

# VIRGINIA ACTS OF ASSEMBLY -- 1998 SESSION

## CHAPTER 322

*An Act to amend and reenact §§ 46.2-323, 46.2-335, 46.2-342, 46.2-345, 46.2-1191, and 58.1-2403 of the Code of Virginia, relating to driver's licenses, learner's permits and motorcycle learner's permits, special identification cards, the Motorcycle Rider Safety Training Fund, and the motor vehicle sales and use tax; penalty.*

[H 867]

Approved April 9, 1998

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

**1. That §§ 46.2-323, 46.2-335, 46.2-342, 46.2-345, 46.2-1191, and 58.1-2403 of the Code of Virginia are amended and reenacted as follows:**

§ 46.2-323. Application for driver's license; proof of completion of driver education program; penalty.

A. Every application for a driver's license, temporary driver's permit, ~~or~~ learner's permit, *or motorcycle learner's permit* shall be made on a form prescribed by the Department and the applicant shall write his usual signature in ink in the space provided on the form. The form shall include notice to the applicant of the duty to register with the Department of State Police as provided in § 19.2-298.1, if the applicant has been convicted of a felony in violation of §§ 18.2-61, 18.2-63, 18.2-64.1, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.5, 18.2-370 or § 18.2-370.1 or, where the victim is a minor or is physically helpless or mentally incapacitated as defined in § 18.2-67.10, subsection B of § 18.2-361 or subsection B of § 18.2-366, including juveniles tried and convicted in the circuit courts pursuant to § 16.1-269.1 whether sentenced as adults or juveniles, or a felony under a substantially similar law of the United States or any other state.

B. Every application shall state the name, year, month and date of birth, social security number, sex, and residence address of the applicant; whether or not the applicant has previously been licensed as a driver and, if so, when and by what state, and whether or not his license has ever been suspended or revoked and, if so, the date of and reason for such suspension or revocation. The Department, as a condition for the issuance of any driver's license, temporary driver's permit, ~~or~~ learner's permit, *or motorcycle learner's permit* may require the surrender of any driver's license *or, in the case of a motorcycle learner's permit, a motorcycle license* issued by another state and held by the applicant. The applicant shall also answer any questions on the application form or otherwise propounded by the Department incidental to the examination. The applicant may also be required to present to the person conducting the examination a birth certificate or other evidence, reasonably acceptable to the Department, of his name and date of birth.

The applicant shall also certify that he is a resident of the Commonwealth by signing a certification statement, on a form prescribed by the Commissioner, and by providing satisfactory proof that he is a resident of the Commonwealth. The Commissioner may adopt regulations to determine the process by which applicants prove that they are residents of the Commonwealth.

If the applicant either (i) fails or refuses to sign the certification statement or (ii) fails to follow the process determined by the Commissioner for proving residency, the Department shall not issue the applicant a driver's license, temporary driver's permit, ~~or~~ learner's permit *or motorcycle learner's permit*.

Any applicant who knowingly makes a false certification of Virginia residency or supplies false or fictitious evidence of Virginia residency shall be punished as provided in § 46.2-348.

The Commissioner may, on a case-by-case basis, waive any provision of such regulations for good cause shown.

C. Every application for a driver's license shall include a color photograph of the applicant supplied under arrangements made by the Department. The photograph shall be processed by the Department so that the photograph can be made part of the issued license. ~~Photographs, for applicants under twenty-one years of age, shall be profile photographs; such photographs, for applicants twenty-one years of age and older, shall be front face view photographs.~~

~~D. Notwithstanding the provisions of subsection C, the first and subsequent photographs for persons under twenty-one years of age shall be profile photographs until the original issued license has expired.~~

E. Notwithstanding the provisions of § 46.2-334, every unlicensed applicant for a driver's license who is under nineteen years of age shall furnish the Department with satisfactory proof of his successful completion of a driver education program approved by the State Department of Education.

§ 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 *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 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. The accompanying person shall be (i) actually occupying a seat beside the driver or, for motorcycle instruction, providing immediate supervision from a separate accompanying motorcycle, and (ii) lawfully permitted to operate a 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, 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*. 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~~ *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 twelve 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 twelve months.*

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 *and motorcycle learner's permits* issued under this section.

