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SENATE BILL NO. 555

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Transportation
on February 25, 2016)

(Patron Prior to Substitute—Senator Cosgrove)

A *BILL to amend and reenact §§ 46.2-323, 46.2-324.1, 46.2-334, 46.2-334.01, 46.2-335, and 46.2-335.2 of the Code of Virginia, relating to operating a motor vehicle by a holder of a learner's permit or provisional driver's license holder.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-323, 46.2-324.1, 46.2-334, 46.2-334.01, 46.2-335, 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 shall 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 proof of identity, residency, and social security number or non-work authorized status, if required to appear in person before the Department to apply.

The Commissioner shall require that each application include a certification statement to be signed by the applicant under penalty of perjury, certifying that the information presented on the application is true and correct.

If the applicant fails or refuses to sign the certification statement, 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 or supplies false or fictitious evidence shall be punished as provided in § 46.2-348.

C. Every application for a driver's license shall include a 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 18 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.

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

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

66 The provisions of this section shall only apply to persons who are at least ~~19~~ 18 years old and who
67 either (a) have never held a driver's license issued by Virginia or any other state or territory of the
68 United States or foreign country or (b) have never been licensed or held the license endorsement or
69 classification required to operate the type of vehicle which they now propose to operate. Completion of
70 a course of driver instruction approved by the Department or the Department of Education at a driver
71 training school may include the final behind-the-wheel examination for a driver's license; however, a
72 driver training school shall not administer the behind-the-wheel examination to any applicant who is
73 under medical control pursuant to § 46.2-322. Applicants completing a course of driver instruction
74 approved by the Department or the Department of Education at a driver training school retain the option
75 of having the behind-the-wheel examination administered by the Department.

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

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

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

93 D. Notwithstanding the provisions of subsection B, applicants for a commercial driver's license who
94 have never before held a commercial driver's license who are members of the active duty military,
95 military reserves, National Guard, active duty United States Coast Guard, or Coast Guard Auxiliary and
96 provide written evidence of having satisfactorily completed a military commercial driver training
97 program shall hold the commercial learner's permit for a minimum of 14 days prior to taking the
98 behind-the-wheel examination for the commercial driver's license.

99 E. Notwithstanding the provisions of subsection B, applicants for a commercial driver's license who
100 have never before held a commercial driver's license who are employed by a public school division as a
101 bus driver and provide written evidence of having satisfactorily completed a commercial driver training
102 program with a public school division shall hold the commercial learner's permit for a minimum of 14
103 days prior to taking the behind-the-wheel examination for the commercial driver's license.

104 **§ 46.2-334. Conditions and requirements for licensure of persons under 18.**

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

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

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

119 3. The minor shall be required to state in his application whether or not he has been convicted of an
120 offense triable by, or tried in, a juvenile and domestic relations district court or found by such court to
121 be a child in need of supervision, as defined in § 16.1-228. If it appears that the minor has been

122 adjudged not innocent of the offense alleged or has been found to be a child in need of supervision, the
123 Department shall not issue a license without the written approval of the judge of the juvenile and
124 domestic relations district court making an adjudication as to the minor or the like approval of a similar
125 court of the county or city in which the parent or guardian, respectively, of the minor resides.

126 4. The application for a permanent driver's license by a minor of the age of persons required to
127 attend school pursuant to § 22.1-254 shall be accompanied by evidence of compliance with the
128 compulsory school attendance law set forth in Article 1 (§ 22.1-254 et seq.) of Chapter 14 of Title 22.1.
129 This evidence shall be provided in writing by the minor's parent. If the minor is unable to provide such
130 evidence, he shall not be granted a driver's license until he reaches the age of 18 or presents proper
131 evidence of the solemnization of his marriage or an order of emancipation, or the parent, as defined in
132 § 22.1-1, or other person standing in loco parentis has provided written authorization for the minor to
133 obtain a driver's license.

134 A minor may, however, present a high school diploma or its equivalent or a certificate indicating
135 completion of a prescribed course of study as defined by the local school board pursuant to
136 § 22.1-253.13:4 as evidence of compulsory school attendance compliance.

