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VIRGINIA ACTS OF ASSEMBLY — CHAPTER

*An Act to amend and reenact §§ 46.2-334.01 and 46.2-335, as they are currently effective and as they shall become effective, of the Code of Virginia, relating to learner's permits; use of personal communication devices.*

[S 1335]

Approved

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

**1. That §§ 46.2-334.01 and 46.2-335, as they are currently effective and as they shall become effective, of the Code of Virginia are amended and reenacted as follows:**

**§ 46.2-334.01. (Effective until March 1, 2021) Licenses issued to persons less than 18 years old subject to certain restrictions.**

A. Any learner's permit or driver's license issued to any person less than 18 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 19 years old shows that he has been convicted of committing, when he was less than 18 years old, (i) an offense for which demerit points have been assessed or are assessable under Article 19 (§ 46.2-489 et seq.) 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, 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. Such person's parent, guardian, legal custodian, or other person standing in loco parentis may attend such clinic and receive a reduction in demerit points and/or an award of safe driving points pursuant to § 46.2-498. The provisions of this subdivision shall not be construed to prohibit awarding of safe driving points to a person less than 18 years old who attends and successfully completes a driver improvement clinic without having been directed to do so by the Commissioner or required to do so by a court.

2. If any person less than 19 years old is convicted a second time of committing, when he was less than 18 years old, (i) an offense for which demerit points have been assessed or are assessable under Article 19 (§ 46.2-489 et seq.) 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, the Commissioner shall suspend such person's driver's license or privilege to operate a motor vehicle for 90 days. Such suspension shall be consecutive to, and not concurrent with, any other period of license suspension, revocation, or denial. Any person who has had his driver's license or privilege to operate a motor vehicle suspended in accordance with this subdivision may petition the juvenile and domestic relations district court of his residence for a restricted license to authorize such person to drive a motor vehicle in the Commonwealth to and from his home, his place of employment, or an institution of higher education where he is enrolled, provided there is no other means of transportation by which such person may travel between his home and his place of employment or the institution of higher education where he is enrolled. On such petition the court may, in its discretion, authorize the issuance of a restricted license for a period not to exceed the term of the suspension of the person's license or privilege to operate a motor vehicle in the Commonwealth. Such restricted license shall be valid solely for operation of a motor vehicle between such person's home and his place of employment or the institution of higher education where he is enrolled.

3. If any person is convicted a third time of committing, when he was less than 18 years old, (i) an offense for which demerit points have been assessed or are assessable under Article 19 (§ 46.2-489 et seq.) 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, the Commissioner shall 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 18 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 any person subject to the provisions of this section be subject to the suspension or revocation provisions of subdivision 2 or 3 for multiple convictions arising out of the same transaction or occurrence.

B. The initial license issued to any person younger than 18 years of age shall be deemed a provisional driver's license. Until the holder is 18 years old, a provisional driver's license shall not authorize its holder to operate a motor vehicle with more than one passenger who is less than 21 years old. After the first year the provisional license is issued, the holder may operate a motor vehicle with up to three passengers who are less than 21 years old (i) when the holder is driving to or from a

57 school-sponsored activity, (ii) when a licensed driver who is at least 21 years old is occupying the seat  
58 beside the driver, or (iii) in cases of emergency. These passenger limitations, however, shall not apply to  
59 members of the driver's family or household. For the purposes of this subsection, "a member of the  
60 driver's family or household" means any of the following: (a) the driver's spouse, children, stepchildren,  
61 brothers, sisters, half-brothers, half-sisters, first cousins, and any individual who has a child in common  
62 with the driver, whether or not they reside in the same home with the driver; (b) the driver's  
63 brothers-in-law and sisters-in-law who reside in the same home with the driver; and (c) any individual  
64 who cohabits with the driver, and any children of such individual residing in the same home with the  
65 driver.

