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HOUSE BILL NO. 532

House Amendments in [] — January 30, 2004

A BILL to amend and reenact §§ 46.2-1188 through 46.2-1192 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 46.2-1190.1 through 46.2-1190.7, relating to motorcycle rider safety; penalties.

Patron Prior to Engrossment—Delegate Stump

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-1188 through 46.2-1192 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding sections numbered 46.2-1190.1 through 46.2-1190.7 as follows:

§ 46.2-1188. Motorcycle rider safety training courses.

"Motorcycle rider safety training courses" shall mean courses of instruction in the operation of motorcycles, including instruction in the safe on-road operation of motorcycles, the rules of the road, and the laws of the Commonwealth relating to motor vehicles. Courses shall meet the requirements of this article and be approved by the Department of Motor Vehicles. *Qualifying providers of such courses shall either be reimbursed for eligible costs or not be reimbursed as provided in § 46.2-1192.*

§ 46.2-1189. Authority of the Department of Motor Vehicles.

The Department of Motor Vehicles may do all things necessary to carry out the purposes of this article, including the promulgation of regulations not inconsistent with law. ~~Where such course is authorized at a high school, the Department shall work with the Department of Education's section of driver education to implement such course entering into contracts for administrative and other operational support for motorcycle rider safety training centers.~~

§ 46.2-1190. Regional motorcycle rider safety training centers; requirements.

~~Any high school, institution of higher education, or safety training expert authorized by the Department~~ **A. Any public or private agency, organization, school [,] institution of higher education, partnership, corporation, or individual that meets the program requirements set forth in this article shall be eligible for participation in the program and may organize a regional motorcycle rider safety training center and offer motorcycle rider safety training courses.**

B. No such agency, organization, business or individual shall operate a motorcycle rider safety training center without a license. Such agencies, organizations, businesses and individuals shall apply to the Department for a license pursuant to § 46.2-1192. The applications for training center licenses shall include, but not be limited to:

1. The address and detailed description of the facility or facilities where the course shall be conducted;

2. The name, address, federal identification number, and telephone number of the agency, organization, school, institution of higher education, partnership, or corporation organized as a training center;

3. The name, address, social security number, and telephone number of the individual who is authorized to obligate the training center;

4. The names, addresses, social security numbers, and telephone numbers of the administrator and the instructors;

5. For those agencies, organizations, businesses, and individuals that apply to receive reimbursement, the names, addresses, social security numbers, and telephone numbers of all individuals who are to receive reimbursement;

6. A planned course schedule including course type, dates, and hours of course conduct;

7. The projected number of students to be trained in the [~~Program~~ program] during the calendar year;

8. Detailed specifications of the curricula intended for use;

9. For those agencies, organizations, businesses, and individuals that apply to receive reimbursement, a planned course budget to include all estimated costs for course operation, administration, instructors' salaries, insurance, advertising, purchase of test books, equipment and materials, and other course-related expenses;

10. For those agencies, organizations, businesses, and individuals that apply to receive reimbursement, estimated course fees to be charged to participants;

11. Verification of adequate insurance coverage to protect both the Commonwealth and the training

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59 center and all instructors, aides, and participants in any course conducted under the program, including
60 the following:

61 a. Minimum employers liability - \$100,000;

62 b. Minimum commercial general liability - \$500,000 combined single limit;

63 c. Minimum automobile liability - \$500,000 combined single limit; and

64 d. Workers' compensation insurance in accordance with § 2.2-4332 and Chapter 8 (§ 65.2-800 et
65 seq.) of Title 65;

66 12. Verification of proper safety equipment and a sufficient number of training motorcycles for
67 novice rider courses;

68 13. Verification that the designated classrooms, ranges, and motorcycle and equipment storage areas
69 are available for all training courses offered by the training center at that site and that they comply
70 with all necessary zoning, health, and safety codes;

71 14. Criminal background checks on all corporate officers, owners, administrators, and all individuals
72 authorized to obligate the training center; and

73 15. A statement as to the ability and willingness to meet all requirements set forth in this article.

74 The Department shall issue licenses to applicants whose curricula, facilities, equipment, corporate
75 officers, administrators, instructors, and all individuals authorized to obligate the training center meet
76 the requirements established by the Department and set forth in this article, subject to the provisions of
77 § 46.2-1192.

