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SENATE BILL NO. 325

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Transportation
on December 14, 1998)

(Patron Prior to Substitute—Senator Woods)

A BILL to amend and reenact § 46.2-320 of the Code of Virginia, relating to grounds for refusal or suspension of driver's licenses.

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-320 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-320. Other grounds for refusal or suspension.

A. The Department may refuse to grant an application for a driver's license in any of the circumstances set forth in § 46.2-608 as circumstances justifying the refusal of an application for the registration of a motor vehicle. The Department may refuse to issue or reissue a driver's license for the willful failure or refusal to pay any taxes or fees required to be collected or authorized to be collected by the Department.

B. The Commissioner may enter into an agreement with the Department of Social Services whereby the Department may suspend or refuse to renew the driver's license of any person upon receipt of notice from the Department of Social Services that the person (i) is delinquent in the payment of child support by ninety days or more or in an amount of \$5,000 or more or (ii) has failed to comply with a subpoena, summons or warrant relating to paternity or child support proceedings. A suspension or refusal to renew authorized pursuant to this section shall not be effective until thirty days after receipt by service on the delinquent obligor of notice of intent to suspend or refuse to renew. The notice of intent shall be served on the obligor by the Department of Social Services, (i) by certified mail, with proof of actual return receipt requested, sent to the obligor's last known address addresses as shown in the records of the Department or the Department of Social Services or by personal delivery to the obligor (ii) pursuant to subdivision 4 of § 8.01-296, or (iii) service may be waived by the obligor in accordance with procedures established by the Department of Social Services. The obligor shall be entitled to a judicial hearing if a request for a hearing is made, in writing, to the Department of Social Services within ten days of receipt from service of the notice of intent. Upon receipt of the request for a hearing, the Department of Social Services shall petition the court that entered or is enforcing the order, requesting a hearing on the proposed suspension or refusal to renew. The court shall authorize the suspension or refusal to renew only if it finds that the obligor's noncompliance with the child support order was willful. Upon a showing by the Department of Social Services that the obligor is delinquent in the payment of child support by ninety days or more or in an amount of \$5,000 or more, the burden of proving that the delinquency was not willful shall rest upon the obligor. The Department shall not suspend or refuse to renew the driver's license until a final determination is made by the court.

C. At any time after receipt service of a notice of intent, the person may petition the juvenile and domestic relations district court in the jurisdiction where he resides for the issuance of a restricted license to be used if the suspension or refusal to renew becomes effective. Upon such petition and a finding of good cause, the court may provide that such person be issued a restricted permit to operate a motor vehicle for any or all of the following purposes: (i) travel to and from his place of employment and for travel during the hours of such person's employment if the operation of a motor vehicle is a necessary incident of such employment; (ii) travel to and from school if such person is a student, upon proper written verification to the court that such person is enrolled in a continuing program of education; (iii) travel to and from visitation with a child of such person; or (iv) such other medically necessary travel as the court deems necessary and proper upon written verification of need by a licensed health professional. A restricted license issued pursuant to this subsection shall not permit any person to operate a commercial motor vehicle as defined in § 46.2-341.4. The court shall order the surrender of the person's license to operate a motor vehicle, to be disposed of in accordance with the provisions of § 46.2-398, and shall forward to the Commissioner a copy of its order entered pursuant to this subsection. The order shall specifically enumerate the restrictions imposed and contain such information regarding the person to whom such a permit is issued as is reasonably necessary to identify him.

D. The Department shall not renew a driver's license or terminate a license suspension imposed pursuant to this section until it has received from the Department of Social Services a certification that the person has (i) paid the delinquency in full, (ii) reached an agreement with the Department of Social Services to satisfy the delinquency within a period not to exceed ten years and at least one payment, representing at least five percent of the total delinquency or \$500, whichever is greater, has been made pursuant to the agreement, or (iii) complied with a subpoena, summons or warrant relating to a paternity or child support proceeding. Certification by the Department of Social Services shall be made by

60 electronic or telephonic communication and shall be made on the same work day that payment required
61 by clause (i) or (ii) is made.