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SENATE BILL NO. 457

Senate Amendments in [] — February 4, 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. [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 [~~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. [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~~,

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60 for traffic offenses committed within a period of twenty-four consecutive months, respectively, the
61 Commissioner may mail, by first-class mail, to the last known address of the person an advisory letter
62 listing his convictions; ~~or findings of not innocent in the case of a juvenile~~; and the demerit points
63 assigned thereto, including his safe driving points, if any, and furnish any other information deemed
64 appropriate and applicable to the rehabilitation of the person, for the purpose of preventing subsequent
65 traffic offenses.

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

68 § 46.2-498. Driver improvement clinics; voluntary attendance.

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

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

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

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

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

103 Persons who voluntarily attend and satisfactorily complete a driver improvement clinic shall be
104 eligible (i) to have five demerit points subtracted from their total accumulation of demerit points, except
105 in those instances where a person has not accumulated five demerit points, in which case a reduction in
106 demerit points and/or the award of safe driving points will be made, or (ii) to receive a reduction in
107 premium charges as set forth under § 38.2-2217, either of which, but not both, shall be awarded or
108 received no more than once in a two-year period, as set forth in subsection [B C] of this section. Such
109 persons shall inform the business, organization or individual providing instruction if they are attending
110 to be awarded safe driving points or to receive a reduction in premium charges as set forth under
111 § 38.2-2217.

112 § 46.2-499. Driver's license probation.

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

122 days when three demerit points are assigned. In addition, the Commissioner shall again place the person
123 on probation for a period of six months, effective on termination of the suspension imposed pursuant to
124 this section.

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

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

147 § 46.2-506. Formal hearings; suspension for excessive point accumulation.

148 A. Whenever the operating record of any person shows a continued disregard of the motor vehicle
149 laws subsequent to being placed on probation, he may be charged as a reckless or negligent driver of a
150 motor vehicle, and cited for a formal hearing in accordance with the provisions of §§ 46.2-402 through
151 46.2-408. If the hearing results in the suspension of a person's driving privilege, the person shall be
152 placed on probation at the end of the suspension period in accordance with the provisions of § 46.2-499.

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