

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 22.1-205 and 46.2-334 of the Code of Virginia, relating to driver education for minors receiving home schooling.

[H 2404]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-205 and 46.2-334 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-205. Driver education programs.

A. The Board of Education shall establish for the public school system a standardized program of driver education in the safe operation of motor vehicles. Such program shall consist of classroom training and behind-the-wheel driver training. However, any student who participates in such a program of driver education shall meet the academic requirements established by the Board, and no student in a course shall be permitted to operate a motor vehicle without a license or permit to do so issued by the Department of Motor Vehicles. The program shall include instruction concerning (i) alcohol and drug abuse, (ii) aggressive driving, (iii) distracted driving, (iv) motorcycle awareness, and (v) organ and tissue donor awareness. Such instruction shall be developed by the Department in cooperation with the Virginia Alcohol Safety Action Program, the Department of Health, and the Department of Mental Health, Mental Retardation and Substance Abuse Services, as appropriate. Such program shall require a minimum number of miles driven during the behind-the-wheel driver training.

B. The Board shall assist school divisions by preparation, publication and distribution of competent driver education instructional materials to ensure a more complete understanding of the responsibilities and duties of motor vehicle operators.

C. Each school board shall determine whether to offer the program of driver education in the safe operation of motor vehicles and, if offered, whether such program shall be an elective or a required course. Only school divisions complying with the standardized program and regulations established by the Board of Education and the provisions of § 46.2-335 shall be entitled to participate in the distribution of state funds appropriated for driver education.

D. The actual initial driving instruction shall be conducted, with motor vehicles equipped as may be required by regulation of the Board of Education, on private or public property removed from public highways if practicable; if impracticable, then, at the request of the school board, the Commonwealth Transportation Board shall designate a suitable section of road near the school to be used for such instruction. Such section of road shall be marked with signs, which the Commonwealth Transportation Board shall supply, giving notice of its use for driving instruction. Such signs shall be removed at the close of the instruction period. No vehicle other than those used for driver training shall be operated between such signs at a speed in excess of ~~twenty-five~~ 25 miles per hour. Violation of this limit shall be a Class 4 misdemeanor.

E. The Board of Education may, in its discretion, promulgate regulations for the use and certification of paraprofessionals as teaching assistants in the driver education programs of school divisions.

F. The Board of Education shall approve correspondence courses for the classroom training component of driver education. These correspondence courses shall be consistent in quality with instructional programs developed by the Board for classroom training in the public schools. Students completing the correspondence courses for classroom training, who are eligible to take behind-the-wheel driver training, may receive behind-the-wheel driver training (i) from a public school, upon payment of the required fee, if the school division offers behind-the-wheel driver training and space is available or, (ii) from a commercial driver training school licensed by the Department of Motor Vehicles, or (iii) in the case of a home schooling parent or guardian instructing his own child who meets the requirements for home school instruction under § 22.1-254.1 or subdivision B 1 of § 22.1-254, from a behind-the-wheel training course approved by the Board. Nothing herein shall be construed to require any school division to provide behind-the-wheel driver training to nonpublic school students.

§ 46.2-334. Conditions and requirements for licensure of persons under 18; requests for cancellation of minor's driver's license; temporary driver's licenses; Board of Education approved programs; fee.

A. Minors at least ~~sixteen~~ 16 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

57 licensed under Chapter 17 (§ 46.2-1700 et seq.) of this title, by the Department of Motor Vehicles; and
58 (iii) is mentally, physically, and otherwise qualified to drive a motor vehicle safely.

59 2. The minor's application for a driver's license must be signed by a parent of the applicant,
60 otherwise by the guardian having custody of him. However, in the event a minor has no parent or
61 guardian, then a driver's license shall not be issued to him unless his application is signed by the judge
62 of the juvenile and domestic relations district court of the city or county in which he resides. If the
63 minor making the application is married or otherwise emancipated, in lieu of any parent's, guardian's or
64 judge's signature, the minor may present proper evidence of the solemnization of the marriage or the
65 order of emancipation.

66 3. The minor shall be required to state in his application whether or not he has been convicted of an
67 offense triable by, or tried in, a juvenile and domestic relations district court or found by such court to
68 be a child in need of supervision, as defined in § 16.1-228. If it appears that the minor has been
69 adjudged not innocent of the offense alleged or has been found to be a child in need of supervision, the
70 Department shall not issue a license without the written approval of the judge of the juvenile and
71 domestic relations district court making an adjudication as to the minor or the like approval of a similar
72 court of the county or city in which the parent or guardian, respectively, of the minor resides.

73 4. The application for a permanent driver's license by a minor of the age of persons required to
74 attend school pursuant to § 22.1-254 shall be accompanied by evidence of compliance with the
75 compulsory school attendance law set forth in Article 1 (§ 22.1-254 et seq.) of Chapter 14 of Title 22.1.
76 This evidence shall be provided in writing by the minor's parent. If the minor is unable to provide such
77 evidence, he shall not be granted a driver's license until he reaches the age of ~~eighteen~~ 18 or presents
78 proper evidence of the solemnization of his marriage or an order of emancipation, or the parent, as
79 defined in § 22.1-1, or other person standing in loco parentis has provided written authorization for the
80 minor to obtain a driver's license.