66 C. The holder of a provisional driver's license shall not operate a motor vehicle on the highways of  
67 the Commonwealth between the hours of midnight and 4:00 a.m. except when driving (i) to or from a  
68 place of business where he is employed; (ii) to or from an activity that is supervised by an adult and is  
69 sponsored by a school or by a civic, religious, or public organization; (iii) accompanied by a parent, a  
70 person acting in loco parentis, or by a spouse who is 18 years old or older, provided that such person  
71 accompanying the driver is actually occupying a seat beside the driver and is lawfully permitted to  
72 operate a motor vehicle at the time; or (iv) in cases of emergency, including response by volunteer  
73 firefighters and volunteer emergency medical services personnel to emergency calls.

74 ~~C1. Except in a driver emergency or when the vehicle is lawfully parked or stopped, the holder of a~~  
75 ~~provisional driver's license shall not operate a motor vehicle on the highways of the Commonwealth~~  
76 ~~while using any cellular telephone or any other wireless telecommunications device, regardless of~~  
77 ~~whether such device is or is not hand-held.~~

78 D. The provisional driver's license restrictions in subsections B; *and* C; ~~and~~ C1 shall expire on the  
79 holder's eighteenth birthday. A violation of the provisional driver's license restrictions in subsection B;  
80 *or* C; ~~or~~ C1 shall constitute a traffic infraction. For a second or subsequent violation of the provisional  
81 driver's license restrictions in subsection B; *or* C; ~~or~~ C1, in addition to any other penalties that may be  
82 imposed pursuant to § 16.1-278.10, the court may suspend the juvenile's privilege to drive for a period  
83 not to exceed six months.

84 E. A violation of subsection B; *or* C; ~~or~~ C1 shall not constitute negligence, be considered in  
85 mitigation of damages of whatever nature, be admissible in evidence, or be the subject of comment by  
86 counsel in any action for the recovery of damages arising out of the operation, ownership, or  
87 maintenance of a motor vehicle, nor shall anything in this subsection change any existing law, rule, or  
88 procedure pertaining to any such civil action.

89 F. No citation for a violation of this section shall be issued unless the officer issuing such citation  
90 has cause to stop or arrest the driver of such motor vehicle for the violation of some other provision of  
91 this Code or local ordinance relating to the operation, ownership, or maintenance of a motor vehicle or  
92 any criminal statute.

93 **§ 46.2-334.01. (Effective March 1, 2021) Licenses issued to persons less than 18 years old**  
94 **subject to certain restrictions.**

95 A. Any learner's permit or driver's license issued to any person less than 18 years old shall be  
96 subject to the following:

97 1. Notwithstanding the provisions of § 46.2-498, whenever the driving record of a person less than  
98 19 years old shows that he has been convicted of committing, when he was less than 18 years old, (i)  
99 an offense for which demerit points have been assessed or are assessable under Article 19 (§ 46.2-489 et  
100 seq.) or (ii) a violation of any provision of Article 12 (§ 46.2-1091 et seq.) or Article 13 (§ 46.2-1095 et  
101 seq.) of Chapter 10, the Commissioner shall direct such person to attend a driver improvement clinic.  
102 No safe driving points shall be awarded for such clinic attendance, nor shall any safe driving points be  
103 awarded for voluntary or court-assigned clinic attendance. Such person's parent, guardian, legal  
104 custodian, or other person standing in loco parentis may attend such clinic and receive a reduction in  
105 demerit points and/or an award of safe driving points pursuant to § 46.2-498. The provisions of this  
106 subdivision shall not be construed to prohibit awarding of safe driving points to a person less than 18  
107 years old who attends and successfully completes a driver improvement clinic without having been  
108 directed to do so by the Commissioner or required to do so by a court.

109 2. If any person less than 19 years old is convicted a second time of committing, when he was less  
110 than 18 years old, (i) an offense for which demerit points have been assessed or are assessable under  
111 Article 19 (§ 46.2-489 et seq.) or (ii) a violation of any provision of Article 12 (§ 46.2-1091 et seq.) or  
112 Article 13 (§ 46.2-1095 et seq.) of Chapter 10, the Commissioner shall suspend such person's driver's  
113 license or privilege to operate a motor vehicle for 90 days. Such suspension shall be consecutive to, and  
114 not concurrent with, any other period of license suspension, revocation, or denial. Any person who has  
115 had his driver's license or privilege to operate a motor vehicle suspended in accordance with this  
116 subdivision may petition the juvenile and domestic relations district court of his residence for a restricted  
117 license to authorize such person to drive a motor vehicle in the Commonwealth to and from his home,

