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## SENATE BILL NO. 1119

Offered January 10, 2007

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*A BILL to amend and reenact §§ 46.2-335, 46.2-342, and 46.2-345 of the Code of Virginia, relating to learner's permits, driver's licenses, and special identification cards.*

Patron—Cuccinelli

Referred to Committee on Transportation

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 46.2-335, 46.2-342, and 46.2-345 of the Code of Virginia are amended and reenacted as follows:**

§ 46.2-335. Learner's permits; fees.

A. The Department, on receiving from any Virginia resident over the age of 15 years and six months an application for a learner's permit or motorcycle learner's permit, may, subject to the applicant's satisfactory documentation of meeting the requirements of this chapter and successful completion of the written or automated knowledge and vision examinations and, in the case of a motorcycle learner's permit applicant, the automated motorcycle test, issue a permit entitling the applicant, while having the permit in his immediate possession, to drive a motor vehicle or, if the application is made for a motorcycle learner's permit, a motorcycle, on the highways, when accompanied by any licensed driver 21 years of age or older or by his parent or legal guardian, or by a brother, sister, half-brother, half-sister, step-brother, or step-sister 18 years of age or older. The accompanying person shall be (i) alert, able to assist the driver, and actually occupying a seat beside the driver or, for motorcycle instruction, providing immediate supervision from a separate accompanying motor vehicle and (ii) lawfully permitted to operate the motor vehicle or accompanying motorcycle at that time.

The Department shall not, however, issue a learner's permit or motorcycle learner's permit to any minor applicant required to provide evidence of compliance with the compulsory school attendance law set forth in Article 1 (§ 22.1-254 et seq.) of Chapter 14 of Title 22.1, unless such applicant is in good academic standing or, if not in such standing or submitting evidence thereof, whose parent or guardian, having custody of such minor, provides written authorization for the minor to obtain a learner's permit or motorcycle learner's permit, which written authorization shall be obtained on forms provided by the Department and indicating the Commonwealth's interest in the good academic standing and regular school attendance of such minors. Any minor providing proper evidence of the solemnization of his marriage or a certified copy of a court order of emancipation shall not be required to provide the certification of good academic standing or any written authorization from his parent or guardian to obtain a learner's permit or motorcycle learner's permit.

Such permit, except a motorcycle learner's permit, shall be valid until the holder thereof either is issued a driver's license as provided for in this chapter or no longer meets the qualifications for issuance of a learner's permit as provided in this section. Motorcycle learner's permits shall be valid for 12 months. When a motorcycle learner's permit expires, the permittee may, upon submission of an application, payment of the application fee, and successful completion of the examinations, be issued another motorcycle learner's permit valid for 12 months.

*No learner's permit or motorcycle learner's permit issued to any person who is 25 years old or older at the time of issuance or renewal, shall bear the licensee's year, month, and date of birth.*

B. No driver's license shall be issued to any such person who is less than 18 years old unless, while holding a learner's permit, he has driven a motor vehicle for at least 40 hours, at least 10 of which were after sunset, as certified by his parent, foster parent, or legal guardian unless the person is married or otherwise emancipated.

C. No learner's permit shall authorize its holder to operate a motor vehicle with more than one passenger who is less than 18 years old, except when participating in a driver education program approved by the Department of Education or a course offered by a driver training school licensed by the Department. This passenger limitation, however, shall not apply to the driver's family or household as defined in subsection B of § 46.2-334.01.

D. No learner's permit shall authorize its holder to operate a motor vehicle between midnight and four o'clock a.m.

E. A violation of subsection C or D 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

59 maintenance of a motor vehicle, nor shall anything in this subsection change any existing law, rule, or  
60 procedure pertaining to any such civil action.

61 F. The provisions of §§ 46.2-323 and 46.2-334 relating to evidence and certification of Virginia  
62 residence and, in the case of persons of school age, compliance with the compulsory school attendance  
63 law shall apply, mutatis mutandis, to applications for learner's permits and motorcycle learner's permits  
64 issued under this section.

65 G. For persons qualifying for a driver's license through driver education courses approved by the  
66 Department of Education or courses offered by driver training schools licensed by the Department, the  
67 application for the learner's permit shall be used as the application for the driver's license.