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

142 B. Any custodial parent or guardian of an unmarried or unemancipated minor may, after the issuance
143 of a permanent driver's license to such minor, file with the Department a written request that the license
144 of the minor be canceled. When such request is filed, the Department shall cancel the license of the
145 minor and the license shall not thereafter be reissued by the Department until a period of six months has
146 elapsed from the date of cancellation or the minor reaches his eighteenth birthday, whichever shall occur
147 sooner. Notwithstanding the foregoing provisions of this subsection, in the case of a minor whose
148 parents have been awarded joint legal custody, a request that the license of the minor be cancelled must
149 be signed by both legal custodians. In the event one parent is not reasonably available or the parents do
150 not agree, one parent may petition the juvenile and domestic relations district court to make a
151 determination that the license of the minor be cancelled.

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

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

163 E. Notwithstanding the provisions of subsection A requiring the successful completion of a driver
164 education course approved by the State Department of Education, the Commissioner, on application
165 therefor by a person at least 16 years and three months old but less than 18 years old, shall issue to
166 the applicant a temporary driver's license valid for six months if he (i) certifies by signing, together with
167 his parent or guardian, if applicable, on a form prescribed by the Commissioner that he is a resident of
168 the Commonwealth; (ii) is the holder of a valid driver's license from another U.S. state, U.S. territory,
169 Canadian province, or Canadian territory; and (iii) has not been found guilty of or otherwise responsible
170 for an offense involving the operation of a motor vehicle. No temporary license issued under this
171 subsection shall be renewed, nor shall any second or subsequent temporary license under this subsection
172 be issued to the same applicant. Any such minor providing proper evidence of the solemnization of his
173 marriage or a certified copy of a court order of emancipation shall not be required to obtain the
174 signature of his parent or guardian for the temporary driver's license.

175 In order to obtain a permanent driver's license, applicants who transfer to Virginia from another U.S.
176 state or any U.S. territory, Canadian province, or Canadian territory must have documentation of at least
177 30 hours of classroom instruction and six hours of in-car instruction from a government-approved
178 program in the other U.S. state, U.S. territory, or Canadian province or Canadian territory. If a transfer
179 applicant successfully completes a government-approved classroom and in-car driver education program
180 from another state or any U.S. territory, Canadian province, or Canadian territory, the applicant must
181 present the certificate of completion, specifying the number of instructional hours, to the Department.

182 F. For persons qualifying for a driver's license through driver education courses approved by the

183 Department of Education or courses offered by driver training schools licensed by the Department, the
184 application for the learner's permit shall be used as the application for the driver's license pursuant to
185 § 46.2-335.

186 G. Driver's licenses shall be issued by the Department to students successfully completing driver
187 education courses approved by the Department of Education (i) when the Department receives from the
188 school proper certification that the student (a) has successfully completed such course, including a road
189 skills examination and (b) is regularly attending school and is in good academic standing or, if not in
190 such standing or submitting evidence thereof, whose parent or guardian, having custody of such minor,
191 provides written authorization for the minor to obtain a driver's license, which written authorization shall
192 be obtained on forms provided by the Department and indicating the Commonwealth's interest in the
193 good academic standing and regular school attendance of such minors; and (ii) upon payment of a fee of
194 \$2.40 per year, based on the period of the license's validity. For applicants attending public schools,
195 good academic standing may be certified by the public school principal or any of his designees. For
196 applicants attending nonpublic schools, such certification shall be made by the private school principal
197 or any of his designees; for students receiving home schooling, such certification shall be made by the
198 home schooling parent or tutor. Any minor providing proper evidence of the solemnization of his
199 marriage or a certified copy of a court order of emancipation shall not be required to provide the
200 certification of good academic standing or any written authorization from his parent or guardian to
201 obtain a driver's license.

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

213 I. The Commissioner, on application therefor by a person from another U.S. state or any U.S.
214 territory, Canadian province, or Canadian territory who is at least 16 years and three months old but less
215 than 18 years old, shall issue a Virginia driver's license to the applicant if the applicant (i) certifies
216 by signing, together with his parent or guardian, if applicable, on a form prescribed by the
217 Commissioner that he is now a resident of the Commonwealth; (ii) has completed a
218 government-approved classroom and in-car driver education program from another U.S. state or any U.S.
219 territory, Canadian province, or Canadian territory, which shall not be required to meet the 30 hours of
220 classroom instruction and six hours of in-car instruction requirement in subsection E; (iii) is the holder
221 of a valid driver's license from another U.S. state or any U.S. territory, Canadian province, or Canadian
222 territory; (iv) has held the valid driver's license for the 12 months immediately prior to applying for a
223 Virginia license; (v) has not been found guilty of or otherwise responsible for an offense involving the
224 operation of a motor vehicle; and (vi) successfully completes behind-the-wheel and driver knowledge
225 examinations administered by the Department.