81 A minor may, however, present a high school diploma or its equivalent or a certificate indicating
82 completion of a prescribed course of study as defined by the local school board pursuant to
83 § 22.1-253.13:4 as evidence of compulsory school attendance compliance.

84 5. The minor applicant shall certify in writing, on a form prescribed by the Commissioner, that he is
85 a resident of the Commonwealth. The applicant's parent or guardian shall also certify that the applicant
86 is a resident by signing the certification. Any minor providing proper evidence of the solemnization of
87 his marriage or a certified copy of a court order of emancipation shall not be required to provide the
88 parent's certification of residence.

89 B. Any custodial parent or guardian of an unmarried or unemancipated minor may, after the issuance
90 of a permanent driver's license to such minor, file with the Department a written request that the license
91 of the minor be canceled. When such request is filed, the Department shall cancel the license of the
92 minor and the license shall not thereafter be reissued by the Department until a period of six months has
93 elapsed from the date of cancellation or the minor reaches his eighteenth birthday, whichever shall occur
94 sooner. Notwithstanding the foregoing provisions of this subsection, in the case of a minor whose
95 parents have been awarded joint legal custody, a request that the license of the minor be cancelled must
96 be signed by both legal custodians. In the event one parent is not reasonably available or the parents do
97 not agree, one parent may petition the juvenile and domestic relations district court to make a
98 determination that the license of the minor be cancelled.

99 C. The provisions of subsection A of this section requiring that an application for a driver's license
100 be signed by the parent or guardian shall be waived by the Commissioner if the application is
101 accompanied by proper evidence of the solemnization of the minor's marriage or a certified copy of a
102 court order, issued under the provisions of Article 15 (§ 16.1-331 et seq.) of Chapter 11 of Title 16.1,
103 declaring the applicant to be an emancipated minor.

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

110 E. Notwithstanding the provisions of subsection A of this section requiring the successful completion
111 of a driver education course approved by the State Department of Education, the Commissioner, on
112 application therefor by a person at least ~~sixteen~~ 16 years and three months old but less than ~~eighteen~~ 18
113 years old, shall issue to the applicant a temporary driver's license valid for six months if he (i) certifies
114 by signing, together with his parent or guardian, on a form prescribed by the Commissioner that he is a
115 resident of the Commonwealth; (ii) is the holder of a valid driver's license from another state; and (iii)
116 has not been found guilty of or otherwise responsible for an offense involving the operation of a motor
117 vehicle. No temporary license issued under this subsection shall be renewed, nor shall any second or

118 subsequent temporary license under this subsection be issued to the same applicant. Any such minor
119 providing proper evidence of the solemnization of his marriage or a certified copy of a court order of
120 emancipation shall not be required to obtain the signature of his parent or guardian for the temporary
121 driver's license.

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

126 G. Driver's licenses shall be issued by the Department to minors successfully completing driver
127 education courses approved by the Department of Education (i) when the Department receives from the
128 school proper certification that the student (a) has successfully completed such course, including a road
129 skills examination and (b) is regularly attending school and is in good academic standing or, if not in
130 such standing or submitting evidence thereof, whose parent or guardian, having custody of such minor,
131 provides written authorization for the minor to obtain a driver's license, which written authorization shall
132 be obtained on forms provided by the Department and indicating the Commonwealth's interest in the
133 good academic standing and regular school attendance of such minors; and (ii) upon payment of a fee of
134 \$2.40 per year, based on the period of the license's validity. For applicants attending public schools,
135 good academic standing may be certified by the public school principal or any of his designees. For
136 applicants attending nonpublic schools, such certification shall be made by the private school principal
137 or any of his designees; for minors receiving home schooling, such certification shall be made by the
138 home schooling parent or tutor. Any minor providing proper evidence of the solemnization of his
139 marriage or a certified copy of a court order of emancipation shall not be required to provide the
140 certification of good academic standing or any written authorization from his parent or guardian to
141 obtain a driver's license.

142 *H. For those home schooled students completing driver education courses approved by the Board of*
143 *Education and instructed by his own parent or guardian, no driver's license shall be issued until the*
144 *student has successfully completed the driver's license examination administered by the Department.*
145 *Furthermore, the Commissioner shall not issue a driver's license for those home schooled students*
146 *completing driver education courses approved by the Board of Education and instructed by his own*
147 *parent or guardian if it is determined by the Commissioner that, at the time of such instruction, such*
148 *parent or guardian had accumulated six or more driver demerit points in the most recently preceding 12*
149 *months, had been convicted within the most recent 11 preceding years of driving while intoxicated in*
150 *violation of § 18.2-266 or a substantially similar law in another state, or had ever been convicted of*
151 *voluntary or involuntary manslaughter in violation of § 18.2-35 or § 18.2-36 or a substantially similar*
152 *law in another state.*