

# VIRGINIA ACTS OF ASSEMBLY -- 1995 SESSION

## CHAPTER 535

*An Act to amend and reenact § 46.2-334, as it is currently effective and as it may become effective, and § 46.2-335 of the Code of Virginia, relating to issuance of driver's licenses and learner's permits to certain minors.*

[H 2534]

Approved March 23, 1995

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

**1. That § 46.2-334, as it is currently effective and as it may become effective, and § 46.2-335 of the Code of Virginia are amended and reenacted as follows:**

§ 46.2-334. Persons under eighteen; exception as to and procedure for licensing persons of sixteen and under eighteen.

No driver's license shall be issued to any person under the age of eighteen years except that:

1. A driver's license may be issued to a minor of the age of sixteen years on proper application and on 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 commercial 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 with safety. The application 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, in lieu of any signature required in the preceding provisions of this section, on presentation of proper evidence of the solemnization of the marriage, the spouse of the minor may sign the application, if the spouse is over the age of eighteen years. Any parent, spouse, or guardian, as the case may be, may thereafter file with the Department a written request that the license of the minor so granted be cancelled. When such a 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. 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, guardian, or spouse, respectively, of the minor resides.

1a. The application for a 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 Article 1 (§ 22.1-254 et seq.) of Chapter 14 of Title 22.1 on a form furnished by the Board of Education and certified by the division superintendent or any of his designees. *For minors attending nonpublic schools, such certification shall be made by the private school principal or any of his designees; for minors receiving home schooling, such certification shall be made by the home schooling parent or tutor.* If the minor is unable to furnish such evidence, the minor shall not be granted a driver's license until evidence in a form and manner prescribed by the Board of Education is provided that the minor has received counseling on the importance of school attendance, school enrollment and completion of an educational program.

1b. A minor may 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.

1c. The applicant shall certify in writing, on a form prescribed by the Commissioner, that he is a resident of the Commonwealth. The applicant's parent, guardian, or spouse over the age of eighteen shall also certify that the applicant is a resident by signing the certification.

2. The provisions of subdivision 1 of this section requiring that an application for a driver's license be signed by the parent, guardian, or spouse over the age of eighteen shall be waived by the Commissioner if the application is accompanied by 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.

3. Notwithstanding the provisions of subdivision 1 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 sixteen years of age but less than eighteen years of age, shall issue to the applicant a temporary driver's license valid for six months provided he (i) certifies by signing, together with his parent, guardian, or spouse over the age of eighteen, a certification statement 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 subdivision shall be renewed, nor shall any second or subsequent temporary license under this subdivision be issued to the same applicant.

§ 46.2-334. (Delayed effective date) Persons under eighteen; exception as to and procedure for licensing persons of sixteen and under eighteen.

No driver's license shall be issued to any person under the age of eighteen years except that:

1. A driver's license may be issued to a minor of the age of sixteen years on proper application and on 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 commercial 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 with safety. The application 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 family court of the city or county in which he resides. If the minor making the application is married, in lieu of any signature required in the preceding provisions of this section, on presentation of proper evidence of the solemnization of the marriage, the spouse of the minor may sign the application, if the spouse is over the age of eighteen years. Any parent, spouse, or guardian, as the case may be, may thereafter file with the Department a written request that the license of the minor so granted be cancelled. When such a 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. 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 family 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 family 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, guardian, or spouse, respectively, of the minor resides.

1a. The application for a 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 Article 1 (§ 22.1-254 et seq.) of Chapter 14 of Title 22.1 on a form furnished by the Board of Education and certified by the division superintendent or any of his designees. *For minors attending nonpublic schools, such certification shall be made by the private school principal or any of his designees; for minors receiving home schooling, such certification shall be made by the home schooling parent or tutor.* If the minor is unable to furnish such evidence, the minor shall not be granted a driver's license until evidence in a form and manner prescribed by the Board of Education is provided that the minor has received counseling on the importance of school attendance, school enrollment and completion of an educational program.

1b. A minor may 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.

1c. The applicant shall certify in writing, on a form prescribed by the Commissioner, that he is a resident of the Commonwealth. The applicant's parent, guardian, or spouse over the age of eighteen shall also certify that the applicant is a resident by signing the certification.

2. The provisions of subdivision 1 of this section requiring that an application for a driver's license be signed by the parent, guardian, or spouse over the age of eighteen shall be waived by the Commissioner if the application is accompanied by 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.

3. Notwithstanding the provisions of subdivision 1 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 sixteen years of age but less than eighteen years of age, shall issue to the applicant a temporary driver's license valid for six months provided he (i) certifies by signing, together with his parent, guardian, or spouse over the age of eighteen, a certification statement 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 subdivision shall be renewed, nor shall any second or subsequent temporary license under this subdivision be issued to the same applicant.

§ 46.2-335. Learner's permits; fees.

A. The Department, on receiving from any Virginia resident over the age of fifteen years eight months, an application for a learner's permit may, in its discretion, issue a permit entitling the applicant, while having the permit in his immediate possession, to drive a motor vehicle on the highways for a period of one year, when accompanied by a licensed driver eighteen years of age or older who is actually occupying a seat beside the driver. The provisions of §§ 46.2-323 and 46.2-334 relating to evidence and certification of Virginia residence shall apply, *mutatis mutandis*, to learner's permits issued under this section. The application for a learner's permit shall not be granted without evidence of compliance with Article 1 (§ 22.1-254 et seq.) of Chapter 14 of Title 22.1, submitted on a form furnished by the Board of Education and certified by the division superintendent or any of his designees, *the nonpublic school principal or any of his designees, or the home schooling parent or tutor*, or presentation of 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. The Department shall charge a fee of three dollars for each learner's permit issued under this section, which shall be paid into the driver education fund of the state treasury. It shall be unlawful for any person, after having received a learner's permit, to drive a motor vehicle without being accompanied by a licensed driver. Violation of this section shall constitute a Class 2 misdemeanor. 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.).

B. Notwithstanding the provisions of subsection A of this section, the Department shall not issue a learner's permit with a classification entitling the permittee to drive motorcycles unless:

1. The person is receiving instructions from a qualified instructor in a course approved by the Department;
2. The person has successfully completed the off-street portion of the course;
3. When the instruction is conducted on the public highways, it follows a prescribed course which has been approved by the chief local law-enforcement official;
4. The persons receiving the instruction, or the motorcycles used in the instruction, are clearly marked "STUDENT DRIVER";
5. The person is under the supervision of his instructor at all times; and
6. No person, except the person receiving the instruction, occupies the motorcycle while instruction is being given.