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SENATE BILL NO. 205

Offered January 8, 2014

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A BILL to amend and reenact §§ 46.2-323, 46.2-325, 46.2-334, and 46.2-1702 of the Code of Virginia, relating to driver training and road tests for persons age 19 or older.

Patron—McWaters

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-323, 46.2-325, 46.2-334, and 46.2-1702 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-323. Application for driver's license; proof of completion of driver education program; penalty.

A. Every application for a driver's license, temporary driver's permit, learner's permit, or motorcycle learner's permit shall be made on a form prescribed by the Department and the applicant shall write his usual signature in ink in the space provided on the form. The form shall include notice to the applicant of the duty to register with the Department of State Police as provided in Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, if the applicant has been convicted of an offense for which registration with the Sex Offender and Crimes Against Minors Registry is required.

B. Every application shall state the full legal name, year, month, and date of birth, social security number, sex, and residence address of the applicant; whether or not the applicant has previously been licensed as a driver and, if so, when and by what state, and whether or not his license has ever been suspended or revoked and, if so, the date of and reason for such suspension or revocation. The Department, as a condition for the issuance of any driver's license, temporary driver's permit, learner's permit, or motorcycle learner's permit shall require the surrender of any driver's license or, in the case of a motorcycle learner's permit, a motorcycle license issued by another state and held by the applicant. The applicant shall also answer any questions on the application form or otherwise propounded by the Department incidental to the examination. The applicant may also be required to present proof of identity, residency, and social security number or non-work authorized status, if required to appear in person before the Department to apply.

The Commissioner shall require that each application include a certification statement to be signed by the applicant under penalty of perjury, certifying that the information presented on the application is true and correct.

If the applicant fails or refuses to sign the certification statement, the Department shall not issue the applicant a driver's license, temporary driver's permit, learner's permit or motorcycle learner's permit.

Any applicant who knowingly makes a false certification or supplies false or fictitious evidence shall be punished as provided in § 46.2-348.

C. Every application for a driver's license shall include a photograph of the applicant supplied under arrangements made by the Department. The photograph shall be processed by the Department so that the photograph can be made part of the issued license.

D. Notwithstanding the provisions of § 46.2-334, every applicant for a driver's license who is under 19 years of age shall furnish the Department with satisfactory proof of his successful completion of a driver education program approved by the State Department of Education. *Applicants age 19 or older may also provide proof of successful completion of a driver education program approved by the State Department of Education in order to meet the requirements for licensure. The provisions of this subsection shall not apply to persons placed under medical control by the Department pursuant to § 46.2-322.*

E. Every application for a driver's license submitted by a person less than 18 years old and attending a public school in the Commonwealth shall be accompanied by a document, signed by the applicant's parent or legal guardian, authorizing the principal, or his designee, of the school attended by the applicant to notify the juvenile and domestic relations district court within whose jurisdiction the minor resides when the applicant has had 10 or more unexcused absences from school on consecutive school days.

F. The Department shall electronically transmit application information to the Department of State Police, in a format approved by the State Police, for comparison with information contained in the Virginia Criminal Information Network and National Crime Information Center Convicted Sexual Offender Registry Files, at the time of issuance of a driver's license, temporary driver's permit, learner's

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59 permit, or motorcycle learner's permit. Whenever it appears from the records of the State Police that a
60 person has failed to comply with the duty to register or reregister pursuant to Chapter 9 (§ 9.1-900 et
61 seq.) of Title 9.1, the State Police shall promptly investigate and, if there is probable cause to believe a
62 violation has occurred, obtain a warrant or assist in obtaining an indictment charging a violation of §
63 18.2-472.1 in the jurisdiction in which the person made application of licensure.