68 H. The Department shall charge a fee of \$3 for each learner's permit and motorcycle learner's permit  
69 issued under this section. Fees for issuance of learner's permits shall be paid into the driver education  
70 fund of the state treasury; fees for issuance of motorcycle learner's permits shall be paid into the state  
71 treasury and credited to the Motorcycle Rider Safety Training Program Fund created pursuant to  
72 § 46.2-1191. It shall be unlawful for any person, after having received a learner's permit, to drive a  
73 motor vehicle without being accompanied by a licensed driver as provided in the foregoing provisions of  
74 this section; however, a learner's permit other than a motorcycle learner's permit, accompanied by  
75 documentation verifying that the driver is at least 16 years and three months old and has successfully  
76 completed an approved driver's education course, signed by the minor's parent, guardian, legal custodian  
77 or other person standing in loco parentis, shall constitute a temporary driver's license for the purpose of  
78 driving unaccompanied by a licensed driver 18 years of age or older, if all other requirements of this  
79 chapter have been met. Such temporary driver's license shall only be valid until the driver has received  
80 his permanent license pursuant to § 46.2-336.

81 I. Nothing in this section shall be construed to permit the issuance of a learner's permit entitling a  
82 person to drive a commercial motor vehicle, except as provided by the Virginia Commercial Driver's  
83 License Act (§ 46.2-341.1 et seq.).

84 J. The following limitations shall apply to operation of motorcycles by all persons holding  
85 motorcycle learner's permits:

86 1. The operator shall wear an approved safety helmet as provided in § 46.2-910.

87 2. Operation shall be under the immediate supervision of a person licensed to operate a motorcycle  
88 who is 21 years of age or older.

89 3. No person other than the operator shall occupy the motorcycle.

90 K. No holder of a learner's permit or motorcycle learner's permit shall be allowed to take the  
91 behind-the-wheel examination administered by the Department more than three times in any three-month  
92 period.

93 L. Any violation of this section shall be punishable as a Class 2 misdemeanor.

94 § 46.2-342. What license to contain; organ donor information; Uniform Donor Document.

95 A. Every license issued under this chapter shall bear:

96 1. For licenses issued or renewed on or after July 1, 2003, a license number which shall be assigned  
97 by the Department to the licensee and shall not be the same as the licensee's social security number;

98 2. A color photograph of the licensee;

99 3. The licensee's full name, year, month, and date of birth;

100 4. The licensee's address, subject to the provisions of subsection A1 of this section;

101 5. A brief description of the licensee for the purpose of identification;

102 6. A space for the signature of the licensee; and

103 7. Any other information deemed necessary by the Commissioner for the administration of this title.

104 No abbreviated names or nicknames shall be shown on any license.

105 *Notwithstanding subdivision 3 of this subsection, licenses issued to persons who are 25 years old or*  
106 *older at the time of issuance or renewal, shall not bear the licensee's year, month, and date of birth.*

107 A1. At the option of the licensee, the address shown on the license may be either the post office  
108 box, business, or residence address of the licensee, provided such address is located in Virginia.  
109 However, regardless of which address is shown on the license, the licensee shall supply the Department  
110 with his residence address, which shall be an address in Virginia. This residence address shall be  
111 maintained in the Department's records. Whenever the licensee's address shown either on his license or  
112 in the Department's records changes, he shall notify the Department of such change as required by  
113 § 46.2-324.

114 B. The license shall be made of a material and in a form to be determined by the Commissioner.

115 C. Licenses issued to persons less than 21 years old shall be immediately and readily distinguishable  
116 from those issued to persons 21 years old or older. Distinguishing characteristics shall include unique  
117 design elements of the document and descriptors within the photograph area to identify persons who are  
118 at least 15 years old but less than 21 years old. These descriptors shall include the month, day, and year  
119 when the person will become 21 years old.

120 D. The Department shall establish a method by which an applicant for a driver's license or an

identification card may designate his willingness to be an organ donor as provided in Article 2 (§ 32.1-289 et seq.) of Chapter 8 of Title 32.1 and shall cooperate with the Virginia Transplant Council to ensure that such method is designed to encourage organ donation with a minimum of effort on the part of the donor and the Department.

E. If an applicant designates his willingness to be a donor pursuant to subsection D, the Department may make a notation of this designation on his license or card and shall make a notation of this designation in his driver record.

F. The donor designation authorized in subsection E shall be sufficient legal authority for the removal, following death, of the subject's organs or tissues without additional authority from the donor, or his family or estate. No family member, guardian, agent named pursuant to an advance directive or person responsible for the decedent's estate shall refuse to honor the donor designation or, in any way, seek to avoid honoring the donor designation.

G. The donor designation provided pursuant to subsection D may be rescinded by notifying the Department.

H. With the written consent of his parent or legal guardian, a minor may make a donor designation.

I. When requested by the applicant, and upon presentation of a signed statement by a licensed physician confirming the applicant's condition, the Department shall indicate on the applicant's driver's license that the applicant is (i) an insulin-dependent diabetic, or (ii) hearing or speech impaired.

J. In the absence of gross negligence or willful misconduct, the Department and its employees shall be immune from any civil or criminal liability in connection with the making of or failure to make a notation of donor designation on any license or card or in any person's driver record.