118 his place of employment, or an institution of higher education where he is enrolled, provided there is no  
119 other means of transportation by which such person may travel between his home and his place of  
120 employment or the institution of higher education where he is enrolled. On such petition the court may,  
121 in its discretion, authorize the issuance of a restricted license for a period not to exceed the term of the  
122 suspension of the person's license or privilege to operate a motor vehicle in the Commonwealth. Such  
123 restricted license shall be valid solely for operation of a motor vehicle between such person's home and  
124 his place of employment or the institution of higher education where he is enrolled.

125 3. If any person is convicted a third time of committing, when he was less than 18 years old, (i) an  
126 offense for which demerit points have been assessed or are assessable under Article 19 (§ 46.2-489 et  
127 seq.) or (ii) a violation of any provision of Article 12 (§ 46.2-1091 et seq.) or Article 13 (§ 46.2-1095 et  
128 seq.) of Chapter 10, the Commissioner shall revoke such person's driver's license or privilege to operate  
129 a motor vehicle for one year or until such person reaches the age of 18 years, whichever is longer. Such  
130 revocation shall be consecutive to, and not concurrent with, any other period of license suspension,  
131 revocation, or denial.

132 4. In no event shall any person subject to the provisions of this section be subject to the suspension  
133 or revocation provisions of subdivision 2 or 3 for multiple convictions arising out of the same  
134 transaction or occurrence.

135 B. The initial license issued to any person younger than 18 years of age shall be deemed a  
136 provisional driver's license. Until the holder is 18 years old, a provisional driver's license shall not  
137 authorize its holder to operate a motor vehicle with more than one passenger who is less than 21 years  
138 old. After the first year the provisional license is issued, the holder may operate a motor vehicle with up  
139 to three passengers who are less than 21 years old (i) when the holder is driving to or from a  
140 school-sponsored activity, (ii) when a licensed driver who is at least 21 years old is occupying the seat  
141 beside the driver, or (iii) in cases of emergency. These passenger limitations, however, shall not apply to  
142 members of the driver's family or household. For the purposes of this subsection, "a member of the  
143 driver's family or household" means any of the following: (a) the driver's spouse, children, stepchildren,  
144 brothers, sisters, half-brothers, half-sisters, first cousins, and any individual who has a child in common  
145 with the driver, whether or not they reside in the same home with the driver; (b) the driver's  
146 brothers-in-law and sisters-in-law who reside in the same home with the driver; and (c) any individual  
147 who cohabits with the driver, and any children of such individual residing in the same home with the  
148 driver.

149 C. The holder of a provisional driver's license shall not operate a motor vehicle on the highways of  
150 the Commonwealth between the hours of midnight and 4:00 a.m. except when driving (i) to or from a  
151 place of business where he is employed; (ii) to or from an activity that is supervised by an adult and is  
152 sponsored by a school or by a civic, religious, or public organization; (iii) accompanied by a parent, a  
153 person acting in loco parentis, or by a spouse who is 18 years old or older, provided that such person  
154 accompanying the driver is actually occupying a seat beside the driver and is lawfully permitted to  
155 operate a motor vehicle at the time; or (iv) in cases of emergency, including response by volunteer  
156 firefighters and volunteer emergency medical services personnel to emergency calls.

157 ~~C1. Except in a driver emergency or when the vehicle is lawfully parked or stopped, the holder of a~~  
158 ~~provisional driver's license shall not operate a motor vehicle on the highways of the Commonwealth~~  
159 ~~while using any cellular telephone or any other wireless telecommunications device, regardless of~~  
160 ~~whether such device is or is not hand-held.~~

161 D. The provisional driver's license restrictions in subsections B, ~~and C,~~ and ~~C1~~ shall expire on the  
162 holder's eighteenth birthday. A violation of the provisional driver's license restrictions in subsection B,  
163 ~~or C,~~ ~~or C1~~ shall constitute a traffic infraction. For a second or subsequent violation of the provisional  
164 driver's license restrictions in subsection B, ~~or C,~~ ~~or C1~~, in addition to any other penalties that may be  
165 imposed pursuant to § 16.1-278.10, the court may suspend the juvenile's privilege to drive for a period  
166 not to exceed six months.