64 **§ 46.2-325. Examination of applicants; waiver of Department's examination under certain**
65 **circumstances; behind-the-wheel and knowledge examinations.**

66 A. The Department shall examine every applicant for a driver's license before issuing any license to
67 determine (i) his physical and mental qualifications and his ability to drive a motor vehicle without
68 jeopardizing the safety of persons or property and (ii) if any facts exist which would bar the issuance of
69 a license under §§ 46.2-311 through 46.2-316, 46.2-334, or 46.2-335. The examination, however, shall
70 not include investigation of any facts other than those directly pertaining to the ability of the applicant
71 to drive a motor vehicle with safety, or other than those facts declared to be prerequisite to the issuance
72 of a license under this chapter. No applicant otherwise competent shall be required to demonstrate
73 ability to park any motor vehicle except in an adequate parking space between horizontal markers, and
74 not between flags or sticks simulating parked vehicles. Except as provided for in § 46.2-337, applicants
75 for licensure to drive motor vehicles of the classifications referred to in § 46.2-328 shall submit to
76 examinations which relate to the operation of those vehicles. The motor vehicle to be used by the
77 applicant for the behind-the-wheel examination shall meet the safety and equipment requirements
78 specified in Chapter 10 (§ 46.2-1000 et seq.) and possess a valid inspection sticker as required pursuant
79 to § 46.2-1157.

80 Prior to taking the examination, the applicant shall either (a) present evidence that the applicant has
81 completed a state-approved driver education class pursuant to the provisions of § 46.2-324.1 or 46.2-334
82 or (b) submit to the examiner a behind-the-wheel maneuvers checklist, on a form provided by the
83 Department, that describes the vehicle maneuvers the applicant may be expected to perform while taking
84 the behind-the-wheel examination, that has been signed by a licensed driver, certifying that the applicant
85 has practiced the driving maneuvers contained and described therein, and that has been signed by the
86 applicant certifying that, at all times while holding a learner's permit, the applicant has complied with
87 the provisions of § 46.2-335 while operating a motor vehicle.

88 Except for applicants subject to § 46.2-312, if the Commissioner is satisfied that an applicant has
89 demonstrated the same proficiency as required by the Department's examination through successful
90 completion of either (1) the driver education course approved by the Department of Education or (2) a
91 driver training course offered by a driver training school licensed under Chapter 17 (§ 46.2-1700 et
92 seq.), he may waive those parts of the Department's examination provided for in this section that require
93 the applicant to drive and park a motor vehicle.

94 B. Any person who fails the behind-the-wheel examination for a driver's license administered by the
95 Department shall wait two days before being permitted to take another such examination. No person
96 who fails the behind-the-wheel examination for a driver's license administered by the Department three
97 times shall be permitted to take such examination a fourth time until he successfully completes,
98 subsequent to the third examination failure, the in-vehicle component of driver instruction at a driver
99 training school licensed under Chapter 17 (§ 46.2-1700 et seq.) or a comparable course approved by the
100 Department or the Department of Education. In addition, no person who fails the driver knowledge
101 examination for a driver's license administered by the Department three times shall be permitted to take
102 such examination a fourth time until he successfully completes, subsequent to the third examination
103 failure, the classroom component of driver instruction at a driver training school licensed under Chapter
104 17 (§ 46.2-1700 et seq.) or, for persons at least 19 years old, a course of instruction based on the
105 Virginia Driver's Manual offered by a driver training school licensed under Chapter 17 (§ 46.2-1700 et
106 seq.) and approved by the Department or the Department of Education. *All persons required to attend a*
107 *driver training school pursuant to this section shall be required after successful completion of the*
108 *necessary courses to have the applicable examination administered by the Department.*

109 The provisions of this subsection shall not apply to persons placed under medical control by the
110 Department pursuant to § 46.2-322.

