

VIRGINIA ACTS OF ASSEMBLY -- 1997 RECONVENED SESSION

CHAPTER 841

An Act to amend and reenact §§ 46.2-325, 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 education requirements for minors to obtain learner's permits and driver's licenses.

[H 2066]

Approved April 2, 1997

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-325, 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:

§ 46.2-325. Examination of applicants; waiver of Department's examination under certain circumstances.

The Department shall examine every applicant for a driver's license before issuing any license. ~~The Department shall examine the applicant as to determine~~ (i) his physical and mental qualifications and his ability to drive a motor vehicle without jeopardizing the safety of persons or property and ~~as to whether~~ (ii) if any facts exist which would bar the issuance of a license under §§ 46.2-311 through 46.2-316, 46.2-334 or § 46.2-335. The examination, however, shall not include investigation of any facts other than those directly pertaining to the ability of the applicant to drive a motor vehicle with safety, or other than those facts declared to be prerequisite to the issuance of a license under this chapter. No applicant otherwise competent shall be required to demonstrate ability to park any motor vehicle except in an adequate parking space between horizontal markers, and not between flags or sticks simulating parked vehicles. Applicants for licensure to drive motor vehicles of the classifications referred to in § 46.2-328 shall submit to examinations which relate to the operation of those vehicles.

Except for applicants subject to § 46.2-312, if the Commissioner is satisfied that an applicant has demonstrated the same proficiency *as required by the Department's examination* through successful completion of either (i) the driver education course approved by the Department of Education or (ii) a driver training course offered by a commercial driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) of this title, he may waive those parts of ~~its the Department's~~ examination provided for in this section that require the applicant to ~~(i) take a written or automated knowledge test and/or~~ (ii) drive and park a motor vehicle.

§ 46.2-334. Conditions and requirements for licensure of persons under eighteen; requests for cancellation of minor's driver's license; temporary driver's licenses; Board of Education approved programs; fee.

A. No driver's license shall be issued to any person under the age of eighteen years except that *Minors at least sixteen years old may be issued drivers' licenses under the following conditions:*

1. A driver's license may be issued to a minor of the age of sixteen years ~~on~~ *The minor shall submit a 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~~ *safely*. A learner's permit accompanied by documentation verifying the minor's successful completion of an approved driver's education course shall constitute a temporary driver's license for purposes of driving unaccompanied by a licensed driver as provided in § 46.2-335, provided all other requirements of this chapter have been met. Such temporary license shall be valid only until the permanent license is presented as provided in § 46.2-336.

2. The *minor's application for a driver's license* 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 *or otherwise emancipated*, in lieu of any *parent's, guardian's or judge's signature required in the preceding provisions of this section*, on presentation of, the minor may present proper evidence of the solemnization of the marriage *or the order of emancipation*; 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.

3. 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; *or* guardian; ~~or spouse~~, respectively, of the minor resides.

~~1a.~~ 4. The application for a *permanent* 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 *the compulsory school attendance law set forth in Article 1 (§ 22.1-254 et seq.) of Chapter 14 of Title 22.1. This evidence shall be provided 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 provide such evidence, he shall not be granted a driver's license until he reaches the age of eighteen, *presents proper evidence of solemnization of his marriage or an order of emancipation* or the parent, as defined in § 22.1-1, or other person standing in loco parentis, has provided written authorization for the minor to obtain a driver's license.

~~1b.~~ A minor may, *however*, 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 *as evidence of compulsory school attendance compliance.*

~~1c.~~ 5. The *minor* applicant shall certify in writing, on a form prescribed by the Commissioner, that he is a resident of the Commonwealth. The applicant's parent; *or* guardian; ~~or spouse over the age of eighteen~~ shall also certify that the applicant is a resident by signing the certification. *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 parent's certification of residence.*

B. Any parent or guardian of an unmarried or unemancipated minor may, after the issuance of a permanent driver's license to such minor, file with the Department a written request that the license of the minor be canceled. When such 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 or the minor reaches his eighteenth birthday, whichever shall occur sooner.

~~2.~~ C. The provisions of ~~subdivision 1 subsection A~~ of this section requiring that an application for a driver's license be signed by the parent; *or* guardian; ~~or spouse over the age of eighteen~~ shall be waived by the Commissioner if the application is accompanied by *proper evidence of the solemnization of the minor's marriage or 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.

D. A learner's permit accompanied by documentation verifying the minor's successful completion of an approved driver's education course shall constitute a temporary driver's license for purposes of driving unaccompanied by a licensed driver as required in § 46.2-335, if all other requirements of this chapter have been met. The temporary license shall only be valid until the permanent license is presented as provided in § 46.2-336.

~~3.~~ E. Notwithstanding the provisions of ~~subdivision 1 subsection A~~ 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 if he~~ (i) certifies by signing, together with his parent; *or* 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 subsection~~ shall be renewed, nor shall any second or subsequent temporary license under this ~~subdivision subsection~~ be issued to the same applicant. *Any such 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 obtain the signature of his parent or guardian for the temporary driver's license.*

F. 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 pursuant to § 46.2-335.

G. Driver's licenses shall be issued by the Department to minors 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; (ii) is regularly attending school and is in good academic standing or, if not in such standing, whose parent or guardian, having custody of such minor, provides written authorization for the minor to obtain a driver's license; and (iii) upon payment of a fee of \$2.40 per year, based on the

period of the license's validity. For applicants attending public schools, good academic standing may be certified by the public school principal or any of his designees. For applicants 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. 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 driver's license.