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 *and motorcycle learner's permit* issued under this section. *Fees for issuance of learner's permits, which shall be paid into the driver education fund of the state treasury; fees for issuance of motorcycle learner's permits shall be paid into the state treasury and credited to the Motorcycle Rider Safety Training Program Fund created pursuant to § 46.2-1191.* 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~~ *a learner's permit other than a motorcycle learner's permit*, accompanied by documentation verifying that the driver 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, 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. 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.).

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

- ~~1. Operation shall be limited to the period between one-half hour after sunrise and one-half hour before sunset.~~

2. *Operation on limited access highways is prohibited.*
3. *The operator shall wear an approved safety helmet as provided in § 46.2-910.*
4. *Operation shall be under the immediate supervision of a person licensed to operate a motorcycle who is 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.*

5. *No person other than the operator shall occupy the motorcycle.*

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

§ 46.2-342. What license to contain; Uniform Donor Document.

A. Every license issued under this chapter shall bear:

1. For new, renewal, or replacement licenses issued on or after September 1, 1995, either (i) a license number which shall be the same as the licensee's social security number; or (ii) a control number which shall be assigned by the Department to the licensee if he either (i) has no social security number or (ii) requests in writing on a form prescribed by the Commissioner that his social security number not be shown on the license;

2. A color photograph of the licensee;

3. The licensee's name, year, month, and date of birth;

4. The licensee's address;

5. A brief description of the licensee for the purpose of identification;

6. A space for the signature of the licensee; and

7. Any other information deemed necessary by the Commissioner for the administration of this title.

No abbreviated names or nicknames shall be shown on any license.

A1. At the option of the licensee, the address shown on the license may be either the post office box, business, or residence address of the licensee. However, regardless of which address is shown on the license, the licensee shall supply the Department with his residence address. This residence address shall be maintained in the Department's records. Whenever the licensee's address shown either on his license or in the Department's records changes, he shall notify the Department of such change as required by § 46.2-324.

B. The license shall be ~~cardboard or other suitable~~ *made of a material or combination thereof* and in a form to be determined by the Commissioner.

C. ~~Photographs, for licensees under twenty-one years of age at the time of issuance of the license, shall be profile photographs; but photographs for licensees twenty-one years of age or older at the time of issuance of the license shall be front face view photographs. Notwithstanding the preceding provisions of this subsection, the first and subsequent photographs for persons under twenty-one years of age shall be profile photographs until the original issued license has expired. Licenses issued to persons less than twenty-one years old shall be immediately and readily distinguishable from those issued to persons twenty-one years old or older. Distinguishing characteristics shall include unique design elements of the document and descriptors within the photograph area to identify persons who are at least fifteen years old but less than twenty-one years old. These descriptors shall include the month, day, and year when the person will become twenty-one years old.~~

D. The Department shall establish a method by which an applicant for a driver's license or an identification card may designate his willingness to be an organ donor as provided in Article 2 (§ 32.1-289 et seq.) of Chapter 8 of Title 32.1 and shall cooperate with the Virginia Transplant Council to ensure that such method is designed to encourage organ donation with a minimum of effort on the part of the donor and the Department.

E. If an applicant designates his willingness to be a donor pursuant to subsection D, the Department may make a notation of this designation on his license or card and shall make a notation of this designation in his driver record.

F. The donor designation authorized in subsection E shall be sufficient legal authority for the removal, following death, of the subject's organs or tissues without additional authority from the donor, or his family or estate.

G. The donor designation provided pursuant to subsection D may only be rescinded by appearing in person at a Department branch office. The Department shall notify the prospective donor of this requirement at the time he authorizes donor designation.

H. With the written consent of his parent or legal guardian, a minor may make a donor designation.

I. When requested by the applicant, and upon presentation of a signed statement by a licensed physician confirming the applicant's condition, the Department shall indicate on the applicant's driver's license that the applicant is an insulin-dependent diabetic.

J. In the absence of gross negligence or willful misconduct, the Department and its employees shall be immune from any civil or criminal liability in connection with the making of or failure to make a notation of donor designation on any license or card or in any person's driver record.