111 **§ 46.2-334. Conditions and requirements for licensure of persons under 18; requests for**
112 **cancellation of minor's driver's license; temporary driver's licenses; Board of Education approved**
113 **programs; home-schooled students; fee.**

114 A. Minors at least 16 years and three months old may be issued driver's licenses under the following
115 conditions:

116 1. The minor shall submit a proper application and satisfactory evidence that he (i) is a resident of
117 the Commonwealth; (ii) has successfully completed a driver education course approved by either the
118 State Department of Education or, in the case of a course offered by a driver training school licensed
119 under Chapter 17 (§ 46.2-1700 et seq.) of this title, by the Department of Motor Vehicles; and (iii) is
120 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 of the minor be canceled. When such request is filed, the Department shall cancel the license of the minor and the license shall not thereafter be reissued by the Department until a period of six months has elapsed from the date of cancellation or the minor reaches his eighteenth birthday, whichever shall occur sooner. Notwithstanding the foregoing provisions of this subsection, in the case of a minor whose parents have been awarded joint legal custody, a request that the license of the minor be cancelled must be signed by both legal custodians. In the event one parent is not reasonably available or the parents do not agree, one parent may petition the juvenile and domestic relations district court to make a determination that the license of the minor be cancelled.

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

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

E. Notwithstanding the provisions of subsection A of this section requiring the successful completion of a driver education course approved by the State Department of Education, the Commissioner, on application therefor by a person at least 16 years and three months old but less than 18 years old, shall issue to the applicant a temporary driver's license valid for six months if he (i) certifies by signing, 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

182 emancipation shall not be required to obtain the signature of his parent or guardian for the temporary
183 driver's license.

184 F. For persons qualifying for a driver's license through driver education courses approved by the
185 Department of Education or courses offered by driver training schools licensed by the Department, the
186 application for the learner's permit shall be used as the application for the driver's license pursuant to
187 § 46.2-335.

188 G. Driver's licenses shall be issued by the Department to ~~minors~~ *students* successfully completing
189 driver education courses approved by the Department of Education (i) when the Department receives
190 from the school proper certification that the student (a) has successfully completed such course,
191 including a road skills examination and (b) is regularly attending school and is in good academic
192 standing or, if not in such standing or submitting evidence thereof, whose parent or guardian, having
193 custody of such minor, provides written authorization for the minor to obtain a driver's license, which
194 written authorization shall be obtained on forms provided by the Department and indicating the
195 Commonwealth's interest in the good academic standing and regular school attendance of such minors;
196 and (ii) upon payment of a fee of \$2.40 per year, based on the period of the license's validity. For
197 applicants attending public schools, good academic standing may be certified by the public school
198 principal or any of his designees. For applicants attending nonpublic schools, such certification shall be
199 made by the private school principal or any of his designees; for ~~minors~~ *students* receiving home
200 schooling, such certification shall be made by the home schooling parent or tutor. Any minor providing
201 proper evidence of the solemnization of his marriage or a certified copy of a court order of
202 emancipation shall not be required to provide the certification of good academic standing or any written
203 authorization from his parent or guardian to obtain a driver's license.

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

215 **§ 46.2-1702. Certification of driver education courses by Commissioner.**

216 The Commissioner shall have the authority to approve as a driver education course satisfying the
217 requirements of § 46.2-334 any course which is offered by any driver training school licensed under the
218 provisions of this chapter if he finds that the course is of comparable content and quality to that offered
219 in the Commonwealth's public schools. In making such finding, the Commissioner shall not require that
220 the instructors of any driver training school meet the certification requirements of teachers in the
221 Commonwealth's public schools.

222 The Commissioner shall have authority to approve any driver education course offered by any Class
223 A licensee if he finds the course meets the requirements for such courses as set forth in this chapter and
224 as otherwise established by the Department. *Class A licensees shall not be permitted to administer*
225 *knowledge or behind-the-wheel examinations.* Driver education courses offered by any Class B licensee
226 shall be based on the driver education curriculum currently approved by the Department of Education
227 and the Department.

228 The Commissioner may accept 20 years' service with the Virginia Department of State Police by a
229 person who retired or resigned while in good standing from such Department in lieu of requirements
230 established by the Department of Education for instructor qualification.