§ 46.2-334. (Delayed effective date) Conditions and requirements for licensure of persons under eighteen; requests for cancellation of minor's driver's license; temporary driver's licenses; Board of Education approved programs; fee.

A. No driver's license shall be issued to any person under the age of eighteen years except that Minors at least sixteen years old may be issued drivers' licenses under the following conditions:

1. A driver's license may be issued to a minor of the age of sixteen years on The minor shall submit a 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 safely. A learner's permit accompanied by documentation verifying the minor's successful completion of an approved driver's education course shall constitute a temporary driver's license for purposes of driving unaccompanied by a licensed driver as provided in § 46.2-335, provided all other requirements of this chapter have been met. Such temporary license shall be valid only until the permanent license is presented as provided in § 46.2-336.

2. The minor's application for a driver's license 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 or otherwise emancipated, in lieu of any parent's or guardian's or judge's signature required in the preceding provisions of this section, on presentation of, the minor may present proper evidence of the solemnization of the marriage or the order of emancipation; 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.

3. 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, or guardian, or spouse, respectively, of the minor resides.

~~4a.~~ 4. The application for a permanent 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 the compulsory school attendance law set forth in Article 1 (§ 22.1-254 et seq.) of Chapter 14 of Title 22.1. This evidence shall be provided 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 provide such evidence, he shall not be granted a driver's license until he reaches the age of eighteen, presents proper evidence of solemnization of his marriage or an order of emancipation or the parent, as defined in § 22.1-1, or other person standing in loco parentis, has provided written authorization for the minor to obtain a driver's license.

~~4b.~~ A minor may, however, 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 as evidence of compulsory school attendance compliance.

~~4c.~~ 5. The minor applicant shall certify in writing, on a form prescribed by the Commissioner, that he is a resident of the Commonwealth. The applicant's parent, or guardian, or spouse over the age of eighteen shall also certify that the applicant is a resident by signing the certification. 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 parent's certification of residence.

B. Any parent or guardian of an unmarried or unemancipated minor may, after the issuance of a permanent driver's license to such minor, file with the Department a written request that the license of the minor be canceled. When such 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 or the minor reaches his eighteenth birthday, whichever shall occur sooner.

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

D. A learner's permit accompanied by documentation verifying the minor's successful completion of an approved driver's education course shall constitute a temporary driver's license for purposes of driving unaccompanied by a licensed driver as required in § 46.2-335, if all other requirements of this chapter have been met. The temporary license shall only be valid until the permanent license is presented as provided in § 46.2-336.

~~3.~~ E. Notwithstanding the provisions of ~~subdivision 1 subsection A~~ 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 if he~~ (i) certifies by signing, together with his parent, or 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 subsection~~ shall be renewed, nor shall any second or subsequent temporary license under this ~~subdivision subsection~~ be issued to the same applicant. Any such 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 obtain the signature of his parent or guardian for the temporary driver's license.

F. 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 pursuant to § 46.2-336.

G. Driver's licenses shall be issued by the Department to minors 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; (ii) is regularly attending school and is in good academic standing or, if not in such standing, whose parent who has custody of such minor provides written authorization for the minor to obtain a driver's license; and (iii) upon payment of a fee of \$2.40 per year, based on the period of the license's validity. For applicants attending public schools, good academic standing may be certified by the public school principal or any of his designees. For applicants 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. 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 driver's license.

§ 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 *satisfactory documentation of meeting the requirements of this chapter* and 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 *any* licensed driver twenty-one 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 eighteen years of age or older ~~who is~~. *The accompanying person shall be* (i) actually occupying a seat beside the driver and (ii) lawfully permitted to operate a motor vehicle at that time.

The Department shall not, however, issue a 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, whose parent or guardian, having custody of such minor, provides written authorization for the minor to obtain a learner's permit. For applicants attending public schools, good academic standing may be certified by the public school principal or any of his designees. For applicants 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. 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 driver's license.

Such permit shall be valid until ~~he~~ *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.

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; (ii) is regularly attending school and is in good academic standing or, if not in such standing, whose parent, as defined in § 22.1-1, or other person standing in loco parentis, provides written authorization for the minor to obtain a driver's license; and (iii) upon payment of a fee of \$2.40 per year, based on the period of the license's validity.

B. 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 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.

C. *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.*

D. 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; however, the learner's permit accompanied by documentation verifying that the driver, ~~who is at least sixteen years of age, and~~ has successfully completed an approved driver's education course shall constitute a temporary driver's license for the purpose of driving unaccompanied by a licensed driver eighteen years of age or older, ~~provided 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.

E. 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 to any applicant under the age of fifteen years, six months unless the applicant is in good academic standing. For applicants attending public schools, good academic standing may be certified by the public school principal or any of his designees. For applicants 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.

C. F. 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.

G. *Any violation of this section shall be punishable as a Class 2 misdemeanor.*