167 E. A violation of subsection B, ~~or C,~~ ~~or C1~~ shall not constitute negligence, be considered in  
168 mitigation of damages of whatever nature, be admissible in evidence, or be the subject of comment by  
169 counsel in any action for the recovery of damages arising out of the operation, ownership, or  
170 maintenance of a motor vehicle, nor shall anything in this subsection change any existing law, rule, or  
171 procedure pertaining to any such civil action.

172 F. No law-enforcement officer shall stop a motor vehicle for a violation of this section. No evidence  
173 discovered or obtained as the result of a stop in violation of this subsection, including evidence  
174 discovered or obtained with the operator's consent, shall be admissible in any trial, hearing, or other  
175 proceeding.

176 **§ 46.2-335. (Effective until March 1, 2021) Learner's permits; fees; certification required.**

177 A. The Department, on receiving from any Virginia resident over the age of 15 years and six months  
178 an application for a learner's permit or motorcycle learner's permit, may, subject to the applicant's

179 satisfactory documentation of meeting the requirements of this chapter and successful completion of the  
 180 written or automated knowledge and vision examinations and, in the case of a motorcycle learner's  
 181 permit applicant, the automated motorcycle test, issue a permit entitling the applicant, while having the  
 182 permit in his immediate possession, to drive a motor vehicle or, if the application is made for a  
 183 motorcycle learner's permit, a motorcycle, on the highways, when accompanied by any licensed driver  
 184 21 years of age or older or by his parent or legal guardian, or by a brother, sister, half-brother,  
 185 half-sister, step-brother, or step-sister 18 years of age or older. The accompanying person shall be (i)c  
 186 alert, able to assist the driver, and actually occupying a seat beside the driver or, for motorcycle  
 187 instruction, providing immediate supervision from a separate accompanying motor vehicle and (ii)  
 188 lawfully permitted to operate the motor vehicle or accompanying motorcycle at that time.

189 The Department shall not, however, issue a learner's permit or motorcycle learner's permit to any  
 190 minor applicant required to provide evidence of compliance with the compulsory school attendance law  
 191 set forth in Article 1 (§ 22.1-254 et seq.) of Chapter 14 of Title 22.1, unless such applicant is in good  
 192 academic standing or, if not in such standing or submitting evidence thereof, whose parent or guardian,  
 193 having custody of such minor, provides written authorization for the minor to obtain a learner's permit  
 194 or motorcycle learner's permit, which written authorization shall be obtained on forms provided by the  
 195 Department and indicating the Commonwealth's interest in the good academic standing and regular  
 196 school attendance of such minors. Any minor providing proper evidence of the solemnization of his  
 197 marriage or a certified copy of a court order of emancipation shall not be required to provide the  
 198 certification of good academic standing or any written authorization from his parent or guardian to  
 199 obtain a learner's permit or motorcycle learner's permit.

200 Such permit, except a motorcycle learner's permit, shall be valid until the holder thereof either is  
 201 issued a driver's license as provided for in this chapter or no longer meets the qualifications for issuance  
 202 of a learner's permit as provided in this section. Motorcycle learner's permits shall be valid for 12  
 203 months. When a motorcycle learner's permit expires, the permittee may, upon submission of an  
 204 application, payment of the application fee, and successful completion of the examinations, be issued  
 205 another motorcycle learner's permit valid for 12 months.

206 Any person 25 years of age or older who is eligible to receive an operator's license in Virginia, but  
 207 who is required, pursuant to § 46.2-324.1, to be issued a learner's permit for 60 days prior to his first  
 208 behind-the-wheel exam, may be issued such learner's permit even though restrictions on his driving  
 209 privilege have been ordered by a court. Any such learner's permit shall be subject to the restrictions  
 210 ordered by the court.