78 C. The Commissioner shall act on any application for a license under this article within 30 days
79 after receipt by either granting or denying the application. The Commissioner may, as may be necessary
80 during the initial review and evaluation of an application, request additional information from an
81 applicant, thereby extending the period for granting or denying a license by not more than 30 days from
82 the receipt of such additional information. Any applicant denied a license shall, on his written request
83 made within 30 days of the Commissioner's action, be given a hearing at a time and place determined
84 by the Commissioner or his designee. All hearings under this section shall be public and shall be held
85 as soon as practicable, but in no case later than 30 days from receipt of the hearing request. The
86 applicant may be represented by counsel. Any applicant denied a license may not apply again for the
87 same type of license for 180 calendar days from the date of denial of the application.

88 D. The facilities, equipment, curriculum, accreditation, and geographic areas in which each training
89 center may offer courses shall be approved by the Department. The location of the training centers shall
90 be in accordance with the Department's administrative districts. No training center shall change its
91 location without the approval of the Department. Training centers shall provide courses for either
92 novice, experienced or sidecar and three-wheeled motorcyclists or any of the three, depending upon the
93 curricula used. Training centers shall maintain such records and provide such reports as determined by
94 the Department. Training centers shall submit all reports required by the Department for evaluation.
95 The Department shall monitor and evaluate the performance of the training centers and the effectiveness
96 of the program in training motorcyclists.

97 E. Training centers shall ensure that instructors maintain the minimum qualifications and meet any
98 other instructor requirements established in this article or otherwise established by the Department. The
99 Department may, pursuant to subsection C of § 46.2-1190.5, terminate a training course if it finds an
100 instructor in violation of any provision of this article.

101 Instructors shall meet the requirements of this article, the Department and the requirements of the
102 institution, or safety training expert public or private agency, organization, school, institution of higher
103 education, partnership, corporation or individual offering the program. Instructors may be employed on
104 a calendar year basis.

105 § 46.2-1190.1. Curricula requirements.

106 A. The curriculum used in a novice rider-training course to train novice riders shall be approved by
107 the Department. Each participant enrolled in a novice rider-training course shall receive no less than
108 the minimum number of hours of classroom and on-cycle instruction as specified in the current
109 approved curriculum.

110 All novice rider courses shall include a module on the effects of alcohol and other drugs on
111 motorcycle operation, and a thorough review of Virginia laws and rules of the road applicable to
112 motorcycles. All novice rider course participants shall be provided one copy of the course textbook and
113 one copy of the Virginia Motorcycle Operator Manual. During the on-cycle instruction no more than six
114 students may be under the supervision of any one instructor at any one time. No more than 12 students
115 may operate motorcycles on the same range at the same time.

116 B. The curriculum used to train experienced riders shall be approved by the Department. Each
117 participant enrolled in an experienced rider course shall receive no less than the minimum number of
118 hours of classroom and on-cycle instruction as specified in the current approved curriculum.

119 All experienced rider courses shall include a module on the effects of alcohol and other drugs on
120 motorcycle operation, and a review of Virginia laws and rules of the road applicable to motorcycles.

121 During on-cycle instruction no more than six students may be under the supervision of any one
122 instructor at any one time, and no more than 12 students may operate motorcycles on the same range at
123 the same time.

124 C. The curriculum used to train sidecar and three-wheeled motorcycle riders shall be approved by
125 the Department. Each participant enrolled in a sidecar and three-wheeled motorcycle course shall
126 receive no less than the minimum number of hours of classroom and on-cycle instruction as specified in
127 the current curriculum.

128 All sidecar and three-wheeled motorcycle course participants shall include a module on the effects of
129 alcohol and other drugs on motorcycle operation, and a thorough review of Virginia laws and rules of
130 the road applicable to motorcycles. During on-cycle instruction no more than six students may be under
131 the supervision of any one instructor at any one time, and no more than [~~12~~ six] students may operate
132 sidecars or three-wheeled motorcycles on the same range at the same time.

133 D. All course participants shall be required to wear the following protective gear during on-cycle
134 instruction:

135 1. A minimum three-quarter shell motorcycle helmet that meets U.S. Department of Transportation
136 Safety standards;

137 2. Eye protection;

138 3. A pair of boots or shoes that cover and protect the ankles and feet;

139 4. A long sleeved jacket or long sleeved shirt and long pants of denim or other material of
140 equivalent durability; and

141 5. A pair of full-fingered gloves of leather or other material with resistance to abrasion.

142 § 46.2-1190.2. Facilities and equipment; requirements and approval.

