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SENATE BILL NO. 486

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Education and Health
on February 12, 1998)

(Patron Prior to Substitute—Senator Colgan)

A BILL to amend and reenact §§ 22.1-205 and 46.2-334, as it is currently effective and as it may become effective, of the Code of Virginia, relating to the suspension of driver's license of certain students.

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-205 and 46.2-334, as it is currently effective and as it may become effective, of the Code of Virginia are amended and reenacted as follows:

§ 22.1-205. Driver education programs; Board may request suspension of driver's license.

A. The Board of Education shall establish for the public school system a standardized program of driver education in the safe operation of motor vehicles. Such program shall consist of classroom training and behind the wheel driver training. However, any student who participates in such a program of driver education shall meet the academic requirements established by the Board, and no student in a course shall be permitted to operate a motor vehicle without a license or permit to do so issued by the Department of Motor Vehicles. The program shall include instruction concerning alcohol and drug abuse. Such instruction shall be developed by the Department in cooperation with the Virginia Alcohol Safety Action Program and the Department of Mental Health, Mental Retardation and Substance Abuse Services.

B. The Board shall assist school divisions by preparation, publication and distribution of competent driver education instructional materials to ensure a more complete understanding of the responsibilities and duties of motor vehicle operators.

C. Each school board shall determine whether to offer the program of driver education in the safe operation of motor vehicles and, if offered, whether such program shall be an elective or a required course. Only school divisions complying with the standardized program and regulations established by the Board of Education and the provisions of § 46.2-335 shall be entitled to participate in the distribution of state funds appropriated for driver education.

D. The actual initial driving instruction shall be conducted, with motor vehicles equipped as may be required by regulation of the Board of Education, on private or public property removed from public highways if practicable; if impracticable, then, at the request of the school board, the Commonwealth Transportation Board shall designate a suitable section of road near the school to be used for such instruction. Such section of road shall be marked with signs, which the Commonwealth Transportation Board shall supply, giving notice of its use for driving instruction. Such signs shall be removed at the close of the instruction period. No vehicle other than those used for driver training shall be operated between such signs at a speed in excess of twenty-five miles per hour. Violation of this limit shall be a Class 4 misdemeanor.

E. The Board of Education may, in its discretion, promulgate regulations for the use and certification of paraprofessionals as teaching assistants in the driver education programs of school divisions.

F. A school board may establish a regulation requiring the Division Superintendent to provide written notification to the Department of Motor Vehicles of any student who the school board determines has acquired fifteen or more unexcused absences, as defined by the local school board, and who has failed to comply with efforts of the school division to ensure his regular school attendance. Such regulation shall include provisions for (i) informing the parents and students of the potential for suspension of the student's driver's license, pursuant to § 46.2-334, for failure to maintain regular school attendance, (ii) prior notice to the parents of the student when the student has been determined to have acquired fifteen or more unexcused absences, and (iii) an opportunity to appeal the school board's determination of fifteen or more unexcused absences to the division superintendent. The division superintendent's decision shall be final.

§ 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. Minors at least sixteen years old may be issued drivers' licenses under the following conditions:

1. The minor shall submit a proper application and 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 safely.

60 2. The minor's application for a driver's license must be signed by a parent of the applicant,
61 otherwise by the guardian having custody of him. However, in the event a minor has no parent or
62 guardian, then a driver's license shall not be issued to him unless his application is signed by the judge
63 of the juvenile and domestic relations district court of the city or county in which he resides. If the
64 minor making the application is married or otherwise emancipated, in lieu of any parent's, guardian's or
65 judge's signature, the minor may present proper evidence of the solemnization of the marriage or the
66 order of emancipation.

67 3. The minor shall be required to state in his application whether or not he has been convicted of an
68 offense triable by, or tried in, a juvenile and domestic relations district court or found by such court to
69 be a child in need of supervision, as defined in § 16.1-228. If it appears that the minor has been
70 adjudged not innocent of the offense alleged or has been found to be a child in need of supervision, the
71 Department shall not issue a license without the written approval of the judge of the juvenile and
72 domestic relations district court making an adjudication as to the minor or the like approval of a similar
73 court of the county or city in which the parent or guardian, respectively, of the minor resides.