211 B. No driver's license shall be issued to any such person who is less than 18 years old unless, while  
 212 holding a learner's permit, he has driven a motor vehicle for at least 45 hours, at least 15 of which were  
 213 after sunset, as certified by his parent, foster parent, or legal guardian unless the person is married or  
 214 otherwise emancipated. Such certification shall be on a form provided by the Commissioner and shall  
 215 contain the following statement:

216 "It is illegal for anyone to give false information in connection with obtaining a driver's license. This  
 217 certification is considered part of the driver's license application, and anyone who certifies to a false  
 218 statement may be prosecuted. I certify that the statements made and the information submitted by me  
 219 regarding this certification are true and correct."

220 Such form shall also include the driver's license or Department of Motor Vehicles-issued  
 221 identification card number of the person making the certification.

222 C. No learner's permit shall authorize its holder to operate a motor vehicle with more than one  
 223 passenger who is less than 21 years old, except when participating in a driver education program  
 224 approved by the Department of Education or a course offered by a driver training school licensed by the  
 225 Department. This passenger limitation, however, shall not apply to the members of the driver's family or  
 226 household as defined in subsection B of § 46.2-334.01.

227 D. No learner's permit shall authorize its holder to operate a motor vehicle between midnight and  
 228 four o'clock a.m.

229 E. ~~Except in a driver emergency or when the vehicle is lawfully parked or stopped, no holder of a~~  
 230 ~~learner's permit shall operate a motor vehicle on the highways of the Commonwealth while using any~~  
 231 ~~cellular telephone or any other wireless telecommunications device, regardless of whether or not such~~  
 232 ~~device is handheld. No citation for a violation of this subsection shall be issued unless the officer~~  
 233 ~~issuing such citation has cause to stop or arrest the driver of such motor vehicle for the violation of~~  
 234 ~~some other provision of this Code or local ordinance relating to the operation, ownership, or~~  
 235 ~~maintenance of a motor vehicle or any criminal statute.~~

236 F. A violation of subsection C, or D, or E shall not constitute negligence, be considered in mitigation  
 237 of damages of whatever nature, be admissible in evidence or be the subject of comment by counsel in  
 238 any action for the recovery of damages arising out of the operation, ownership, or maintenance of a  
 239 motor vehicle, nor shall anything in this subsection change any existing law, rule, or procedure

240 pertaining to any such civil action.

241 ~~G.~~ *F.* The provisions of §§ 46.2-323 and 46.2-334 relating to evidence and certification of Virginia  
242 residence and, in the case of persons of school age, compliance with the compulsory school attendance  
243 law shall apply, mutatis mutandis, to applications for learner's permits and motorcycle learner's permits  
244 issued under this section.

245 ~~H.~~ *G.* For persons qualifying for a driver's license through driver education courses approved by the  
246 Department of Education or courses offered by driver training schools licensed by the Department, the  
247 application for the learner's permit shall be used as the application for the driver's license.

248 ~~I.~~ *H.* The Department shall charge a fee of \$3 for each learner's permit and motorcycle learner's  
249 permit issued under this section. Fees for issuance of learner's permits shall be paid into the driver  
250 education fund of the state treasury; fees for issuance of motorcycle learner's permits, other than permits  
251 issued under § 46.2-328.3, shall be paid into the state treasury and credited to the Motorcycle Rider  
252 Safety Training Program Fund created pursuant to § 46.2-1191. It is unlawful for any person, after  
253 having received a learner's permit, to drive a motor vehicle without being accompanied by a licensed  
254 driver as provided in the foregoing provisions of this section; however, a learner's permit other than a  
255 motorcycle learner's permit, accompanied by documentation verifying that the driver is at least 16 years  
256 and three months old and has successfully completed an approved driver's education course, signed by  
257 the minor's parent, guardian, legal custodian or other person standing in loco parentis, shall constitute a  
258 temporary driver's license for the purpose of driving unaccompanied by a licensed driver 18 years of age  
259 or older, if all other requirements of this chapter have been met. Such temporary driver's license shall  
260 only be valid until the driver has received his permanent license pursuant to § 46.2-336.

261 ~~J.~~ *I.* Nothing in this section shall be construed to permit the issuance of a learner's permit entitling a  
262 person to drive a commercial motor vehicle, except as provided by the Virginia Commercial Driver's  
263 License Act (§ 46.2-341.1 et seq.).

