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HOUSE BILL NO. 687

Offered January 19, 1996

A BILL to amend and reenact § 46.2-334, as is currently effective and as it may become effective, and § 46.2-335 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 46.2-334.1, 46.2-334.2, and 46.2-335.1, relating to driver's license restrictions for persons under eighteen.

Patrons—Marshall and Callahan

Referred to Committee on Transportation

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 and that the Code of Virginia is amended by adding sections numbered 46.2-334.1, 46.2-334.2, and 46.2-335.1 as follows:

§ 46.2-334. Persons under eighteen; exception as to and procedure for licensing persons 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~~ *seventeen* 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

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60 Commissioner if the application is accompanied by a certified copy of a court order, issued under the
61 provisions of Article 15 (§ 16.1-331 et seq.) of Chapter 11 of Title 16.1, declaring the applicant to be an
62 emancipated minor.

63 3. Notwithstanding the provisions of subdivision 1 of this section requiring the successful completion
64 of a driver education course approved by the State Department of Education, the Commissioner, on
65 application therefor by a person at least ~~sixteen~~ *seventeen* years of age but less than eighteen years of
66 age, shall issue to the applicant a temporary driver's license valid for six months provided he (i) certifies
67 by signing, together with his parent, guardian, or spouse over the age of eighteen, a certification
68 statement on a form prescribed by the Commissioner that he is a resident of the Commonwealth; (ii) is
69 the holder of a valid driver's license from another state; and (iii) has not been found guilty of or
70 otherwise responsible for an offense involving the operation of a motor vehicle. No temporary license
71 issued under this subdivision shall be renewed, nor shall any second or subsequent temporary license
72 under this subdivision be issued to the same applicant.

73 § 46.2-334. (Delayed effective date) Persons under eighteen; exception as to and procedure for
74 licensing persons under eighteen.

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

76 1. A driver's license may be issued to a minor of the age of ~~sixteen~~ *seventeen* years on proper
77 application and on satisfactory evidence that he (i) is a resident of the Commonwealth, (ii) has
78 successfully completed a driver education course approved by either the State Department of Education
79 or, in the case of a course offered by a commercial driver training school licensed under Chapter 17
80 (§ 46.2-1700 et seq.) of this title, by the Department of Motor Vehicles and (iii) is mentally, physically,
81 and otherwise qualified to drive a motor vehicle with safety. The application must be signed by a parent
82 of the applicant, otherwise by the guardian having custody of him. However, in the event a minor has
83 no parent or guardian, then a driver's license shall not be issued to him unless his application is signed
84 by the judge of the family court of the city or county in which he resides. If the minor making the
85 application is married, in lieu of any signature required in the preceding provisions of this section, on
86 presentation of proper evidence of the solemnization of the marriage, the spouse of the minor may sign
87 the application, if the spouse is over the age of eighteen years. Any parent, spouse, or guardian, as the
88 case may be, may thereafter file with the Department a written request that the license of the minor so
89 granted be cancelled. When such a request is filed, the Department shall cancel the license of the minor
90 and the license shall not thereafter be reissued by the Department until a period of six months has
91 elapsed from the date of cancellation. The minor shall be required to state in his application whether or
92 not he has been convicted of an offense triable by, or tried in, a family court or found by such court to
93 be a child in need of supervision, as defined in § 16.1-228. If it appears that the minor has been
94 adjudged not innocent of the offense alleged or has been found to be a child in need of supervision, the
95 Department shall not issue a license without the written approval of the judge of the family court
96 making an adjudication as to the minor or the like approval of a similar court of the county or city in
97 which the parent, guardian, or spouse, respectively, of the minor resides.

98 1a. The application for a driver's license by a minor of the age of persons required to attend school
99 pursuant to § 22.1-254 shall be accompanied by evidence of compliance with Article 1 (§ 22.1-254 et
100 seq.) of Chapter 14 of Title 22.1 on a form furnished by the Board of Education and certified by the
101 division superintendent or any of his designees. For minors attending nonpublic schools, such
102 certification shall be made by the private school principal or any of his designees; for minors receiving
103 home schooling, such certification shall be made by the home schooling parent or tutor. If the minor is
104 unable to furnish such evidence, the minor shall not be granted a driver's license until evidence in a
105 form and manner prescribed by the Board of Education is provided that the minor has received
106 counseling on the importance of school attendance, school enrollment and completion of an educational
107 program.

108 1b. A minor may present a high school diploma or its equivalent or a certificate indicating
109 completion of a prescribed course of study as defined by the local school board pursuant to
110 § 22.1-253.13:4.

111 1c. The applicant shall certify in writing, on a form prescribed by the Commissioner, that he is a
112 resident of the Commonwealth. The applicant's parent, guardian, or spouse over the age of eighteen shall
113 also certify that the applicant is a resident by signing the certification.

114 2. The provisions of subdivision 1 of this section requiring that an application for a driver's license
115 be signed by the parent, guardian, or spouse over the age of eighteen shall be waived by the
116 Commissioner if the application is accompanied by a certified copy of a court order, issued under the
117 provisions of Article 15 (§ 16.1-331 et seq.) of Chapter 11 of Title 16.1, declaring the applicant to be an
118 emancipated minor.

119 3. Notwithstanding the provisions of subdivision 1 of this section requiring the successful completion
120 of a driver education course approved by the State Department of Education, the Commissioner, on
121 application therefor by a person at least ~~sixteen~~ *seventeen* 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.

§ 46.2-334.1. *Knowledge and road tests; waiting period prior to reexamination.*

A. 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 ten days.

B. Any person under the age of eighteen who applies for a driver's license under § 46.2-334 and fails the practical skills road test administered pursuant to that section shall not be eligible for retesting for at least two weeks.

§ 46.2-334.2 *Licenses issued to persons under eighteen; restrictions.*

A. No learner's permit issued on or after July 1, 1996, shall permit any person under seventeen years of age to drive between 7:00 p.m. and 6:00 a.m.

B. No driver's license issued on or after July 1, 1996, shall permit any person under eighteen years of age, but at least seventeen years of age, to drive between 9:00 p.m. and 6:00 a.m. unless accompanied by a licensed driver twenty-one years of age or older who is actually occupying a seat beside the driver.

C. No driver's license issued on or after July 1, 1996, shall permit any person under eighteen years of age to transport any passenger under twenty-one years of age unless such passenger is an immediate family member residing in the same household as the driver.

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

A. The Department, on receiving from any Virginia resident over the age of ~~fifteen~~ sixteen years six months, 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~~ twenty-one years of age or older who is actually occupying a seat beside the driver. 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. 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;

183 4. The persons receiving the instruction, or the motorcycles used in the instruction, are clearly
184 marked "STUDENT DRIVER";

185 5. The person is under the supervision of his instructor at all times; and

186 6. No person, except the person receiving the instruction, occupies the motorcycle while instruction is
187 being given.

188 *§ 46.2-335.1. Knowledge test; waiting period prior to reexamination.*

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