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SENATE BILL NO. 1084

Offered January 14, 2009

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A BILL to amend and reenact §§ 46.2-334 and 46.2-335 of the Code of Virginia, relating to fees for learner's permits and requirements for issuance of driver's licenses to persons less than 18 years old.

Patron—Howell

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:**1. That §§ 46.2-334 and 46.2-335 of the Code of Virginia are amended and reenacted as follows:**

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

A. Minors at least 16 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 driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) of this title, by the Department of Motor Vehicles; (iii) *has successfully completed, along with his parent or guardian, an in-person 90-minute or longer driver safety course, prescribed by the Department, which shall emphasize parental responsibilities regarding juvenile driving behavior, juvenile driving restrictions pursuant to the Code of Virginia, the dangers of driving while intoxicated, and underage consumption of alcohol;* and ~~(iii)~~(iv) is mentally, physically, and otherwise qualified to drive a motor vehicle safely.

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

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

4. The application for a permanent driver's license by a minor of the age of persons required to attend school pursuant to § 22.1-254 shall be accompanied by 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. This evidence shall be provided in writing by the minor's parent. If the minor is unable to provide such evidence, he shall not be granted a driver's license until he reaches the age of 18 or presents proper evidence of the solemnization of his marriage or an order of emancipation, or the parent, as defined in § 22.1-1, or other person standing in loco parentis has provided written authorization for the minor to obtain a driver's license.

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

5. The minor applicant shall certify in writing, on a form prescribed by the Commissioner, that he is a resident of the Commonwealth. The applicant's parent or guardian shall also certify that the applicant is a resident by signing the certification. 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 parent's certification of residence.

B. Any custodial parent or guardian of an unmarried or unemancipated minor may, after the issuance of a permanent driver's license to such minor, file with the Department a written request that the license of the minor be canceled. When such request is filed, the Department shall cancel the license of the

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SB1084

59 minor and the license shall not thereafter be reissued by the Department until a period of six months has
60 elapsed from the date of cancellation or the minor reaches his eighteenth birthday, whichever shall occur
61 sooner. Notwithstanding the foregoing provisions of this subsection, in the case of a minor whose
62 parents have been awarded joint legal custody, a request that the license of the minor be cancelled must
63 be signed by both legal custodians. In the event one parent is not reasonably available or the parents do
64 not agree, one parent may petition the juvenile and domestic relations district court to make a
65 determination that the license of the minor be cancelled.

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

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

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

89 F. For persons qualifying for a driver's license through driver education courses approved by the
90 Department of Education or courses offered by driver training schools licensed by the Department, the
91 application for the learner's permit shall be used as the application for the driver's license pursuant to
92 § 46.2-335.

93 G. Driver's licenses shall be issued by the Department to minors successfully completing driver
94 education courses approved by the Department of Education (i) when the Department receives from the
95 school proper certification that the student (a) has successfully completed such course, including a road
96 skills examination and (b) is regularly attending school and is in good academic standing or, if not in
97 such standing or submitting evidence thereof, whose parent or guardian, having custody of such minor,
98 provides written authorization for the minor to obtain a driver's license, which written authorization shall
99 be obtained on forms provided by the Department and indicating the Commonwealth's interest in the
100 good academic standing and regular school attendance of such minors; and (ii) upon payment of a fee of
101 \$2.40 per year, based on the period of the license's validity. For applicants attending public schools,
102 good academic standing may be certified by the public school principal or any of his designees. For
103 applicants attending nonpublic schools, such certification shall be made by the private school principal
104 or any of his designees; for minors receiving home schooling, such certification shall be made by the
105 home schooling parent or tutor. Any minor providing proper evidence of the solemnization of his
106 marriage or a certified copy of a court order of emancipation shall not be required to provide the
107 certification of good academic standing or any written authorization from his parent or guardian to
108 obtain a driver's license.

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

120 § 46.2-335. Learner's permits; fees; certification required.

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.

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 45 hours, at least 15 of which were after sunset, as certified by his parent, foster parent, or legal guardian unless the person is married or otherwise emancipated. Such certification shall be on a form provided by the Commissioner and shall contain the following statement:

"It is illegal for anyone to give false information in connection with obtaining a driver's license. This certification is considered part of the driver's license application, and anyone who certifies to a false statement may be prosecuted. I certify that the statements made and the information submitted by me regarding this certification are true and correct."

Such form shall also include the driver's license or Department of Motor Vehicles-issued identification card number of the person making the certification.

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

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

G. 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.

H. The Department shall charge a fee of \$3 \$8 for each learner's permit and motorcycle learner's permit issued under this section, \$5 of which shall be retained by the Department to cover its costs in

182 *carrying out the provisions of subdivision A 1 of § 46.2-334 requiring that every minor applicant for a*
183 *driver's license show that he has successfully completed, with his parent or guardian, the driver safety*
184 *course prescribed by the Department. Fees*The balance of fees for issuance of learner's permits shall be
185 paid into the driver education fund of the state treasury; *the balance of fees* for issuance of motorcycle
186 learner's permits shall be paid into the state treasury and credited to the Motorcycle Rider Safety
187 Training Program Fund created pursuant to § 46.2-1191. It shall be unlawful for any person, after having
188 received a learner's permit, to drive a motor vehicle without being accompanied by a licensed driver as
189 provided in the foregoing provisions of this section; however, a learner's permit other than a motorcycle
190 learner's permit, accompanied by documentation verifying that the driver is at least 16 years and three
191 months old and has successfully completed an approved driver's education course, signed by the minor's
192 parent, guardian, legal custodian or other person standing in loco parentis, shall constitute a temporary
193 driver's license for the purpose of driving unaccompanied by a licensed driver 18 years of age or older,
194 if all other requirements of this chapter have been met. Such temporary driver's license shall only be
195 valid until the driver has received his permanent license pursuant to § 46.2-336.

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

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

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

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

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

205 K. Any violation of this section shall be punishable as a Class 2 misdemeanor.