226 The applicant must present the certificate of completion specifying the number of classroom and
227 in-car driver education program instructional hours for the government-approved classroom and in-car
228 driver education program from another U.S. state or any U.S. territory, Canadian province, or Canadian
229 territory to the Department.

230 **§ 46.2-334.01. Licenses issued to persons less than 19 years old subject to certain restrictions.**

231 A. Any learner's permit or driver's license issued to any person less than 18 years old shall be
232 subject to the following:

233 1. Notwithstanding the provisions of § 46.2-498, whenever the driving record of a person less than
234 19 years old shows that he has been convicted of committing, when he was less than 18 years old, (i)
235 an offense for which demerit points have been assessed or are assessable under Article 19 (§ 46.2-489 et
236 seq.) or (ii) a violation of any provision of Article 12 (§ 46.2-1091 et seq.) or Article 13 (§ 46.2-1095 et
237 seq.) of Chapter 10, the Commissioner shall direct such person to attend a driver improvement clinic.
238 No safe driving points shall be awarded for such clinic attendance, nor shall any safe driving points be
239 awarded for voluntary or court-assigned clinic attendance. Such person's parent, guardian, legal
240 custodian, or other person standing in loco parentis may attend such clinic and receive a reduction in
241 demerit points and/or an award of safe driving points pursuant to § 46.2-498. The provisions of this
242 subdivision shall not be construed to prohibit awarding of safe driving points to a person less than 18
243 years old who attends and successfully completes a driver improvement clinic without having been
244 directed to do so by the Commissioner or required to do so by a court.

245 2. If any person less than 19 years old is convicted a second time of committing, when he was less
 246 than 18 years old, (i) an offense for which demerit points have been assessed or are assessable under
 247 Article 19 (§ 46.2-489 et seq.) or (ii) a violation of any provision of Article 12 (§ 46.2-1091 et seq.) or
 248 Article 13 (§ 46.2-1095 et seq.) of Chapter 10, the Commissioner shall suspend such person's driver's
 249 license or privilege to operate a motor vehicle for 90 days. Such suspension shall be consecutive to, and
 250 not concurrent with, any other period of license suspension, revocation, or denial. Any person who has
 251 had his driver's license or privilege to operate a motor vehicle suspended in accordance with this
 252 subdivision may petition the juvenile and domestic relations district court of his residence for a restricted
 253 license to authorize such person to drive a motor vehicle in the Commonwealth to and from his home,
 254 his place of employment, or an institution of higher learning where he is enrolled, provided there is no
 255 other means of transportation by which such person may travel between his home and his place of
 256 employment or the institution of higher learning where he is enrolled. On such petition the court may, in
 257 its discretion, authorize the issuance of a restricted license for a period not to exceed the term of the
 258 suspension of the person's license or privilege to operate a motor vehicle in the Commonwealth. Such
 259 restricted license shall be valid solely for operation of a motor vehicle between such person's home and
 260 his place of employment or the institution of higher learning where he is enrolled.

261 3. If any person is convicted a third time of committing, when he was less than 18 years old, (i) an
 262 offense for which demerit points have been assessed or are assessable under Article 19 (§ 46.2-489 et
 263 seq.) or (ii) a violation of any provision of Article 12 (§ 46.2-1091 et seq.) or Article 13 (§ 46.2-1095 et
 264 seq.) of Chapter 10, the Commissioner shall revoke such person's driver's license or privilege to operate
 265 a motor vehicle for one year or until such person reaches the age of 18 years, whichever is longer. Such
 266 revocation shall be consecutive to, and not concurrent with, any other period of license suspension,
 267 revocation, or denial.

268 4. In no event shall any person subject to the provisions of this section be subject to the suspension
 269 or revocation provisions of subdivision 2 or 3 for multiple convictions arising out of the same
 270 transaction or occurrence.