143 A. A training center shall possess or have access to the use of all classroom, range, storage
144 facilities, and equipment. A training center's facilities and equipment shall be approved by the
145 Department and include, but not be limited to:

146 1. A classroom for the presentation of the off-cycle instructional portion of the novice, experienced,
147 and sidecar and three-wheeled motorcycle rider courses;

148 2. A paved range area for the on-cycle portion of the novice, experienced rider, and sidecar and
149 three-wheeled motorcycle courses with a minimum size of 90 feet by 160 feet and a minimum of 20 feet
150 of run-out room;

151 3. For those agencies, organizations, businesses and individuals that apply to receive reimbursement,
152 adequate storage to protect motorcycles and equipment from vandalism, theft, and environmental
153 damage;

154 4. Audio-visual equipment; and

155 5. Fire extinguisher and first aid kit.

156 B. The training center shall be responsible for procuring and providing a minimum of one
157 motorcycle that may lawfully be operated on the highways of the Commonwealth, has an engine
158 displacement of no more than 500 cubic centimeters, weighs less than 400 pounds, [and] is equipped
159 with a seat whose height will accommodate each novice rider course participant. Each participant in the
160 experienced rider course shall provide a motorcycle for use in the course. One sidecar rig or
161 three-wheeled motorcycle, provided by either a participant or the training center, shall be required for
162 use by every two students in the sidecar and three-wheeled motorcycle course.

163 C. The training center shall be responsible for the normal maintenance and repair of all motorcycles
164 it provides for each novice rider and sidecar and three-wheeled motorcycle course participant. All
165 motorcycles used in course instruction shall pass a safety inspection performed by the instructors prior
166 to use in any motorcycle rider-training course.

167 D. The Department, or its authorized agent, shall inspect and approve each training center's
168 facilities and equipment prior to issuance or renewal of a license.

169 § 46.2-1190.3. Instructor qualifications.

170 A. Training centers shall employ only motorcycle safety instructors who meet the following minimum
171 qualifications:

172 1. Have a current, valid driver's license, endorsed for motorcycle operation, that is neither
173 suspended, revoked, cancelled, nor under probation, with less than six demerit points in a 12-month
174 period and no conviction for any of the offenses enumerated in subsection E of § 18.2-270;

175 2. Be a valid training course instructor, as approved by the Department, which includes:

176 a. Having instructor certification to teach the current curriculum approved by the Department;

177 b. Attending all required program clinics offered by the Department that provide continuously
178 updated course instructor and motorcycle safety education; and

179 c. Avoiding putting course participants or others associated with course instruction in physical
180 danger during periods of instruction through the use of appropriate instruction techniques and methods;

181 3. Conduct themselves in a professional manner, including, but not limited to, using appropriate

182 language and having interactions with participants and others involved in the course that are free from
183 threat and intimidation; and

184 4. Comply with other requirements specified in this article or otherwise established by the
185 Department.

186 B. The requirements of subsection A of this section shall not apply to those persons who are valid
187 training course instructors prior to being stationed outside the United States, during the period of such
188 person's service, if any, in the armed services of the United States, and [~~six months~~ 60 days]
189 thereafter. However, no such temporary exemption granted under this section shall exceed five years.
190 Any person who receives a temporary exemption under this section shall provide documentary or other
191 proof that he is entitled to the benefits of this section, and shall be required to meet the requirements of
192 subsection A of this section prior to being eligible to provide course instruction.

193 § 46.2-1190.4. Administrative and reporting requirements.

194 A. Training centers shall be responsible for verifying that all participants are eligible for enrollment
195 in a course under the program, based on the following:

196 1. Persons enrolling in a novice rider course shall (i) possess a valid learner's permit or valid
197 driver's license; (ii) have written parental or guardian permission if under the age of 18 years of age;
198 and (iii) be physically able to balance and operate a motorcycle.

199 2. Persons enrolling in an experienced rider course shall (i) possess a valid driver's license endorsed
200 for motorcycle operation; (ii) have written parental or guardian permission if under the age of 18; (iii)
201 use a motorcycle that may lawfully be operated on the highways of the Commonwealth during course
202 training; and (iv) have valid proof of ownership of such motorcycle, or have its owner's written
203 permission to use it and valid proof of insurance.

204 3. Persons enrolling in a sidecar and three-wheeled motorcycle course shall (i) possess a valid
205 learner's permit or a valid driver's license; (ii) have written parental or guardian permission if under
206 the age of 18; (iii) use a sidecar rig or three-wheeled motorcycle that may lawfully be operated on the
207 highways of the Commonwealth during course training; and (iv) if providing their own sidecar rig or
208 three-wheeled motorcycle, have valid proof of ownership of such sidecar rig or three-wheeled
209 motorcycle, or have its owner's written permission to use it and valid proof of insurance.