264 ~~K.~~ *J.* The following limitations shall apply to operation of motorcycles by all persons holding  
265 motorcycle learner's permits:

266 1. The operator shall wear an approved safety helmet as provided in § 46.2-910.

267 2. Operation shall be under the immediate supervision of a person licensed to operate a motorcycle  
268 who is 21 years of age or older.

269 3. No person other than the operator shall occupy the motorcycle.

270 ~~L.~~ *K.* Any violation of this section is punishable as a Class 2 misdemeanor.

271 **§ 46.2-335. (Effective March 1, 2021) Learner's permits; fees; certification required.**

272 A. The Department, on receiving from any Virginia resident over the age of 15 years and six months  
273 an application for a learner's permit or motorcycle learner's permit, may, subject to the applicant's  
274 satisfactory documentation of meeting the requirements of this chapter and successful completion of the  
275 written or automated knowledge and vision examinations and, in the case of a motorcycle learner's  
276 permit applicant, the automated motorcycle test, issue a permit entitling the applicant, while having the  
277 permit in his immediate possession, to drive a motor vehicle or, if the application is made for a  
278 motorcycle learner's permit, a motorcycle, on the highways, when accompanied by any licensed driver  
279 21 years of age or older or by his parent or legal guardian, or by a brother, sister, half-brother,  
280 half-sister, step-brother, or step-sister 18 years of age or older. The accompanying person shall be (i)  
281 alert, able to assist the driver, and actually occupying a seat beside the driver or, for motorcycle  
282 instruction, providing immediate supervision from a separate accompanying motor vehicle and (ii)  
283 lawfully permitted to operate the motor vehicle or accompanying motorcycle at that time.

284 The Department shall not, however, issue a learner's permit or motorcycle learner's permit to any  
285 minor applicant required to provide evidence of compliance with the compulsory school attendance law  
286 set forth in Article 1 (§ 22.1-254 et seq.) of Chapter 14 of Title 22.1, unless such applicant is in good  
287 academic standing or, if not in such standing or submitting evidence thereof, whose parent or guardian,  
288 having custody of such minor, provides written authorization for the minor to obtain a learner's permit  
289 or motorcycle learner's permit, which written authorization shall be obtained on forms provided by the  
290 Department and indicating the Commonwealth's interest in the good academic standing and regular  
291 school attendance of such minors. Any minor providing proper evidence of the solemnization of his  
292 marriage or a certified copy of a court order of emancipation shall not be required to provide the  
293 certification of good academic standing or any written authorization from his parent or guardian to  
294 obtain a learner's permit or motorcycle learner's permit.

295 Such permit, except a motorcycle learner's permit, shall be valid until the holder thereof either is  
296 issued a driver's license as provided for in this chapter or no longer meets the qualifications for issuance  
297 of a learner's permit as provided in this section. Motorcycle learner's permits shall be valid for 12  
298 months. When a motorcycle learner's permit expires, the permittee may, upon submission of an  
299 application, payment of the application fee, and successful completion of the examinations, be issued  
300 another motorcycle learner's permit valid for 12 months.

301 Any person 25 years of age or older who is eligible to receive an operator's license in Virginia, but  
 302 who is required, pursuant to § 46.2-324.1, to be issued a learner's permit for 60 days prior to his first  
 303 behind-the-wheel exam, may be issued such learner's permit even though restrictions on his driving  
 304 privilege have been ordered by a court. Any such learner's permit shall be subject to the restrictions  
 305 ordered by the court.

306 B. No driver's license shall be issued to any such person who is less than 18 years old unless, while  
 307 holding a learner's permit, he has driven a motor vehicle for at least 45 hours, at least 15 of which were  
 308 after sunset, as certified by his parent, foster parent, or legal guardian unless the person is married or  
 309 otherwise emancipated. Such certification shall be on a form provided by the Commissioner and shall  
 310 contain the following statement:

311 "It is illegal for anyone to give false information in connection with obtaining a driver's license. This  
 312 certification is considered part of the driver's license application, and anyone who certifies to a false  
 313 statement may be prosecuted. I certify that the statements made and the information submitted by me  
 314 regarding this certification are true and correct."