K. Notwithstanding the foregoing provisions of this section, the Department shall continue to use the uniform donor document, as formerly set forth in subsection D above, for organ donation designation until such time as a new method is fully implemented, which shall be no later than July 1, 1994. Any such uniform donor document, shall, when properly executed, remain valid and shall continue to be

subject to all conditions for execution, delivery, amendment, and revocation as set out in Article 2 (§ 32.1-289 et seq.) of Chapter 8 of Title 32.1.

§ 46.2-345. Issuance of special identification cards; fee; confidentiality; penalties.

A. On the application of any person who is a resident of the Commonwealth or the parent or legal guardian of any such person who is under the age of fifteen, the Department shall issue a special identification card to the person provided:

1. Application is made on a form prescribed by the Department;
2. The applicant presents a birth certificate or other evidence acceptable to the Department of his name and date of birth; and
3. The Department is satisfied that the applicant needs an identification card or the applicant shows he has a bona fide need for such a card.

B. The fee for the issuance of a special identification card is five dollars.

C. A special identification card shall expire five years from its date of issuance except that those cards issued to children under the age of fifteen shall expire on the child's fifteenth birthday or five years from the date of issuance, whichever occurs first.

D. A special identification card issued under this section may be similar in size, shape, and design to a driver's license, and include a color photograph of its holder, but the card shall be readily distinguishable from a driver's license and shall clearly state that it does not authorize the person to whom it is issued to drive a motor vehicle.

E. ~~The photograph on a Special identification card~~ cards, for persons ~~age at least fifteen and older and under years old but less than twenty-one years of age old~~, shall be a ~~profile photograph immediately and readily distinguishable from those issued to persons twenty-one years old or older~~. ~~Photographs, for persons twenty-one years of age and older, shall be full face view photographs. Notwithstanding the preceding provision of this subsection, the first and subsequent photographs for persons age fifteen and older and under twenty-one years of age shall be profile photographs until the original special identification card has expired. Distinguishing characteristics shall include unique design elements of the document and descriptors within the photograph area to identify persons who are at least fifteen years old but less than twenty-one years old. These descriptors shall include the month, day, and year when the person will become twenty-one years old.~~

F. Special identification cards for persons under age fifteen shall bear a full face photograph. The special identification card issued to persons under age fifteen shall be readily distinguishable from a driver's license and from other special identification cards issued by the Department. Such cards shall clearly indicate that it does not authorize the person to whom it is issued to drive a motor vehicle.

G. Any personal information, as identified in § 2.1-379, which is retained by the Department from an application for the issuance of a special identification card is confidential and shall not be divulged to any person, association, corporation, or organization, public or private, except to the legal guardian or the attorney of the applicant or to a person, association, corporation, or organization nominated in writing by the applicant, his legal guardian, or his attorney. This subsection shall not prevent the Department from furnishing the application or any information thereon to any law-enforcement agency.

H. Any person who uses a false or fictitious name or gives a false or fictitious address in any application for an identification card or knowingly makes a false statement or conceals a material fact or otherwise commits a fraud in any such application shall be guilty of a Class 2 misdemeanor. However, where the name or address is given, or false statement is made, or fact is concealed, or fraud committed, with the intent to purchase a firearm or where the identification card is obtained for the purpose of committing any offense punishable as a felony, a violation of this section shall constitute a Class 4 felony.

I. The Department may promulgate regulations necessary for the effective implementation of the provisions of this section.

J. The Department shall utilize the various communications media throughout the Commonwealth to inform Virginia residents of the provisions of this section and to promote and encourage the public to take advantage of its provisions.

§ 46.2-1191. Motorcycle Rider Safety Training Program Fund.

To finance the cost of the Motorcycle Rider Safety Training Program, the Department of Motor Vehicles shall deposit *the fee collected for the issuance of each motorcycle learner's permit and three dollars of the fee collected for the issuance of each motorcycle registration and all motorcycle driver's license endorsement fees* into a special fund to be known as the Motorcycle Rider Safety Training Program Fund. The Department shall use the Fund as necessary for: (i) the costs of the Department of Motor Vehicles incurred in the administration of this article, (ii) the funding or contracts with approved regional cycle rider safety training centers for the conducting of courses, and (iii) for any other purposes related to the administration of this article.

§ 58.1-2403. Exemptions.