210 B. Training centers shall provide the following information to the Department on each course within
211 20 business days of course completion, on forms provided by the Department:

212 1. The type of course and date of completion;

213 2. The name, address, social security number, and certification number of each instructor;

214 3. The name, address, driver's license number, and date of birth of all participants enrolled in each
215 course; and

216 4. The course completion status of each participant.

217 C. The training center shall issue a Department-approved certificate of completion to each
218 participant who successfully completes a course in the program.

219 D. Training centers shall (i) retain a copy of each participant's waiver form and original course
220 evaluation form and (ii) establish and maintain records of course administration, including the
221 information outlined in subsection B of this section, for a three-year period following the course
222 completion. The Department may audit course records, and monitor and evaluate any and all aspects of
223 a training center's operation.

224 § 46.2-1190.5. Penalties and remedies for violations of article.

225 A. The Department shall impose the following penalties on any training center for violations of the
226 requirements established by the Department or of this article:

227 1. Limit the type of instruction provided by the training center;

228 2. Suspend or revoke the license of the training center;

229 3. Impose a civil penalty as set forth in § 46.2-1190.7; or

230 4. Impose any combination of the penalties set forth in this subsection.

231 B. When violations occur that are not found by the Department to pose a threat to the health, safety
232 or welfare of the public or the course participants, instructors or others associated with the course, the
233 Department shall (i) notify the training center of the violations that have occurred, (ii) direct corrective
234 action to be completed by the training center within 30 calendar days, and (iii) require a formal written
235 response documenting that corrections have been made as directed. Such violations shall typically be
236 associated with, but not limited to, training center administration and operations. If corrections are not
237 completed as directed, the Department shall notify the training center and may impose any or all of the
238 sanctions set forth in subsection A of this section. Such penalties shall continue until all required
239 corrections are made and the Department receives formal documentation confirming compliance.

240 The Department shall suspend the license of any training center that receives three or more notices
241 under this subsection within any 12-month period. Such suspensions shall be for an initial 90-day period
242 and shall continue until all required corrections are made and the Department receives formal
243 documentation confirming compliance.

244 C. When violations occur that are found by the Department to pose a threat to the health, safety or
 245 welfare of the public or the course participants, instructors or others associated with the course, the
 246 Department shall (i) notify the training center of the violations that have occurred and immediately limit
 247 all types of instruction provided by the training center, (ii) direct corrective action to be completed by
 248 the training center within 30 calendar days of receipt of notice of such violations and (iii) shall require
 249 a formal written response documenting that corrections have been made as directed. If corrections are
 250 not completed as directed, the Department shall suspend the license of the training center and impose a
 251 civil penalty as set forth in § 46.2-1190.7. The period of such license suspension shall continue until all
 252 required corrections are made and the Department receives formal documentation confirming
 253 compliance. If the required corrections are not made within 30 calendar days of the suspension, the
 254 Department shall revoke the license.

255 D. Once a training center license is revoked, the Department shall not renew or reissue the license
 256 until (i) it receives formal documentation confirming compliance with the required corrective actions,
 257 and (ii) the training center applies for renewal or reissuance. Such training centers shall not be eligible
 258 to apply for a license again until 180 calendar days after the Department receives formal documentation
 259 confirming compliance with the required corrective actions.

260 E. Notice of an order suspending or revoking a license, imposing a limitation on training center
 261 operations or imposing a civil penalty, and advising the licensee of the opportunity for a hearing as a
 262 result of such order, shall be in writing and mailed to the licensee by registered mail to the training
 263 center address as shown on the most recent licensee's application for license and shall be considered
 264 served when mailed.

265 Upon receipt of a request for a hearing appealing the order, the licensee shall be afforded the
 266 opportunity for a hearing as soon as practicable, but in no case later than 30 days from receipt of the
 267 hearing request. The order shall remain in effect pending the outcome of the hearing.

268 § 46.2-1190.6. Other grounds for denying, suspending, or revoking licenses.