315 Such form shall also include the driver's license or Department of Motor Vehicles-issued  
 316 identification card number of the person making the certification.

317 C. No learner's permit shall authorize its holder to operate a motor vehicle with more than one  
 318 passenger who is less than 21 years old, except when participating in a driver education program  
 319 approved by the Department of Education or a course offered by a driver training school licensed by the  
 320 Department. This passenger limitation, however, shall not apply to the members of the driver's family or  
 321 household as defined in subsection B of § 46.2-334.01.

322 D. No learner's permit shall authorize its holder to operate a motor vehicle between midnight and  
 323 four o'clock a.m.

324 E. ~~Except in a driver emergency or when the vehicle is lawfully parked or stopped, no holder of a~~  
 325 ~~learner's permit shall operate a motor vehicle on the highways of the Commonwealth while using any~~  
 326 ~~cellular telephone or any other wireless telecommunications device, regardless of whether or not such~~  
 327 ~~device is handheld. No law-enforcement officer shall stop a motor vehicle for a violation of this section.~~  
 328 ~~No evidence discovered or obtained as the result of a stop in violation of this subsection, including~~  
 329 ~~evidence discovered or obtained with the operator's consent, shall be admissible in any trial, hearing, or~~  
 330 ~~other proceeding.~~

331 F. A violation of subsection C, ~~or D,~~ ~~or E~~ shall not constitute negligence, be considered in mitigation  
 332 of damages of whatever nature, be admissible in evidence or be the subject of comment by counsel in  
 333 any action for the recovery of damages arising out of the operation, ownership, or maintenance of a  
 334 motor vehicle, nor shall anything in this subsection change any existing law, rule, or procedure  
 335 pertaining to any such civil action.

336 ~~G.~~ F. The provisions of §§ 46.2-323 and 46.2-334 relating to evidence and certification of Virginia  
 337 residence and, in the case of persons of school age, compliance with the compulsory school attendance  
 338 law shall apply, mutatis mutandis, to applications for learner's permits and motorcycle learner's permits  
 339 issued under this section.

340 H. G. For persons qualifying for a driver's license through driver education courses approved by the  
 341 Department of Education or courses offered by driver training schools licensed by the Department, the  
 342 application for the learner's permit shall be used as the application for the driver's license.

343 I. H. The Department shall charge a fee of \$3 for each learner's permit and motorcycle learner's  
 344 permit issued under this section. Fees for issuance of learner's permits shall be paid into the driver  
 345 education fund of the state treasury; fees for issuance of motorcycle learner's permits, other than permits  
 346 issued under § 46.2-328.3, shall be paid into the state treasury and credited to the Motorcycle Rider  
 347 Safety Training Program Fund created pursuant to § 46.2-1191. It is unlawful for any person, after  
 348 having received a learner's permit, to drive a motor vehicle without being accompanied by a licensed  
 349 driver as provided in the foregoing provisions of this section; however, a learner's permit other than a  
 350 motorcycle learner's permit, accompanied by documentation verifying that the driver is at least 16 years  
 351 and three months old and has successfully completed an approved driver's education course, signed by  
 352 the minor's parent, guardian, legal custodian or other person standing in loco parentis, shall constitute a  
 353 temporary driver's license for the purpose of driving unaccompanied by a licensed driver 18 years of age  
 354 or older, if all other requirements of this chapter have been met. Such temporary driver's license shall  
 355 only be valid until the driver has received his permanent license pursuant to § 46.2-336.

356 J. I. Nothing in this section shall be construed to permit the issuance of a learner's permit entitling a  
 357 person to drive a commercial motor vehicle, except as provided by the Virginia Commercial Driver's  
 358 License Act (§ 46.2-341.1 et seq.).

359 K. J. The following limitations shall apply to operation of motorcycles by all persons holding  
 360 motorcycle learner's permits:

361 1. The operator shall wear an approved safety helmet as provided in § 46.2-910.

- 362** 2. Operation shall be under the immediate supervision of a person licensed to operate a motorcycle
- 363** who is 21 years of age or older.
- 364** 3. No person other than the operator shall occupy the motorcycle.
- 365** ~~L.~~ *K.* Any violation of this section is punishable as a Class 2 misdemeanor.