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HOUSE BILL NO. 1245

Offered January 9, 2008

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A *BILL to amend and reenact §§ 46.2-323, 46.2-324.1, 46.2-334, and 46.2-335.2 of the Code of Virginia, relating to obtaining driver's licenses.*

Patron—Hugo

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-323, 46.2-324.1, 46.2-334, and 46.2-335.2 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-323. Application for driver's license; proof of completion of driver education program; penalty.

A. Every application for a driver's license, temporary driver's permit, learner's permit, or motorcycle learner's permit shall be made on a form prescribed by the Department and the applicant shall write his usual signature in ink in the space provided on the form. The form shall include notice to the applicant of the duty to register with the Department of State Police as provided in Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, if the applicant has been convicted of an offense for which registration with the Sex Offender and Crimes Against Minors Registry is required.

B. Every application shall state the full legal name, year, month, and date of birth, social security number, sex, and residence address of the applicant; whether or not the applicant has previously been licensed as a driver and, if so, when and by what state, and whether or not his license has ever been suspended or revoked and, if so, the date of and reason for such suspension or revocation. The Department, as a condition for the issuance of any driver's license, temporary driver's permit, learner's permit, or motorcycle learner's permit may require the surrender of any driver's license or, in the case of a motorcycle learner's permit, a motorcycle license issued by another state and held by the applicant. The applicant shall also answer any questions on the application form or otherwise propounded by the Department incidental to the examination. The applicant may also be required to present to the person conducting the examination a birth certificate or other evidence, reasonably acceptable to the Department, of his name and date of birth.

The applicant shall also certify that he is a resident of the Commonwealth by signing a certification statement, on a form prescribed by the Commissioner, and by providing satisfactory proof that he is a resident of the Commonwealth. The Commissioner may adopt regulations to determine the process by which applicants prove that they are residents of the Commonwealth.

If the applicant either (i) fails or refuses to sign the certification statement or (ii) fails to follow the process determined by the Commissioner for proving residency, the Department shall not issue the applicant a driver's license, temporary driver's permit, learner's permit or motorcycle learner's permit.

Any applicant who knowingly makes a false certification of Virginia residency or supplies false or fictitious evidence of Virginia residency shall be punished as provided in § 46.2-348.

The Commissioner may, on a case-by-case basis, waive any provision of such regulations for good cause shown.

C. Every application for a driver's license shall include a color photograph of the applicant supplied under arrangements made by the Department. The photograph shall be processed by the Department so that the photograph can be made part of the issued license.

D. Notwithstanding the provisions of § 46.2-334, every *initial* applicant for a driver's license ~~who is under 19 years of age~~ shall furnish the Department with satisfactory proof of his successful completion of *either* a driver education program approved by the State Department of Education *or a course offered by a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.).*

E. The Department shall electronically transmit application information to the Department of State Police, in a format approved by the State Police, for comparison with information contained in the Virginia Criminal Information Network and National Crime Information Center Convicted Sexual Offender Registry Files, at the time of issuance of a driver's license, temporary driver's permit, learner's permit, or motorcycle learner's permit. Whenever it appears from the records of the State Police that a person has failed to comply with the duty to register or reregister pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, the State Police shall promptly investigate and, if there is probable cause to believe a violation has occurred, obtain a warrant or assist in obtaining an indictment charging a violation of § 18.2-472.1 in the jurisdiction in which the person made application of licensure.

§ 46.2-324.1. Requirements for initial licensure of certain applicants.

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59 No driver's license shall be issued to any applicant unless he either (i) provides written evidence of
60 having satisfactorily completed a course of driver instruction at a driver training school licensed under
61 Chapter 17 (§ 46.2-1700 et seq.) of this title or a comparable course approved by the Department or
62 Department of Education or (ii) has held a learner's permit issued by the Department for at least 30 90
63 days prior to his first behind-the-wheel examination by the Department.

64 The provisions of this section shall only apply to persons who are at least 19 years old and who
65 either (i) have never held a driver's license issued by Virginia or any other state or territory of the
66 United States or foreign country or (ii) have never been licensed or held the license endorsement or
67 classification required to operate the type of vehicle which they now propose to operate, except that the
68 provisions of this section shall apply to applicants for commercial driver's licenses who are 18 years old
69 or older and have never before held a commercial driver's license or have never held the license
70 endorsement or classification required to operate the type of commercial motor vehicle that they now
71 propose to operate. Nothing in this section shall be construed to prohibit the Department from requiring
72 any person to complete the skills examination as prescribed in § 46.2-325 and the written or automated
73 examinations as prescribed in § 46.2-335.

