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SENATE BILL NO. 1335

Offered January 13, 2021

Prefiled January 12, 2021

A BILL to amend and reenact § 46.2-335, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to learner's permits; use of personal communications devices.

Patrons—Stuart and Surovell

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-335, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted as follows:

§ 46.2-335. (Effective until March 1, 2021) 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)c 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.

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

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 21 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 members of 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. Except in a driver emergency or when the vehicle is lawfully parked or stopped, no holder of a learner's permit shall operate a motor vehicle on the highways of the Commonwealth while using ~~any cellular telephone or any other wireless telecommunications~~ *a personal communications* device, regardless of whether or not such device is handheld. ~~No citation for a violation of this subsection shall be issued unless the officer issuing such citation has cause to stop or arrest the driver of such motor vehicle for the violation of some other provision of this Code or local ordinance relating to the operation, ownership, or maintenance of a motor vehicle or any criminal statute.~~

F. A violation of subsection C, D, or E 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.

G. 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.

H. 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.

I. The Department shall charge a fee of $3 for each learner's permit and motorcycle learner's permit issued under this section. Fees for issuance of learner's permits shall be paid into the driver education fund of the state treasury; fees for issuance of motorcycle learner's permits, other than permits issued under § 46.2-328.3, shall be paid into the state treasury and credited to the Motorcycle Rider Safety Training Program Fund created pursuant to § 46.2-1191. It is unlawful for any person, after having received a learner's permit, to drive a motor vehicle without being accompanied by a licensed driver as provided in the foregoing provisions of this section; however, a learner's permit other than a motorcycle learner's permit, accompanied by documentation verifying that the driver is at least 16 years and three months old and has successfully completed an approved driver's 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 the purpose of driving unaccompanied by a licensed driver 18 years of age or older, if all other requirements of this chapter have been met. Such temporary driver's license shall only be valid until the driver has received his permanent license pursuant to § 46.2-336.

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

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

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

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

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

L. Any violation of this section is punishable as a Class 2 misdemeanor.

§ 46.2-335. (Effective March 1, 2021) Learner's permits; fees; certification required.

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"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."

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E. Except in a driver emergency or when the vehicle is lawfully parked or stopped, no holder of a learner's permit shall operate a motor vehicle on the highways of the Commonwealth while using ~~any cellular telephone or any other wireless telecommunications~~ *a personal communications* device, regardless of whether or not such device is handheld. ~~No law-enforcement officer shall stop a motor vehicle for a violation of this section. No evidence discovered or obtained as the result of a stop in violation of this subsection, including evidence discovered or obtained with the operator's consent, shall be admissible in any trial, hearing, or other proceeding.~~

F. A violation of subsection C, D, or E 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.

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