

VIRGINIA ACTS OF ASSEMBLY -- 2009 SESSION

CHAPTER 439

An Act to amend and reenact § 46.2-323 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 46.2-334.001, relating to the suspension of the driver's licenses of minors attending public schools in the Commonwealth who have 10 or more unexcused absences on consecutive school days; penalty.

[H 1826]

Approved March 27, 2009

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-323 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 46.2-334.001 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 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 a driver education program approved by the State Department of Education.

E. *Every application for a driver's license submitted by a person less than 18 years old and attending a public school in the Commonwealth shall be accompanied by a document, signed by the applicant's parent or legal guardian, authorizing the principal, or his designee, of the school attended by the applicant to notify the juvenile and domestic relations district court within whose jurisdiction the minor resides when the applicant has had 10 or more unexcused absences from school on consecutive school days.*

F. 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.

§ 46.2-334.001. *Court to suspend driver's license issued to certain minors.*

A. *Upon receipt by the juvenile and domestic relations district court within whose jurisdiction the minor resides of a petition from the principal, or his designee, of any public school in the Commonwealth that any person who is less than 18 years old and attending that public school has had 10 or more unexcused absences from school on consecutive school days, the court shall give notice and opportunity for the minor to show cause why his driver's license should not be suspended. Upon failure to show cause for the license not to be suspended, the court may suspend the minor's driver's license for any period of time, until the minor is 18 years old.*

B. *The foregoing provisions of this section shall not apply in cases where the student has withdrawn from school for a reason or reasons beyond the control of the student, for the purpose of transferring to another school as confirmed in writing by the student's parent or guardian, or when the student's parent or guardian expresses in open court his desire to allow the student to retain his license. The juvenile and domestic relations district court judge shall be the sole authority as to whether the licensee's withdrawal from school is due to circumstances beyond the control of the student.*

C. *Any person whose driver's license is suspended as provided in this section may apply to a juvenile and domestic relations district court for issuance of a restricted driver's license for any of the purposes set forth in subsection E of § 18.2-271.1. No restricted license shall be issued pursuant to this section unless the licensee (i) is employed at least four hours per day and at least 20 hours per week, (ii) has a medical condition that requires him to be able to drive a motor vehicle, or (iii) is the only licensee in his household. The court shall order the surrender of such person's license and shall forward to the Commissioner a copy of its order entered pursuant to this subsection. This order shall specifically enumerate the restrictions imposed and contain such information regarding the person to whom such a restricted license is issued as is reasonably necessary to identify such person. The court shall also provide a copy of its order to such person, who may operate a motor vehicle on the order until receipt from the Commissioner of the Department of Motor Vehicles of a restricted driver's license, but only if the order provides for a restricted driver's license for that period. Any person who operates a motor vehicle in violation of any restriction imposed pursuant to this section shall be guilty of a violation of § 46.2-301.*