

# 2011 SESSION

LEGISLATION NOT PREPARED BY DLS  
INTRODUCED

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## HOUSE BILL NO. 2528

Offered January 21, 2011

*A BILL to amend and reenact § 46.2-334 of the Code of Virginia and to amend and reenact § 46.2-311 of the Code of Virginia, relating to the Department of Motor Vehicles and vision screening.*

Patron—Garrett

Referred to Committee on Transportation

Patron—Garrett

Referred to \_\_\_\_\_

**Be it enacted by the General Assembly of Virginia:**

**1. That § 46.2-334 of the Code of Virginia is amended and reenacted and that § 46.2-311 of the Code of Virginia is amended and reenacted, as follows**

§ 46.2-334. Conditions and requirements for licensure of persons under 18; requests for cancellation of minor's driver's license; temporary driver's licenses; Board of Education approved programs; home-schooled students; fee.

A. Minors at least 16 years and three months old may be issued driver's 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 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 juvenile and domestic relations district 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, 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 juvenile and domestic relations district 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 juvenile and domestic relations district 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 in writing by the minor's parent. If the minor is unable to provide such evidence, he shall not be granted a driver's license until he reaches the age of 18 or presents proper evidence of the 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 a resident of the Commonwealth. The applicant's parent or guardian shall also certify that the applicant is a resident by signing the certification. 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 parent's certification of residence.

B. Any custodial parent or guardian of an unmarried or unemancipated minor may, after the issuance of a permanent driver's license to such minor, file with the Department a written request that the license

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59 of the minor be canceled. When such request is filed, the Department shall cancel the license of the  
60 minor and the license shall not thereafter be reissued by the Department until a period of six months has  
61 elapsed from the date of cancellation or the minor reaches his eighteenth birthday, whichever shall occur  
62 sooner. Notwithstanding the foregoing provisions of this subsection, in the case of a minor whose  
63 parents have been awarded joint legal custody, a request that the license of the minor be cancelled must  
64 be signed by both legal custodians. In the event one parent is not reasonably available or the parents do  
65 not agree, one parent may petition the juvenile and domestic relations district court to make a  
66 determination that the license of the minor be cancelled.

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

72 D. A learner's permit accompanied by documentation verifying the minor's successful completion of  
73 an approved driver education course, signed by the minor's parent, guardian, legal custodian or other  
74 person standing in loco parentis, shall constitute a temporary driver's license for purposes of driving  
75 unaccompanied by a licensed driver as required in § 46.2-335, if all other requirements of this chapter  
76 have been met. The temporary license shall only be valid until the permanent license is presented as  
77 provided in § 46.2-336.

78 E. Notwithstanding the provisions of subsection A of this section requiring the successful completion  
79 of a driver education course approved by the State Department of Education, the Commissioner, on  
80 application therefor by a person at least 16 years and three months old but less than 18 years old, shall  
81 issue to the applicant a temporary driver's license valid for six months if he (i) certifies by signing,  
82 together with his parent or guardian, on a form prescribed by the Commissioner that he is a resident of  
83 the Commonwealth; (ii) is the holder of a valid driver's license from another state; and (iii) has not been  
84 found guilty of or otherwise responsible for an offense involving the operation of a motor vehicle. No  
85 temporary license issued under this subsection shall be renewed, nor shall any second or subsequent  
86 temporary license under this subsection be issued to the same applicant. Any such minor providing  
87 proper evidence of the solemnization of his marriage or a certified copy of a court order of  
88 emancipation shall not be required to obtain the signature of his parent or guardian for the temporary  
89 driver's license.

90 F. For persons qualifying for a driver's license through driver education courses approved by the  
91 Department of Education or courses offered by driver training schools licensed by the Department, the  
92 application for the learner's permit shall be used as the application for the driver's license pursuant to  
93 § 46.2-335.

94 G. Driver's licenses shall be issued by the Department to minors successfully completing driver  
95 education courses approved by the Department of Education (i) when the Department receives from the  
96 school proper certification that the student (a) has successfully completed such course, including a road  
97 skills examination and (b) is regularly attending school and is in good academic standing or, if not in  
98 such standing or submitting evidence thereof, whose parent or guardian, having custody of such minor,  
99 provides written authorization for the minor to obtain a driver's license, which written authorization shall  
100 be obtained on forms provided by the Department and indicating the Commonwealth's interest in the  
101 good academic standing and regular school attendance of such minors; and (ii) upon payment of a fee of  
102 \$2.40 per year, based on the period of the license's validity. For applicants attending public schools,  
103 good academic standing may be certified by the public school principal or any of his designees. For  
104 applicants attending nonpublic schools, such certification shall be made by the private school principal  
105 or any of his designees; for minors receiving home schooling, such certification shall be made by the  
106 home schooling parent or tutor. Any minor providing proper evidence of the solemnization of his  
107 marriage or a certified copy of a court order of emancipation shall not be required to provide the  
108 certification of good academic standing or any written authorization from his parent or guardian to  
109 obtain a driver's license.

