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SENATE BILL NO. 457

Offered January 26, 1998

A BILL to amend and reenact §§ 46.2-495, 46.2-498, 46.2-499, and 46.2-506 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; driver's license probation; suspension of driver's licenses for excessive point accumulation; penalties.

Patrons—Barry, Couric, Hanger, Hawkins, Houck, Miller, K.G., Mims, Newman, Norment, Potts, Quayle, Stosch, Watkins, Williams and Woods; Delegates: Murphy, O'Brien, Purkey and Scott

Referred to the Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-495, 46.2-498, 46.2-499, and 46.2-506 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 one or more 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 living in the same household as the driver 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.

2. If any person less than eighteen years old is convicted a second time of (i) an offense for which one or more 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, in addition to any other penalty assessed, suspend such person's driver's license or privilege to operate a motor vehicle for ninety days.

3. If any such person is convicted a third time of (i) an offense for which one or more 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, in addition to any other penalty assessed, 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.

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

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60 assigned thereto, including his safe driving points, if any, and furnish any other information deemed
61 appropriate and applicable to the rehabilitation of the person, for the purpose of preventing subsequent
62 traffic offenses.

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

65 § 46.2-498. Driver improvement clinics; voluntary attendance.

66 A. Whenever the driving record of any person *who is eighteen years old or older* shows an
67 accumulation of at least twelve demerit points based on convictions; ~~or findings of not innocent in the~~
68 ~~case of a juvenile~~, for traffic offenses committed within a period of twelve consecutive months, or at
69 least eighteen demerit points based on convictions; ~~or findings of not innocent in the case of a juvenile~~,
70 for traffic offenses committed within a period of twenty-four consecutive months, respectively, the
71 Commissioner shall direct the person to attend a driver improvement clinic.

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

79 B C. Except as provided for in subsection C of this section and in §§ 46.2-334.01 and 46.2-505,
80 every person who attends a driver improvement clinic conducted by the Department or those businesses,
81 organizations, governmental entities or individuals certified by the Department to provide driver
82 improvement clinic instruction and who satisfactorily completes the clinic shall have five demerit points
83 subtracted from his total accumulation of demerit points, except in those instances where a person has
84 not accumulated five demerit points, in which case a reduction in demerit points and/or the award of
85 safe driving points will be made. No person shall be allowed to accumulate more than five safe driving
86 points.

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

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

100 Persons who voluntarily attend and satisfactorily complete a driver improvement clinic shall be
101 eligible (i) to have five demerit points subtracted from their total accumulation of demerit points, except
102 in those instances where a person has not accumulated five demerit points, in which case a reduction in
103 demerit points and/or the award of safe driving points will be made, or (ii) to receive a reduction in
104 premium charges as set forth under § 38.2-2217, either of which, but not both, shall be awarded or
105 received no more than once in a two-year period, as set forth in subsection B of this section. Such
106 persons shall inform the business, organization or individual providing instruction if they are attending
107 to be awarded safe driving points or to receive a reduction in premium charges as set forth under
108 § 38.2-2217.

109 § 46.2-499. Driver's license probation.

110 A. The Commissioner shall place on probation for a period of six months any person who has been
111 directed to attend a driver improvement clinic pursuant to the provisions of § 46.2-498. In addition, the
112 Commissioner shall place any person on probation for a period of six months on receiving a record of a
113 conviction of such person of any offense for which demerit points are assessed and the offense was
114 committed within any driver control period imposed pursuant to § 46.2-500. Whenever a person who has
115 been placed on probation is convicted; ~~or found not innocent in the case of a juvenile~~, of any offense
116 for which demerit points are assessed, and the offense was committed during the probation period, the
117 Commissioner shall suspend the person's license for a period of ninety days when six demerit points are
118 assigned, for a period of sixty days when four demerit points are assigned, and for a period of forty-five
119 days when three demerit points are assigned. In addition, the Commissioner shall again place the person
120 on probation for a period of six months, effective on termination of the suspension imposed pursuant to
121 this section.

122 B. Upon request, the Commissioner shall grant a restricted license during the first period of
123 suspension imposed pursuant to subsection A of this section provided the person is otherwise eligible to
124 be licensed. Any person whose driver's license is suspended for a second or subsequent time under
125 subsection A of this section shall be eligible to receive a restricted driver's license only if the violation
126 occurred within a probation period that was immediately preceded by a control period. A restricted
127 license may be issued for any or all of the following purposes: (i) travel to and from his place of
128 employment; (ii) travel during the hours of such person's employment if the operation of a motor
129 vehicle is a necessary incident of such employment; (iii) travel to and from school if such person is a
130 student; or (iv) such other medically necessary travel. Written verifications of the person's employment,
131 continuing education or medically necessary travel shall also be required and made available to the
132 Commissioner. Whenever a person who has been granted a restricted license pursuant to this subsection
133 is convicted, ~~or found not innocent in the case of a juvenile~~, of any offense for which demerit points are
134 assessed, and the offense was committed during the restricted license period, the Commissioner shall
135 suspend the person's license using the same demerit point criteria and suspension periods set forth in
136 subsection A of this section. No restricted license issued pursuant to this subsection shall permit any
137 person to operate a commercial motor vehicle as defined in the Virginia Commercial Driver's License
138 Act (§ 46.2-341.1 et seq.).

139 C. Whenever the Department receives notice from the court that restricted license privileges have
140 been granted to a person who has an existing restricted license issued pursuant to subsection B of this
141 section, the existing restricted license shall be cancelled, and the Commissioner shall suspend the
142 person's license for the period of time remaining on the original order of suspension. No court-granted
143 restricted license shall be issued until the end of the suspension period imposed by the Commissioner.

144 § 46.2-506. Formal hearings; suspension for excessive point accumulation.

145 A. Whenever the operating record of any person shows a continued disregard of the motor vehicle
146 laws subsequent to being placed on probation, he may be charged as a reckless or negligent driver of a
147 motor vehicle, and cited for a formal hearing in accordance with the provisions of §§ 46.2-402 through
148 46.2-408. If the hearing results in the suspension of a person's driving privilege, the person shall be
149 placed on probation at the end of the suspension period in accordance with the provisions of § 46.2-499.

150 B. Whenever the operating record of any person shows an accumulation of at least eighteen demerit
151 points based on convictions, ~~or findings of not innocent in the case of a juvenile~~, for traffic violations
152 committed within any twelve consecutive months, or at least twenty-four demerit points based on
153 convictions, ~~or findings of not innocent in the case of a juvenile~~, for traffic violations committed within
154 any twenty-four consecutive months, respectively, the Commissioner shall suspend the person's license
155 or licenses for a period of ninety days and thereafter until he attends and satisfactorily completes a
156 driver improvement clinic. At the end of this suspension period, the person shall be placed on probation
157 in accordance with the provisions of § 46.2-499.