74 § 46.2-334. Conditions and requirements for licensure of persons under 18; requests for cancellation
75 of minor's driver's license; temporary driver's licenses; Board of Education approved programs;
76 home-schooled students; fee.

77 A. Minors at least 16 years and three months old may be issued driver's licenses under the following
78 conditions:

79 1. The minor shall submit a proper application and satisfactory evidence that he (i) is a resident of
80 the Commonwealth; (ii) has successfully completed a driver education course approved by either the
81 State Department of Education or, in the case of a course offered by a driver training school licensed
82 under Chapter 17 (§ 46.2-1700 et seq.) of this title, by the Department of Motor Vehicles; and (iii) is
83 mentally, physically, and otherwise qualified to drive a motor vehicle safely.

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

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

98 4. The application for a permanent driver's license by a minor of the age of persons required to
99 attend school pursuant to § 22.1-254 shall be accompanied by evidence of compliance with the
100 compulsory school attendance law set forth in Article 1 (§ 22.1-254 et seq.) of Chapter 14 of Title 22.1.
101 This evidence shall be provided in writing by the minor's parent. If the minor is unable to provide such
102 evidence, he shall not be granted a driver's license until he reaches the age of 18 or presents proper
103 evidence of the solemnization of his marriage or an order of emancipation, or the parent, as defined in
104 § 22.1-1, or other person standing in loco parentis has provided written authorization for the minor to
105 obtain a driver's license.

106 A minor may, however, present a high school diploma or its equivalent or a certificate indicating
107 completion of a prescribed course of study as defined by the local school board pursuant to
108 § 22.1-253.13:4 as evidence of compulsory school attendance compliance.

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

114 B. Any custodial parent or guardian of an unmarried or unemancipated minor may, after the issuance
115 of a permanent driver's license to such minor, file with the Department a written request that the license
116 of the minor be canceled. When such request is filed, the Department shall cancel the license of the
117 minor and the license shall not thereafter be reissued by the Department until a period of six months has
118 elapsed from the date of cancellation or the minor reaches his eighteenth birthday, whichever shall occur
119 sooner. Notwithstanding the foregoing provisions of this subsection, in the case of a minor whose
120 parents have been awarded joint legal custody, a request that the license of the minor be cancelled must

be signed by both legal custodians. In the event one parent is not reasonably available or the parents do not agree, one parent may petition the juvenile and domestic relations district court to make a determination that the license of the minor be cancelled.

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

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

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

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

G. Driver's licenses shall be issued by the Department to minors successfully completing driver education courses approved by the Department of Education (i) when the Department receives from the school proper certification that the student (a) has successfully completed such course, including a road skills examination and (b) is regularly attending school and 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 driver's license, 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; and (ii) upon payment of a fee of \$2.40 per year, based on the period of the license's validity. For applicants attending public schools, good academic standing may be certified by the public school principal or any of his designees. For applicants attending nonpublic schools, such certification shall be made by the private school principal or any of his designees; for minors receiving home schooling, such certification shall be made by the home schooling parent or tutor. 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 driver's license.

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

§ 46.2-335.2. Learner's permits; required before driver's license; minimum holding period.

A. No person under the age of nineteen years shall be eligible to receive a driver's license pursuant to § 46.2-334 unless the Department has previously issued such person a learner's permit pursuant to § 46.2-335 and such person has satisfied the minimum holding period requirements set forth in

182 subsection B, or unless such person is the holder of a valid driver's license from another state and
183 qualifies for a temporary license under subsection E of § 46.2-334 or subsection C of this section.

184 B. Effective July 1, 2002, any person under the age of nineteen years issued a learner's permit
185 pursuant to § 46.2-335 shall hold such permit for a minimum period of nine months or until he reaches
186 the age of nineteen years, whichever occurs first.

187 C. Notwithstanding the provisions of subsection D of § 46.2-323, requiring the successful completion
188 of a driver education course approved by the State Department of Education, the Commissioner, on
189 application therefor by a person who is at least eighteen years old but less than nineteen years old, shall
190 issue to the applicant a temporary driver's license valid for six months if he (i) certifies by signing on a
191 form prescribed by the Commissioner that he is a resident of the Commonwealth; (ii) is the holder of a
192 valid driver's license from another state; and (iii) has not been found guilty or otherwise responsible for
193 an offense involving the operation of a motor vehicle. No temporary license issued under this subsection
194 shall be renewed, nor shall a second or subsequent temporary license under this subsection be issued to
195 the same applicant.