No tax shall be imposed as provided in § 58.1-2402 if the vehicle is:

1. Sold to, rented or used by the United States government or any governmental agency thereof;
2. Sold to, rented or used by the Commonwealth of Virginia or any political subdivision thereof;

3. Registered in the name of a volunteer fire department or rescue squad not operated for profit;
4. Registered to any member of the Mattaponi, Pamunkey, or Chickahominy Indian tribes or any other recognized Indian tribe of the Commonwealth living on the tribal reservation;
5. Transferred incidental to repossession under a recorded lien and ownership is transferred to the lienholder;
6. A mobile home permanently attached to real estate and included in the sale of real estate;
7. A gift to the spouse, son, or daughter of the transferor. This exemption shall not apply to any unpaid obligation assumed by the transferee incidental to the transfer;
8. Transferred from an individual or partnership to a corporation or from a corporation to an individual or partnership if the transfer is incidental to the formation, organization or dissolution of a corporation in which the individual or partnership holds the majority interest;
9. Transferred from a wholly owned subsidiary to the parent corporation or from the parent corporation to a wholly owned subsidiary;
10. Being registered for the first time in this Commonwealth and the applicant holds a valid, assignable title or registration issued to him by another state and (i) has owned the vehicle for longer than twelve months or (ii) has owned the vehicle for less than twelve months and provides evidence of a sales tax paid to another state. However, when a vehicle has been purchased by the applicant within the last twelve months and the applicant is unable to provide evidence of a sales tax paid to another state, the applicant shall pay the Virginia sales tax based on the fair market value of the vehicle at the time of registration in Virginia;
11. Titled in a Virginia motor vehicle dealer's name for resale if dealer's license plates are displayed when the vehicle is operated upon the public highways;
12. A motor vehicle having seats for more than seven passengers and sold to an urban or suburban bus line the majority of whose passengers use the buses for traveling a distance of less than forty miles, one way, on the same day;
13. Purchased in this Commonwealth by a nonresident and a Virginia title is issued for the sole purpose of recording a lien against the vehicle if the vehicle will be registered in a state other than Virginia;
14. A motor vehicle designed for the transportation of ten or more passengers, purchased by and for the use of a church conducted not for profit;
15. Loaned or leased to a private *nonprofit* institution of learning ~~not conducted for profit~~, for the sole purpose of use in the instruction of driver's education when such education is a part of such school's curriculum for full-time students;
16. Sold to an insurance company for the sole purpose of disposition when such company has paid the registered owner of such vehicle a total loss claim;
17. Owned and used for personal or official purposes by accredited consular or diplomatic officers of foreign governments, their employees or agents, and members of their families, if such persons are nationals of the state by which they are appointed and are not citizens of the United States;
18. A self-contained mobile computerized axial tomography scanner sold to, rented or used by a *nonprofit* hospital ~~not conducted for profit~~ or a cooperative hospital service organization as described in § 501 (e) of the United States Internal Revenue Code;
19. A motor vehicle having seats for more than seven passengers and sold to a restricted common carrier or common carrier of passengers;
20. Beginning July 1, 1989, a self-contained mobile unit designed exclusively for human diagnostic or therapeutic service, sold to, rented to, or used by a *nonprofit* hospital ~~not conducted for profit~~, or a cooperative hospital service organization as described in § 501 (e) of the United States Internal Revenue Code, or a nonprofit corporation as defined in § 501 (c) (3) of the Internal Revenue Code, established for research in, diagnosis of, or therapy for human ailments;
21. Transferred, as a gift or through a sale to an organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code, provided the motor vehicle is not titled and tagged for use by such organization;
22. A motor vehicle sold to an organization which is exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and which is organized for the primary purpose of distributing food, clothing, medicines and other necessities of life to, and providing shelter for, needy persons in the United States and throughout the world; or
23. A ~~motor vehicle~~ *truck, tractor truck, trailer, or semitrailer, as severally defined in § 46.2-100, except trailers and semitrailers not designed or used to carry property and vehicles registered under § 46.2-700*, with a gross vehicle weight rating or gross combination weight rating of 26,001 pounds or more, in which case no tax shall be imposed pursuant to subdivisions 1 and 3 of subsection A of § 58.1-2402.