

VIRGINIA ACTS OF ASSEMBLY -- 1998 RECONVENED SESSION

CHAPTER 792

An Act to amend and reenact §§ 46.2-495 and 46.2-498 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 46.2-334.01, relating to restrictions on driver's licenses issued to persons less than eighteen years old; driver advisory letters; driver improvement clinics; penalties.

[S 457]

Approved April 22, 1998

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-495 and 46.2-498 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 46.2-334.01 as follows:

§ 46.2-334.01. Licenses issued to persons less than eighteen years old subject to certain restrictions.

Any learner's permit or driver's license issued on or after July 1, 1998, to any person less than eighteen years old shall be subject to the following:

1. Notwithstanding the provisions of § 46.2-498, whenever the driving record of a person less than eighteen years old shows that he has been convicted of (i) an offense for which demerit points have been assessed or are assessable under Article 19 (§ 46.2-489 et seq.) of this chapter or (ii) a violation of any provision of Article 12 (§ 46.2-1091 et seq.) or Article 13 (§ 46.2-1095 et seq.) of Chapter 10 of this title:

a. The Commissioner shall direct such person to attend a driver improvement clinic. No safe driving points shall be awarded for such clinic attendance, nor shall any safe driving points be awarded for voluntary or court-assigned clinic attendance.

b. No motor vehicle, while being operated by any person holding a learner's permit or driver's license subject to the restrictions contained in this section, shall transport more than three passengers, in addition to the driver, who are less than eighteen years old. This limitation, however, shall not apply to (i) members of the driver's family or household or (ii) a driver less than eighteen years old who is driving to or from either school or his place of employment. No citation for a violation of this subdivision shall be issued unless the officer issuing such citation has cause to stop or arrest the driver of such motor vehicle for the violation of some other provision of this Code or local ordinance relating to the operation, ownership, or maintenance of a motor vehicle or any criminal statute. For the purpose of this subdivision, "members of the driver's family or household" means (i) the driver's spouse, whether or not he or she resides in the same home with the driver; (ii) the driver's former spouse, whether or not he or she resides in the same home with the driver; (iii) the driver's children, stepchildren, brothers, sisters, half brothers, and half sisters, whether or not they reside in the same home with the driver; (iv) the driver's brothers-in-law and sisters-in-law who reside in the same home with the driver; (v) any individual who has a child in common with the driver, whether or not the driver and that individual have been married or have resided together at any time; or (vi) any individual who cohabits or who, within the previous twelve months, cohabited with the driver, and any children of either of them residing in the same home with the driver.

2. If any person less than eighteen years old is convicted a second time of (i) an offense for which demerit points have been assessed or are assessable under Article 19 (§ 46.2-489 et seq.) of this chapter or (ii) a violation of any provision of Article 12 (§ 46.2-1091 et seq.) or Article 13 (§ 46.2-1095 et seq.) of Chapter 10 of this title, the Commissioner shall suspend such person's driver's license or privilege to operate a motor vehicle for ninety days. Such suspension shall be consecutive to, and not concurrent with, any other period of license suspension, revocation or denial.

3. If any such person is convicted a third time of (i) an offense for which demerit points have been assessed or are assessable under Article 19 (§ 46.2-489 et seq.) of this chapter or (ii) a violation of any provision of Article 12 (§ 46.2-1091 et seq.) or Article 13 (§ 46.2-1095 et seq.) of Chapter 10 of this title, the Commissioner shall revoke such person's driver's license or privilege to operate a motor vehicle for one year or until such person reaches the age of eighteen years, whichever is longer. Such revocation shall be consecutive to, and not concurrent with, any other period of license suspension, revocation or denial.

4. In no event shall a driver who is under the age of eighteen and subject to the provisions of this section, be subject to the suspension or revocation provisions of subdivision 2 or 3 of this section for multiple convictions arising out of the same transaction or occurrence.

§ 46.2-495. Advisory letters.

Whenever the driving record of any person who is eighteen years old or older shows an accumulation of at least eight 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 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 twenty-four consecutive months, respectively, the Commissioner may mail, by first-class mail, to the last known address of the person an advisory letter listing his convictions; ~~or findings of not innocent in the case of a juvenile,~~ and the demerit points assigned thereto, including his safe driving points, if any, and furnish any other information deemed appropriate and applicable to the rehabilitation of the person, for the purpose of preventing subsequent traffic offenses.

The Department's failure to mail, or the citizen's nonreceipt of the advisory letter shall not be grounds for waiving any other provision of this article.

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

A. Whenever the driving record of any person *who is eighteen years old or older* 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. B. Notwithstanding the provisions of subsection A of this section Except for those persons whose licenses are subject to the restrictions of § 46.2-334.01,~~ 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. C.~~ Except as provided for in subsection ~~C~~ D of this section and in §§ 46.2-334.01 and 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. D.~~ 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~~ C 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.