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HOUSE BILL NO. 2404

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Transportation
on January 28, 2003)

(Patron Prior to Substitute—Delegate Oder)

*A BILL 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.***Be it enacted by the General Assembly of Virginia:****1. That §§ 22.1-205, 46.2-334, and 46.2-340 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 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, 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 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

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

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

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

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

84 A minor may, however, present a high school diploma or its equivalent or a certificate indicating
85 completion of a prescribed course of study as defined by the local school board pursuant to
86 § 22.1-253.13:4 as evidence of compulsory school attendance compliance.

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

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

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

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

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

122 providing proper evidence of the solemnization of his marriage or a certified copy of a court order of
123 emancipation shall not be required to obtain the signature of his parent or guardian for the temporary
124 driver's license.

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

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

145 H. *For those home-schooled students completing driver education courses approved by the Board of*
146 *Education and instructed by his own parent or guardian, no driver's license shall be issued until the*
147 *student has successfully completed the driver's license examination administered by the Department.*
148 *Furthermore, the Commissioner shall not issue a driver's license for those home-schooled students*
149 *completing driver education courses approved by the Board of Education and instructed by his own*
150 *parent or guardian if it is determined by the Commissioner that, at the time of such instruction, such*
151 *parent or guardian had accumulated 6 or more driver demerit points in the most recently preceding 12*
152 *months, had been convicted within the most recent 11 preceding years of driving while intoxicated in*
153 *violation of § 18.2-266 or a substantially similar law in another state, or had ever been convicted of*
154 *voluntary or involuntary manslaughter in violation of § 18.2-35 or § 18.2-36 or a substantially similar*
155 *law in another state.*