

VIRGINIA ACTS OF ASSEMBLY -- 1996 RECONVENED SESSION

CHAPTER 1035

An Act to amend and reenact §§ 46.2-335 and 46.2-498 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 46.2-334.1, 46.2-335.1 and 46.2-335.2, relating to drivers under eighteen.

[H 1462]

Approved April 17, 1996

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-335 and 46.2-498 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 46.2-334.1, 46.2-335.1 and 46.2-335.2 as follows:

§ 46.2-334.1. Knowledge test; waiting period prior to reexamination.

Any person under the age of eighteen who applies for a driver's license under § 46.2-334 and fails the motor vehicle knowledge test administered pursuant to that section shall not be eligible for retesting for at least fifteen days.

§ 46.2-335. Learner's permits; fees.

A. The Department, on receiving from any Virginia resident over the age of fifteen years, an application for a learner's permit may, subject to the applicant's successful completion of the written or automated knowledge and vision examinations, issue a permit entitling the applicant, while having the permit in his immediate possession, to drive a motor vehicle on the highways, when accompanied by a licensed driver eighteen years of age or older *or by his parent or legal guardian* who is (i) actually occupying a seat beside the driver *and (ii) lawfully permitted to operate a motor vehicle at that time.* Such permit shall be valid until he 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. For persons qualifying for a driver's license through driver education courses approved by the Department of Education or courses offered by commercial 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. Driver's licenses shall be issued by the Department to persons successfully completing driver education courses approved by the Department of Education when the Department receives from the school proper certification that the student (i) has successfully completed such course, including a road skills examination and (ii) is in good academic standing and (iii) upon payment of a fee of \$2.40 per year, based on the period of the license's validity. 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 *as provided in the foregoing provisions of this section.* 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.

§ 46.2-335.1. Knowledge test; waiting period prior to reexamination.

Any person under the age of eighteen who applies for a learner's permit under § 46.2-335 and fails the motor vehicle knowledge test administered pursuant to that section shall not be eligible for retesting for at least fifteen days.

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

A. Effective July 1, 1996, no person under the age of eighteen years shall be eligible to receive a driver's license pursuant to § 46.2-334 unless the Department has previously issued such person a learner's permit pursuant to § 46.2-335 and such person has satisfied the minimum holding period requirements set forth in subsection B, or unless such person is the holder of a valid driver's license from another state and qualifies for a temporary license under subdivision 3 of § 46.2-334. However, persons under the age of eighteen years to whom the Department has issued a learner's permit prior to July 1, 1996, shall not be subject to the minimum holding period requirements set forth in subsection B before obtaining a driver's license pursuant to § 46.2-334.

B. Effective July 1, 1996, any person under the age of eighteen years issued a learner's permit pursuant to § 46.2-335 shall hold such permit for a minimum period of six months or until he reaches the age of eighteen years, whichever occurs first.

§ 46.2-498. Driver improvement clinics; voluntary attendance.

A. Whenever the driving record of any person shows an accumulation of at least twelve demerit points based on convictions, or findings of not innocent in the case of a juvenile, for traffic offenses committed within a period of twelve consecutive months, or at least eighteen demerit points based on convictions, or findings of not innocent in the case of a juvenile, for traffic offenses committed within a period of twenty-four consecutive months, respectively, the Commissioner shall direct the person to attend a driver improvement clinic.

A1. Notwithstanding the provisions of subsection A of this section, whenever the driving record of a person under the age of eighteen years shows an accumulation of (i) at least nine points based on convictions, or findings of not innocent, for traffic offenses committed within a period of twelve consecutive months or (ii) at least twelve points based on convictions, or findings of not innocent, for traffic offenses committed within a period of twenty-four consecutive months, the Commissioner shall direct the person to attend a driver improvement clinic and such person shall be subject to probation pursuant to § 46.2-499.

B. Except as provided for in subsection C of this section and in § 46.2-505, every person who attends a driver improvement clinic conducted by the Department or those businesses, organizations, governmental entities or individuals certified by the Department to provide driver improvement clinic instruction and who satisfactorily completes the clinic shall have five demerit points subtracted from his total accumulation of demerit points, except in those instances where a person has not accumulated five demerit points, in which case a reduction in demerit points and/or the award of safe driving points will be made. No person shall be allowed to accumulate more than five safe driving points.

Safe driving points shall be awarded or reductions in premium charges, as set forth in § 38.2-2217, shall be received for the completion of a driver improvement clinic only once within a period of two years from the date a person satisfactorily completes the clinic. Persons shall be eligible to voluntarily attend a driver improvement clinic again for either safe driving points or a reduction in premium charges, whichever was not awarded or received previously, one year from the date of satisfactory completion of a driver improvement clinic in which safe driving points or a reduction in premium charges was received or awarded.

C. Any resident or nonresident person holding a valid license to drive a motor vehicle in Virginia, whether or not he has accumulated demerit points, may apply to any business, organization, governmental entity or individual certified by the Department to provide driver improvement clinic instruction for permission to attend a driver improvement clinic on a voluntary basis. Such businesses, organizations, governmental entities or individuals may, when seating space is available, schedule the person to attend a driver improvement clinic.

Persons who voluntarily attend and satisfactorily complete a driver improvement clinic shall be eligible (i) to have five demerit points subtracted from their total accumulation of demerit points, except in those instances where a person has not accumulated five demerit points, in which case a reduction in demerit points and/or the award of safe driving points will be made, or (ii) to receive a reduction in premium charges as set forth under § 38.2-2217, either of which, but not both, shall be awarded or received no more than once in a two-year period, as set forth in subsection B of this section. Such persons shall inform the business, organization or individual providing instruction if they are attending to be awarded safe driving points or to receive a reduction in premium charges as set forth under § 38.2-2217.