74 4. The application for a permanent driver's license by a minor of the age of persons required to
75 attend school pursuant to § 22.1-254 shall be accompanied by evidence of compliance with the
76 compulsory school attendance law set forth in Article 1 (§ 22.1-254 et seq.) of Chapter 14 of Title 22.1.
77 This evidence shall be provided on a form furnished by the Board of Education and certified by the
78 division superintendent or any of his designees. For minors attending nonpublic schools, such
79 certification shall be made by the private school principal or any of his designees; for minors receiving
80 home schooling, such certification shall be made by the home schooling parent or tutor. If the minor is
81 unable to provide such evidence, he shall not be granted a driver's license until he reaches the age of
82 eighteen, presents proper evidence of solemnization of his marriage or an order of emancipation or the
83 parent, as defined in § 22.1-1, or other person standing in loco parentis, has provided written
84 authorization for the minor to obtain a driver's license.

85 A minor may, however, present a high school diploma or its equivalent or a certificate indicating
86 completion of a prescribed course of study as defined by the local school board pursuant to
87 § 22.1-253.13:4 as evidence of compulsory school attendance compliance.

88 5. The minor applicant shall certify in writing, on a form prescribed by the Commissioner, that he is
89 a resident of the Commonwealth. The applicant's parent or guardian shall also certify that the applicant
90 is a resident by signing the certification. Any minor providing proper evidence of the solemnization of
91 his marriage or a certified copy of a court order of emancipation shall not be required to provide the
92 parent's certification of residence.

93 B. Any parent or guardian of an unmarried or unemancipated minor may, after the issuance of a
94 permanent driver's license to such minor, file with the Department a written request that the license of
95 the minor be canceled. When such request is filed, the Department shall cancel the license of the minor
96 and the license shall not thereafter be reissued by the Department until a period of six months has
97 elapsed from the date of cancellation or the minor reaches his eighteenth birthday, whichever shall occur
98 sooner.

99 *Further, the division superintendent of any school division in which the school board has established*
100 *a regulation pursuant to subsection F of § 22.1-205 may file a notice with the Department that a student*
101 *who holds a driver's license has acquired fifteen or more unexcused absences, as defined by the local*
102 *school board, and has failed to comply with efforts of the school division to ensure his regular school*
103 *attendance. Upon receiving such notice, the Department shall suspend the license of the minor and the*
104 *license shall not thereafter be reinstated by the Department until the division superintendent notifies the*
105 *Department, in writing, that the student's regular school attendance has been achieved, at which time*
106 *the Department shall reinstate the student's license.*

107 C. The provisions of subsection A of this section requiring that an application for a driver's license
108 be signed by the parent or guardian shall be waived by the Commissioner if the application is
109 accompanied by proper evidence of the solemnization of the minor's marriage or a certified copy of a
110 court order, issued under the provisions of Article 15 (§ 16.1-331 et seq.) of Chapter 11 of Title 16.1,
111 declaring the applicant to be an emancipated minor.

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

117 E. Notwithstanding the provisions of subsection A of this section requiring the successful completion
118 of a driver education course approved by the State Department of Education, the Commissioner, on
119 application therefor by a person at least sixteen years of age but less than eighteen years of age, shall
120 issue to the applicant a temporary driver's license valid for six months if he (i) certifies by signing,
121 together with his parent or guardian, 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 subsection shall be renewed, nor shall any second or subsequent temporary license under this 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. Minors at least sixteen years old may be issued drivers' licenses under the following conditions:

1. The minor shall submit a proper application and 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 safely.

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, the minor may present proper evidence of the solemnization of the marriage or the order of emancipation.

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, respectively, of the minor resides.

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.

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.