269 A license issued pursuant to this article may be denied, suspended, or revoked on any one or more
 270 of the following grounds, where applicable:

271 1. Material misstatement or omission in application for license;

272 2. Failure to comply subsequent to receipt of a written notice from the Department or any willful
 273 failure to comply with a lawful order, any provision of this article, or any term, condition, or restriction
 274 of a license;

275 3. Failure to comply with zoning or other land use regulations, ordinances, or statutes;

276 4. Use of deceptive business acts or practices;

277 5. Knowingly advertising by any means any assertion, representation, or statement of fact that is
 278 untrue, misleading, or deceptive relating to the conduct of the business for which a license is held or
 279 sought;

280 6. Having been found, through a judicial or administrative hearing, to have committed fraudulent or
 281 deceptive acts in connection with the training center for which a license is held or sought, or any
 282 consumer-related fraud;

283 7. Having been convicted of any criminal act involving the training center for which a license is held
 284 or sought;

285 8. Improper assignment, lending, or otherwise allowing the improper use of a license;

286 9. Any corporate officer, owner, administrator and any individual authorized to obligate the training
 287 center having been convicted of a felony;

288 10. Any corporate officer, owner, administrator and any individual authorized to obligate the
 289 training center having been convicted of any misdemeanor involving lying, cheating, stealing, or moral
 290 turpitude;

291 11. Failure to furnish the Department information, documentation, or records required or requested
 292 pursuant to this article;

293 12. Knowingly and willfully filing any false report, account, record, or memorandum;

294 13. Willfully altering or changing the appearance or wording of a training center license or a course
 295 completion certificate;

296 14. Failure to provide services in accordance with the terms, limitations, conditions, or requirements
 297 of the license; or

298 15. Failure to comply with other state and federal requirements relating to training center
 299 operations.

300 § 46.2-1190.7. Civil penalties.

301 In addition to any other penalties or remedies available to the Commissioner under this article, the
 302 Commissioner may assess a civil penalty for any violation of any provision of this article not to exceed
 303 (i) \$5,000 for training centers that are not reimbursed or (ii) the amount of funds disbursed to a
 304 training center for eligible costs, as set forth in § 46.2-1192. The penalty may be sued for and recovered

305 *in the name of the Commonwealth.*

306 *Any business, individual or entity operating a training center without a valid license issued by the*
307 *Department after its license was suspended or revoked shall be subject to a civil penalty of \$10,000.*

308 *§ 46.2-1191. Motorcycle Rider Safety Training Program Fund.*

309 *To finance the cost of the Motorcycle Rider Safety Training Program, the Department of Motor*
310 *Vehicles shall deposit the fee collected for the issuance of each motorcycle learner's permit and ~~three~~*
311 *~~dollars~~ \$3 of the fee collected for the issuance of each motorcycle registration and all motorcycle*
312 *driver's license endorsement fees into a special fund to be known as the Motorcycle Rider Safety*
313 *Training Program Fund. The Department shall use the Fund as necessary for: (i) the costs of the*
314 *Department of Motor Vehicles incurred in the administration of this article, (ii) the funding ~~or contracts~~*
315 *with of [~~licenses licensed~~], approved regional cycle rider safety training centers for the conducting of*
316 *courses, as set forth in § 46.2-1192 and (iii) any other purposes related to the administration of this*
317 *article, including contractual costs related to administrative and other operational support for the*
318 *reimbursed training centers.*

319 *§ 46.2-1192. Issuance and renewal of licenses by Department; payments to regional training centers.*

320 *The Department of Motor Vehicles is authorized to ~~enter into contracts with issue or renew licenses~~*
321 *for regional motorcycle rider safety training centers for the conducting of motorcycle rider safety*
322 *training courses, and to make payments in fulfillment of those ~~contracts licenses requiring~~*
323 *reimbursement from funds appropriated from the Motorcycle Rider Safety Training Program Fund. The*
324 *Department shall determine the number of such reimbursed licenses issued or renewed based on (i) the*
325 *training centers meeting the requirements established by the Department and set forth in this article, (ii)*
326 *regional demand for such training, and (iii) availability of funding. Costs eligible for reimbursement,*
327 *method of payment, and required documentation associated with such payment shall be specified by the*
328 *Department at the time the license is issued or renewed. Such licenses shall be valid for the period*
329 *specified, but shall not exceed three years.*

330 *Those licenses issued or renewed for providers of such training courses that do not require*
331 *reimbursement shall be awarded based on the training centers meeting the requirements established by*
332 *the Department and set forth in this article. Such licenses shall be valid for the period specified, but*
333 *shall not exceed three years.*

334 *No license shall be transferred or assigned as a result of any change in (i) the individual who is*
335 *authorized to obligate the training center, (ii) ownership or (iii) in officers in a corporation or other*
336 *business entity without the approval of the Department. Such approval shall be based on the licensing*
337 *requirements established by the Department and set forth in this article.*

338 **2. That the provisions of this act shall become effective on January 1, 2005.**