

## VIRGINIA ACTS OF ASSEMBLY — CHAPTER

*An Act to amend and reenact §§ 46.2-324.1, 46.2-325, 46.2-334, and 46.2-1702 of the Code of Virginia, relating to driver training and road tests for persons age 19 or older.*

[S 205]

Approved

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

**1. That §§ 46.2-324.1, 46.2-325, 46.2-334, and 46.2-1702 of the Code of Virginia are amended and reenacted as follows:**

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

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

The provisions of this section shall only apply to persons who are at least 19 years old and who either (a) have never held a driver's license issued by Virginia or any other state or territory of the United States or foreign country or (b) have never been licensed or held the license endorsement or classification required to operate the type of vehicle which they now propose to operate. *Completion of a course of driver instruction approved by the Department or the Department of Education at a driver training school may include the final behind-the-wheel examination for a driver's license; however, a driver training school shall not administer the behind-the-wheel examination to any applicant who is under medical control pursuant to § 46.2-322. Applicants completing a course of driver instruction approved by the Department or the Department of Education at a driver training school retain the option of having the behind-the-wheel examination administered by the Department.*

B. No commercial driver's license shall be issued to any applicant unless he is 18 years old or older and has complied with the requirements of § 46.2-341.9. Applicants for a commercial driver's license who have never before held a commercial driver's license shall apply for a commercial driver's instruction permit and either (i) provide written evidence of having satisfactorily completed a course of driver instruction at a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) or a comparable course approved by the Department or Department of Education and hold the commercial driver's instruction permit for a minimum of 14 days prior to taking the behind-the-wheel examination for the commercial driver's license or (ii) hold the commercial driver's instruction permit for a minimum of 30 days before taking the behind-the-wheel examination for the commercial driver's license.

Holders of a commercial driver's license who have never held the license endorsement or classification required to operate the type of commercial motor vehicle which they now propose to operate must apply for a commercial driver's instruction permit if the upgrade requires a skills test and hold the permit for a minimum of 14 days prior to taking the behind-the-wheel examination for the commercial driver's license.

C. Nothing in this section shall be construed to prohibit the Department from requiring any person to complete the skills examination as prescribed in § 46.2-325 and the written or automated examinations as prescribed in § 46.2-335.

**§ 46.2-325. Examination of applicants; waiver of Department's examination under certain circumstances; behind-the-wheel and knowledge examinations.**

A. The Department shall examine every applicant for a driver's license before issuing any license to determine (i) his physical and mental qualifications and his ability to drive a motor vehicle without jeopardizing the safety of persons or property and (ii) if any facts exist which would bar the issuance of a license under §§ 46.2-311 through 46.2-316, 46.2-334, or 46.2-335. The examination, however, shall not include investigation of any facts other than those directly pertaining to the ability of the applicant to drive a motor vehicle with safety, or other than those facts declared to be prerequisite to the issuance of a license under this chapter. No applicant otherwise competent shall be required to demonstrate ability to park any motor vehicle except in an adequate parking space between horizontal markers, and not between flags or sticks simulating parked vehicles. Except as provided for in § 46.2-337, applicants for licensure to drive motor vehicles of the classifications referred to in § 46.2-328 shall submit to examinations which relate to the operation of those vehicles. The motor vehicle to be used by the applicant for the behind-the-wheel examination shall meet the safety and equipment requirements

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specified in Chapter 10 (§ 46.2-1000 et seq.) and possess a valid inspection sticker as required pursuant to § 46.2-1157.

Prior to taking the examination, the applicant shall either (a) present evidence that the applicant has completed a state-approved driver education class pursuant to the provisions of § 46.2-324.1 or 46.2-334 or (b) submit to the examiner a behind-the-wheel maneuvers checklist, on a form provided by the Department, that describes the vehicle maneuvers the applicant may be expected to perform while taking the behind-the-wheel examination, that has been signed by a licensed driver, certifying that the applicant has practiced the driving maneuvers contained and described therein, and that has been signed by the applicant certifying that, at all times while holding a learner's permit, the applicant has complied with the provisions of § 46.2-335 while operating a motor vehicle.

Except for applicants subject to § 46.2-312, if the Commissioner is satisfied that an applicant has demonstrated the same proficiency as required by the Department's examination through successful completion of either (1) the driver education course approved by the Department of Education or (2) a driver training course offered by a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.), he may waive those parts of the Department's examination provided for in this section that require the applicant to drive and park a motor vehicle.

B. Any person who fails the behind-the-wheel examination for a driver's license administered by the Department shall wait two days before being permitted to take another such examination. No person who fails the behind-the-wheel examination for a driver's license administered by the Department three times shall be permitted to take such examination a fourth time until he successfully completes, subsequent to the third examination failure, the in-vehicle component of driver instruction at a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) or a comparable course approved by the Department or the Department of Education. In addition, no person who fails the driver knowledge examination for a driver's license administered by the Department three times shall be permitted to take such examination a fourth time until he successfully completes, subsequent to the third examination failure, the classroom component of driver instruction at a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) or, for persons at least 19 years old, a course of instruction based on the Virginia Driver's Manual offered by a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) and approved by the Department or the Department of Education. *All persons required to attend a driver training school pursuant to this section shall be required after successful completion of the necessary courses to have the applicable examination administered by the Department.*

The provisions of this subsection shall not apply to persons placed under medical control by the Department pursuant to § 46.2-322.

**§ 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; and (iii) 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 minor and the license shall not thereafter be reissued by the Department until a period of six months has elapsed from the date of cancellation or the minor reaches his eighteenth birthday, whichever shall occur sooner. Notwithstanding the foregoing provisions of this subsection, in the case of a minor whose 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~~ *students* 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~~ *students* receiving home

179 schooling, such certification shall be made by the home schooling parent or tutor. Any minor providing  
180 proper evidence of the solemnization of his marriage or a certified copy of a court order of  
181 emancipation shall not be required to provide the certification of good academic standing or any written  
182 authorization from his parent or guardian to obtain a driver's license.

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

194 **§ 46.2-1702. Certification of driver education courses by Commissioner.**

195 The Commissioner shall have the authority to approve as a driver education course satisfying the  
196 requirements of § 46.2-334 any course which is offered by any driver training school licensed under the  
197 provisions of this chapter if he finds that the course is of comparable content and quality to that offered  
198 in the Commonwealth's public schools. In making such finding, the Commissioner shall not require that  
199 the instructors of any driver training school meet the certification requirements of teachers in the  
200 Commonwealth's public schools.

201 The Commissioner shall have authority to approve any driver education course offered by any Class  
202 A licensee if he finds the course meets the requirements for such courses as set forth in this chapter and  
203 as otherwise established by the Department. *Class A licensees shall not be permitted to administer*  
204 *knowledge or behind-the-wheel examinations.* Driver education courses offered by any Class B licensee  
205 shall be based on the driver education curriculum currently approved by the Department of Education  
206 and the Department.

207 The Commissioner may accept 20 years' service with the Virginia Department of State Police by a  
208 person who retired or resigned while in good standing from such Department in lieu of requirements  
209 established by the Department of Education for instructor qualification.