5. The minor applicant shall certify in writing, on a form prescribed by the Commissioner, that he is

183 a resident of the Commonwealth. The applicant's parent or guardian shall also certify that the applicant
184 is a resident by signing the certification. Any minor providing proper evidence of the solemnization of
185 his marriage or a certified copy of a court order of emancipation shall not be required to provide the
186 parent's certification of residence.

187 B. Any parent or guardian of an unmarried or unemancipated minor may, after the issuance of a
188 permanent driver's license to such minor, file with the Department a written request that the license of
189 the minor be canceled. When such request is filed, the Department shall cancel the license of the minor
190 and the license shall not thereafter be reissued by the Department until a period of six months has
191 elapsed from the date of cancellation or the minor reaches his eighteenth birthday, whichever shall occur
192 sooner.

193 *Further, the division superintendent of any school division in which the school board has established*
194 *a regulation pursuant to subsection F of § 22.1-205 may file a notice with the Department that a student*
195 *who holds a driver's license has acquired fifteen or more unexcused absences, as defined by the local*
196 *school board, and has failed to comply with efforts of the school division to ensure his regular school*
197 *attendance. Upon receiving such notice, the Department shall suspend the license of the minor and the*
198 *license shall not thereafter be reinstated by the Department until the division superintendent notifies the*
199 *Department, in writing, that the student's regular school attendance has been achieved, at which time*
200 *the Department shall reinstate the student's license.*

201 C. The provisions of subsection A of this section requiring that an application for a driver's license
202 be signed by the parent or guardian shall be waived by the Commissioner if the application is
203 accompanied by evidence of the solemnization of the minor's marriage or a certified copy of a court
204 order, issued under the provisions of Article 15 (§ 16.1-331 et seq.) of Chapter 11 of Title 16.1,
205 declaring the applicant to be an emancipated minor.

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

211 E. Notwithstanding the provisions of subsection A of this section requiring the successful completion
212 of a driver education course approved by the State Department of Education, the Commissioner, on
213 application therefor by a person at least sixteen years of age but less than eighteen years of age, shall
214 issue to the applicant a temporary driver's license valid for six months if he (i) certifies by signing,
215 together with his parent or guardian, on a form prescribed by the Commissioner that he is a resident of
216 the Commonwealth; (ii) is the holder of a valid driver's license from another state; and (iii) has not been
217 found guilty of or otherwise responsible for an offense involving the operation of a motor vehicle. No
218 temporary license issued under this subsection shall be renewed, nor shall any second or subsequent
219 temporary license under this subsection be issued to the same applicant. Any such minor providing
220 proper evidence of the solemnization of his marriage or a certified copy of a court order of
221 emancipation shall not be required to obtain the signature of his parent or guardian for the temporary
222 driver's license.

223 F. For persons qualifying for a driver's license through driver education courses approved by the
224 Department of Education or courses offered by commercial driver training schools licensed by the
225 Department, the application for the learner's permit shall be used as the application for the driver's
226 license pursuant to § 46.2-336.

227 G. Driver's licenses shall be issued by the Department to minors successfully completing driver
228 education courses approved by the Department of Education when the Department receives from the
229 school proper certification that the student (i) has successfully completed such course, including a road
230 skills examination; (ii) is regularly attending school and is in good academic standing or, if not in such
231 standing, whose parent who has custody of such minor provides written authorization for the minor to
232 obtain a driver's license; and (iii) upon payment of a fee of \$2.40 per year, based on the period of the
233 license's validity. For applicants attending public schools, good academic standing may be certified by
234 the public school principal or any of his designees. For applicants attending nonpublic schools, such
235 certification shall be made by the private school principal or any of his designees; for minors receiving
236 home schooling, such certification shall be made by the home schooling parent or tutor. Any minor
237 providing proper evidence of the solemnization of his marriage or a certified copy of a court order of
238 emancipation shall not be required to provide the certification of good academic standing or any written
239 authorization from his parent or guardian to obtain a driver's license.