less younger than eighteen~~ 18 years ~~old of age~~ shall be subject to the following:

1. Notwithstanding the provisions of § 46.2-498, whenever the driving record of a person ~~less younger than nineteen~~ 19 years ~~old of age~~ shows that he has been convicted of committing, when he was ~~less younger than eighteen~~ 18 years ~~old of age~~, (i) an offense for which demerit points have been assessed or are assessable under Article 19 (§ 46.2-489 et seq.) of this chapter or (ii) a violation of any provision of Article 12 (§ 46.2-1091 et seq.) or Article 13 (§ 46.2-1095 et seq.) of Chapter 10 of this title, the Commissioner shall direct such person to attend a driver improvement clinic. No safe driving points shall be awarded for such clinic attendance, nor shall any safe driving points be awarded for voluntary or court-assigned clinic attendance. Such person's parent, guardian, legal custodian, or other person standing in loco parentis may attend such clinic and receive a reduction in demerit points and/or an award of safe driving points pursuant to § 46.2-498. The provisions of this subdivision shall not be construed to prohibit awarding of safe driving points to a person ~~less younger than eighteen~~ 18 years ~~old of age~~ who attends and successfully completes a driver improvement clinic without having been directed to do so by the Commissioner or required to do so by a court.

2. If any person ~~less younger than nineteen~~ 19 years ~~old of age~~ is convicted a second time of committing, when he was ~~less younger than eighteen~~ 18 years ~~old of age~~, (i) an offense for which demerit points have been assessed or are assessable under Article 19 (§ 46.2-489 et seq.) of this chapter or (ii) a violation of any provision of Article 12 (§ 46.2-1091 et seq.) or Article 13 (§ 46.2-1095 et seq.) of Chapter 10 of this title, the Commissioner shall suspend such person's driver's license or privilege to operate a motor vehicle for ~~ninety~~ 90 days. Such suspension shall be consecutive to, and not concurrent with, any other period of license suspension, revocation or denial.

3. If any person is convicted a third time of committing, when he was ~~less younger than eighteen~~ 18 years ~~old of age~~, (i) an offense for which demerit points have been assessed or are assessable under Article 19 (§ 46.2-489 et seq.) of this chapter or (ii) a violation of any provision of Article 12 (§ 46.2-1091 et seq.) or Article 13 (§ 46.2-1095 et seq.) of Chapter 10 of this title, the Commissioner shall revoke such person's driver's license or privilege to operate a motor vehicle for one year or until such person reaches the age of ~~eighteen~~ 18 years, whichever is longer. Such revocation shall be consecutive to, and not concurrent with, any other period of license suspension, revocation or denial.

4. In no event shall any person subject to the provisions of this section, be subject to the suspension or revocation provisions of subdivision 2 or 3 of this section for multiple convictions arising out of the same transaction or occurrence.

B. The initial license issued to any ~~such~~ person *younger than 18 years of age* shall be deemed a provisional driver's license. A provisional driver's license shall not authorize its holder to operate a motor vehicle with more than one passenger who is ~~less younger than eighteen~~ 18 years ~~old of age~~ prior to the holder's seventeenth birthday and more than three passengers who are ~~less younger than eighteen~~ 18 years ~~old of age~~ thereafter until the holder's eighteenth birthday. This passenger limitation, however, shall not apply to members of the driver's family or household. For the purposes of this subsection, "members of the driver's family or household" means (i) the driver's spouse, children, stepchildren, brothers, sisters, half brothers, half sisters, and any individual who has a child in common with the driver, whether or not they reside in the same home with the driver; (ii) the driver's brothers-in-law and sisters-in-law who reside in the same home with the driver; *and* (iii) any individual who cohabits with the driver, and any children of such individual residing in the same home with the driver.

C. The holder of a provisional driver's license shall not operate a motor vehicle on the highways of the Commonwealth between the hours of midnight and 4:00 a.m. except when driving (i) to or from a place of business where he is employed; (ii) to or from a school-sponsored activity; (iii) ~~when~~ accompanied by a parent, a person acting in loco parentis, or by a spouse who is ~~eighteen~~ 18 years ~~old of age~~ or older, provided that such person accompanying the driver is actually occupying a seat beside the driver and is lawfully permitted to operate a motor vehicle at the time; or (iv) in cases of emergency, including response by volunteer firefighters and volunteer rescue squad personnel to

emergency calls.

D. The provisional driver's license restrictions in ~~subsection~~ *subsections B and C of this section shall expire on the holder's eighteenth birthday. A violation of the provisional driver's license restrictions in either subsection B or C of this section shall constitute a traffic infraction. For a second or subsequent violation of the provisional driver's license restrictions in either subsection B or C, in addition to any other penalties which may be imposed pursuant to § 16.1-278.10, the court may suspend the juvenile's privilege to drive for a period not to exceed six months.*

E. A violation of subsection B or C of this section shall not constitute negligence, be considered in mitigation of damages of whatever nature, be admissible in evidence or be the subject of comment by counsel in any action for the recovery of damages arising out of the operation, ownership, or maintenance of a motor vehicle, nor shall anything in this subsection change any existing law, rule, or procedure pertaining to any such civil action.

F. No citation for a violation of this section shall be issued unless the officer issuing such citation has cause to stop or arrest the driver of such motor vehicle for the violation of some other provision of this Code or local ordinance relating to the operation, ownership, or maintenance of a motor vehicle or any criminal statute.