K. Notwithstanding the foregoing provisions of this section, the Department shall continue to use the uniform donor document, as formerly set forth in subsection D above, for organ donation designation until such time as a new method is fully implemented, which shall be no later than July 1, 1994. Any such uniform donor document shall, when properly executed, remain valid and shall continue to be subject to all conditions for execution, delivery, amendment, and revocation as set out in Article 2 (§ 32.1-289 et seq.) of Chapter 8 of Title 32.1.

L. The Department shall, in coordination with the Virginia Transplant Council, prepare an organ donor information brochure describing the organ donor program and providing instructions for completion of the uniform donor document information describing the bone marrow donation program and instructions for registration in the National Bone Marrow Registry. The Department shall include a copy of such brochure with every driver's license renewal notice or application mailed to licensed drivers in Virginia.

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

A. On the application of any person who is a resident of the Commonwealth or the parent or legal guardian of any such person who is under the age of 15, the Department shall issue a special identification card to the person provided:

1. Application is made on a form prescribed by the Department and includes the applicant's full legal name; year, month, and date of birth; sex; and residence address;

2. The applicant presents a birth certificate or other evidence acceptable to the Department of his name and date of birth;

3. The Department is satisfied that the applicant needs an identification card or the applicant shows he has a bona fide need for such a card; and

4. The applicant does not hold a driver's license, commercial driver's license, temporary driver's permit, learner's permit, or motorcycle learner's permit.

*Notwithstanding subdivision 1 of this subsection, special identification cards issued to persons who are 25 years old or older at the time of issuance or renewal, shall not bear the year, month, and date of birth of the person to whom they are issued.*

Persons 70 years of age or older may exchange a valid Virginia driver's license for a special identification card at no fee. Special identification cards subsequently issued to such persons shall be subject to the regular fees for special identification cards.

B. The fee for the issuance of an original or renewal special identification card is \$5. The fee for the issuance of a duplicate or reissue of a special identification card is \$5. Persons 21 years old or older may be issued a scenic special identification card for an additional fee of \$5.

C. Every special identification card shall expire on the last day of the month of birth of the applicant in years in which the applicant attains an age exactly divisible by five. At no time shall any special identification card be issued for less than three nor more than seven years, except under the provisions of subsection B of § 46.2-328.1 and except that those cards issued to children under the age of 15 shall expire on the child's sixteenth birthday, thereafter the special identification card may be renewed on or before the last day of the month of birth of the applicant and shall be valid for five years, expiring in the next year in which the applicant's age is exactly divisible by five, except under the provisions of

182 subsection B of § 46.2-328.1.

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

187 E. Special identification cards, for persons at least 15 years old but less than 21 years old, shall be  
188 immediately and readily distinguishable from those issued to persons 21 years old or older.  
189 Distinguishing characteristics shall include unique design elements of the document and descriptors  
190 within the photograph area to identify persons who are at least 15 years old but less than 21 years old.  
191 These descriptors shall include the month, day, and year when the person will become 21 years old.

192 F. Special identification cards for persons under age 15 shall bear a full face photograph. The special  
193 identification card issued to persons under age 15 shall be readily distinguishable from a driver's license  
194 and from other special identification cards issued by the Department. Such cards shall clearly indicate  
195 that it does not authorize the person to whom it is issued to drive a motor vehicle.

196 G. A valid Virginia driver's license may be surrendered for a special identification card without the  
197 applicant's having to present proof of legal presence as required by § 46.2-328.1 if the Virginia driver's  
198 license is unexpired and it has not been revoked, suspended, or cancelled. The special identification card  
199 shall be considered a reissue and the expiration date shall be the last day of the month of the  
200 surrendered driver's license's month of expiration.

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

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

214 J. The Department may promulgate regulations necessary for the effective implementation of the  
215 provisions of this section.

216 K. The Department shall utilize the various communications media throughout the Commonwealth to  
217 inform Virginia residents of the provisions of this section and to promote and encourage the public to  
218 take advantage of its provisions.

219 L. The Department shall electronically transmit application information to the Department of State  
220 Police, in a format approved by the State Police, for comparison with information contained in the  
221 Virginia Criminal Information Network and National Crime Information Center Convicted Sexual  
222 Offender Registry Files, at the time of issuance of a special identification card. Whenever it appears  
223 from the records of the State Police that a person has failed to comply with the duty to register or  
224 reregister pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, the State Police shall promptly  
225 investigate and, if there is probable cause to believe a violation has occurred, obtain a warrant or assist  
226 in obtaining an indictment charging a violation of § 18.2-472.1 in the jurisdiction in which the person  
227 made application for the special identification card.