110 H. For those home schooled students completing driver education courses approved by the Board of  
111 Education and instructed by his own parent or guardian, no driver's license shall be issued until the  
112 student has successfully completed the driver's license examination administered by the Department.  
113 Furthermore, the Commissioner shall not issue a driver's license for those home schooled students  
114 completing driver education courses approved by the Board of Education and instructed by his own  
115 parent or guardian if it is determined by the Commissioner that, at the time of such instruction, such  
116 parent or guardian had accumulated six or more driver demerit points in the most recently preceding 12  
117 months, had been convicted within the most recent 11 preceding years of driving while intoxicated in  
118 violation of § 18.2-266 or a substantially similar law in another state, or had ever been convicted of  
119 voluntary or involuntary manslaughter in violation of § 18.2-35 or § 18.2-36 or a substantially similar  
120 law in another state.

*I. The Department shall waive the required vision screening for obtaining a driver's license or learner's permit if an application is accompanied by a certificate verifying the applicant's demonstration of visual acuity and field of vision requirements through sight tests provided pursuant to § 22.1-273, when those tests are certified by a qualified organization, or when visual acuity and field of vision is tested by an ophthalmologist or optometrist .*

*"Qualified organization" means a nationally affiliated, private, charitable, 501 (c) 3, non-profit organization, approved by the Commissioner, with a minimum of 10 years of experience in delivering statewide services for vision health and safety.*

*For each certificate that results in a waiver, the DMV shall deposit savings, as calculated using Department methods for determining license examiner's time value, into a separate fund. The funds shall be disbursed to a qualified organization that issued an approved certificate or other organization deemed to serve this role.*

§ 46.2-311. Persons having defective vision; minimum standards of visual acuity and field of vision; tests of vision.

A. The Department shall not issue a driver's license or learner's permit (i) to any person unless he demonstrates a visual acuity of at least 20/40 in one or both eyes with or without corrective lenses or (ii) to any such person unless he demonstrates at least a field of 100 degrees of horizontal vision in one or both eyes or a comparable measurement that demonstrates a visual field within this range. However, a license permitting the driving of motor vehicles during a period beginning one-half hour after sunrise and ending one-half hour before sunset, may be issued to a person who demonstrates a visual acuity of at least 20/70 in one or both eyes without or with corrective lenses provided he demonstrates at least a field of seventy degrees of horizontal vision or a comparable measurement that demonstrates a visual field within this range, and further provided that if such person has vision in one eye only, he demonstrates at least a field of forty degrees temporal and thirty degrees nasal horizontal vision or a comparable measurement that demonstrates a visual field within this range.

B. The Department shall not issue a driver's license or learner's permit to any person authorizing the driving of a commercial motor vehicle as defined in the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.) unless he demonstrates a visual acuity of at least 20/40 in each eye and at least a field of 140 degrees of horizontal vision or a comparable measurement that demonstrates a visual field within this range.

C. Every person applying to renew a driver's license and required to be reexamined as a prerequisite to the renewal of the license, shall:

1. Appear before a license examiner of the Department to demonstrate his visual acuity and horizontal field of vision, or

2. Accompany his application with a report of such examination made within ninety days prior thereto by an ophthalmologist or optometrist.

D. The test of horizontal visual fields made by license examiners of the Department shall be performed at thirty-three and one-third centimeters with a ten millimeter round white test object or may, at the discretion of the Commissioner, be performed with electronic or other devices designed for the purpose of testing visual acuity and horizontal field of vision. The report of examination of visual acuity and horizontal field of vision made by an ophthalmologist or optometrist shall have precedence over an examination made by a license examiner of the Department in administrative determination as to the issuance of a license to drive. Any such report may, in the discretion of the Commissioner, be referred to a medical advisory board or to the State Health Commissioner for evaluation.

E. Notwithstanding the provisions of subsection B of this section, any person who is licensed to drive any motor vehicle may, on special application to the Department, be licensed to drive any vehicle, provided the operation of the vehicle would not unduly endanger the public safety, as determined by the Commissioner pursuant to regulations established by the Department.

*F. The Department shall waive the required vision screening for obtaining a driver's license or learner's permit if an application is accompanied by a certificate verifying the applicant's demonstration of visual acuity and field of vision requirements through sight tests provided pursuant to § 22.1-273, when those tests are certified by a qualified organization, or when visual acuity and field of vision is tested by an ophthalmologist or optometrist .*

*"Qualified organization" means a nationally affiliated, private, charitable, 501 (c) 3, non-profit organization, approved by the Commissioner, with a minimum of 10 years of experience in delivering statewide services for vision health and safety.*

*For each certificate that results in a waiver, the DMV shall deposit savings, as calculated using Department methods for determining license examiner's time value, into a separate fund. The funds shall be disbursed to a qualified organization that issued an approved certificate or other organization deemed to serve this role.*