271 B. The initial license issued to any person younger than 18 years of age shall be deemed a
 272 provisional driver's license. Until the holder is 18 years old, a provisional driver's license shall not
 273 authorize its holder to operate a motor vehicle with more than one passenger who is less than 21 years
 274 old; ~~unless the driver is accompanied by a parent or person acting in loco parentis provided that such~~
 275 ~~person accompanying the driver is occupying the seat beside the driver and is lawfully permitted to~~
 276 ~~operate a motor vehicle at the time.~~ After the first year the provisional license is issued, the holder may
 277 operate a motor vehicle with up to three passengers who are less than 21 years old ~~when~~ (i) *when* the
 278 holder is driving to or from a school-sponsored activity, ~~or~~ (ii) *when* a licensed driver who is at least 21
 279 years old is occupying the seat beside the driver, or (iii) in cases of emergency. ~~This~~ *These* passenger
 280 ~~limitation~~ *limitations*, however, shall not apply to members of the driver's family or household. For the
 281 purposes of this subsection, "a member of the driver's family or household" means any of the following:
 282 (a) the driver's spouse, children, stepchildren, brothers, sisters, half-brothers, half-sisters, *first cousins*,
 283 and any individual who has a child in common with the driver, whether or not they reside in the same
 284 home with the driver; (b) the driver's brothers-in-law and sisters-in-law who reside in the same home
 285 with the driver; and (c) any individual who cohabits with the driver, and any children of such individual
 286 residing in the same home with the driver.

287 C. The holder of a provisional driver's license shall not operate a motor vehicle on the highways of
 288 the Commonwealth between the hours of midnight and 4:00 a.m. except when driving (i) to or from a
 289 place of business where he is employed; (ii) to or from an activity that is supervised by an adult and is
 290 sponsored by a school or by a civic, religious, or public organization; (iii) accompanied by a parent, a
 291 person acting in loco parentis, or by a spouse who is 18 years old or older, provided that such person
 292 accompanying the driver is actually occupying a seat beside the driver and is lawfully permitted to
 293 operate a motor vehicle at the time; or (iv) in cases of emergency, including response by volunteer
 294 firefighters and volunteer emergency medical services personnel to emergency calls.

295 C1. Except in a driver emergency or when the vehicle is lawfully parked or stopped, the holder of a
 296 provisional driver's license shall not operate a motor vehicle on the highways of the Commonwealth
 297 while using any cellular telephone or any other wireless telecommunications device, regardless of
 298 whether such device is or is not hand-held.

299 D. The provisional driver's license restrictions in subsections B, C, and C1 shall expire on the
 300 holder's eighteenth birthday. A violation of the provisional driver's license restrictions in ~~either~~
 301 subsection B, C, or C1 shall constitute a traffic infraction. For a second or subsequent violation of the
 302 provisional driver's license restrictions in ~~either~~ subsection B, C, or C1, in addition to any other
 303 penalties that may be imposed pursuant to § 16.1-278.10, the court may suspend the juvenile's privilege
 304 to drive for a period not to exceed six months.

305 E. A violation of subsection B, C, or C1 shall not constitute negligence, be considered in mitigation

306 of damages of whatever nature, be admissible in evidence, or be the subject of comment by counsel in
307 any action for the recovery of damages arising out of the operation, ownership, or maintenance of a
308 motor vehicle, nor shall anything in this subsection change any existing law, rule, or procedure
309 pertaining to any such civil action.

310 F. No citation for a violation of this section shall be issued unless the officer issuing such citation
311 has cause to stop or arrest the driver of such motor vehicle for the violation of some other provision of
312 this Code or local ordinance relating to the operation, ownership, or maintenance of a motor vehicle or
313 any criminal statute.

314 **§ 46.2-335. Learner's permits; fees; certification required.**

315 A. The Department, on receiving from any Virginia resident over the age of 15 years and six months
316 an application for a learner's permit or motorcycle learner's permit, may, subject to the applicant's
317 satisfactory documentation of meeting the requirements of this chapter and successful completion of the
318 written or automated knowledge and vision examinations and, in the case of a motorcycle learner's
319 permit applicant, the automated motorcycle test, issue a permit entitling the applicant, while having the
320 permit in his immediate possession, to drive a motor vehicle or, if the application is made for a
321 motorcycle learner's permit, a motorcycle, on the highways, when accompanied by any licensed driver
322 21 years of age or older or by his parent or legal guardian, or by a brother, sister, half-brother,
323 half-sister, step-brother, or step-sister 18 years of age or older. The accompanying person shall be (i)
324 alert, able to assist the driver, and actually occupying a seat beside the driver or, for motorcycle
325 instruction, providing immediate supervision from a separate accompanying motor vehicle and (ii)
326 lawfully permitted to operate the motor vehicle or accompanying motorcycle at that time.

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

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

344 Any person 25 years of age or older who is eligible to receive an operator's license in Virginia, but
345 who is required, pursuant to § 46.2-324.1, to be issued a learner's permit for 60 days prior to his first
346 behind-the-wheel exam, may be issued such learner's permit even though restrictions on his driving
347 privilege have been ordered by a court. Any such learner's permit shall be subject to the restrictions
348 ordered by the court.

349 B. No driver's license shall be issued to any such person who is less than 18 years old unless, while
350 holding a learner's permit, he has driven a motor vehicle for at least 45 hours, at least 15 of which were
351 after sunset, as certified by his parent, foster parent, or legal guardian unless the person is married or
352 otherwise emancipated. Such certification shall be on a form provided by the Commissioner and shall
353 contain the following statement:

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

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

360 C. No learner's permit shall authorize its holder to operate a motor vehicle with more than one
361 passenger who is less than 21 years old, except when participating in a driver education program
362 approved by the Department of Education or a course offered by a driver training school licensed by the
363 Department. This passenger limitation, however, shall not apply to the *members of the* driver's family or
364 household as defined in subsection B of § 46.2-334.01.

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

367 E. *Except in a driver emergency or when the vehicle is lawfully parked or stopped, no holder of a*

368 learner's permit shall operate a motor vehicle on the highways of the Commonwealth while using any
 369 cellular telephone or any other wireless telecommunications device, regardless of whether or not such
 370 device is handheld. No citation for a violation of this subsection shall be issued unless the officer
 371 issuing such citation has cause to stop or arrest the driver of such motor vehicle for the violation of
 372 some other provision of this Code or local ordinance relating to the operation, ownership, or
 373 maintenance of a motor vehicle or any criminal statute.

374 ~~E.~~ F. A violation of subsection C ~~or~~ D, or E shall not constitute negligence, be considered in
 375 mitigation of damages of whatever nature, be admissible in evidence or be the subject of comment by
 376 counsel in any action for the recovery of damages arising out of the operation, ownership, or
 377 maintenance of a motor vehicle, nor shall anything in this subsection change any existing law, rule, or
 378 procedure pertaining to any such civil action.

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

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

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

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

402 ~~J.~~ K. The following limitations shall apply to operation of motorcycles by all persons holding
 403 motorcycle learner's permits:

- 404 1. The operator shall wear an approved safety helmet as provided in § 46.2-910.
- 405 2. Operation shall be under the immediate supervision of a person licensed to operate a motorcycle
 406 who is 21 years of age or older.
- 407 3. No person other than the operator shall occupy the motorcycle.

408 ~~K.~~ L. Any violation of this section shall be punishable as a Class 2 misdemeanor.

409 **§ 46.2-335.2. Learner's permits; required before driver's license; minimum holding period.**

410 A. No person under the age of ~~nineteen~~ 18 years shall be eligible to receive a driver's license
 411 pursuant to § 46.2-334 unless the Department has previously issued such person a learner's permit
 412 pursuant to § 46.2-335 and such person has satisfied the minimum holding period requirements set forth
 413 in subsection B, or unless such person is the holder of a valid driver's license from another state and
 414 qualifies for a temporary license under subsection E of § 46.2-334 ~~or subsection C of this section.~~

415 B. ~~Effective July 1, 2002, any~~ Any person under the age of ~~nineteen~~ 18 years issued a learner's
 416 permit pursuant to § 46.2-335 shall hold such permit for a minimum period of nine months or until he
 417 reaches the age of ~~nineteen~~ 18 years, whichever occurs first.

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