

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 46.2-1702 and 46.2-1705 of the Code of Virginia and to amend the Code of*
 3 *Virginia by adding in Article 1 of Chapter 17 of Title 46.2 a section numbered 46.2-1707.1, relating to*
 4 *driver training school and driver training instructors; standards; discipline; report.*

5 [S 399]

6 Approved

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

8 **1. That §§ 46.2-1702 and 46.2-1705 of the Code of Virginia are amended and reenacted and that the**
 9 **Code of Virginia is amended by adding in Article 1 of Chapter 17 of Title 46.2 a section numbered**
 10 **46.2-1707.1 as follows:**

11 **§ 46.2-1702. Certification of driver education courses by Commissioner.**

12 Notwithstanding any other provision of law, the Commissioner shall have the authority to approve as a
 13 driver education course satisfying the requirements of § 46.2-334 any course that is offered by any driver
 14 training school licensed under the provisions of this chapter if he finds that the course is of comparable
 15 content and quality to that offered in the Commonwealth's public schools. In making such finding, the
 16 Commissioner shall not require that the instructors of any driver training school meet the certification
 17 requirements of teachers in the Commonwealth's public schools. *However, the Commissioner shall deny an*
 18 *instructor application or revoke an instructor's license to provide a driver education course satisfying the*
 19 *requirements of § 46.2-334 if such instructor has been convicted of a felony in violation of § 18.2-48,*
 20 *18.2-61, 18.2-63, 18.2-64.1, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.5, 18.2-355, 18.2-361, 18.2-366,*
 21 *18.2-370, 18.2-370.1, 18.2-371.1, or 18.2-374.1 or has been convicted of any offense that requires*
 22 *registration on the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-902.*

23 Any comprehensive community college within the Virginia Community College System shall have the
 24 authority to offer the courses required by the Virginia Board of Education to become a certified driver
 25 education instructor in Virginia on a not-for-credit basis so long as the courses include the same content and
 26 curriculum required by the Department of Education, enabling individuals who complete those courses to
 27 then teach driver's education in Virginia driver education training schools upon official certification by the
 28 Department of Motor Vehicles. The Virginia Department of Education shall provide the curriculum, content,
 29 and other information regarding the courses required to become certified driver education instructors in
 30 Virginia to any comprehensive community college within the Virginia Community College System. The
 31 content of each course must be accurate and rigorous and must meet the requirements for the Department of
 32 Education's Curriculum and Administrative Guide for Driver's Education, which includes the Board of
 33 Education's standards of learning.

34 Except for schools in the Commonwealth's public school system and providers of correspondence courses
 35 approved by the Board of Education pursuant to subsection F of § 22.1-205, only those driver training
 36 schools that are licensed as computer-based driver education providers shall be authorized to administer
 37 computer-based driver education courses, including the parent/student driver education component of the
 38 driver education curriculum as established in § 22.1-205. The content and quality of such computer-based
 39 driver education courses shall be comparable to that of courses offered in the Commonwealth's public
 40 schools. The Commissioner may establish minimum standards for testing students who have enrolled in
 41 computer-based driver education courses. Such standards may include (i) requirements for the test site; (ii)
 42 verification that the person taking the test is the person enrolled in the course; (iii) verification of the identity
 43 of the student using photo identification approved by the Commissioner; and (iv) maintenance of a log
 44 containing the name and title of the licensed instructor monitoring the test, the test date, the name of the
 45 student taking the test, and the student's time-in and time-out of the test site. Computer-based driver
 46 education providers shall not issue a certificate of completion to a student prior to receiving proof of
 47 completion of the additional minimum 90-minute parent/student driver education component pursuant to
 48 § 22.1-205.

49 Any driver training school licensed under the provisions of this chapter shall be authorized to provide the
 50 90-minute parent/student driver education component of the driver education curriculum pursuant to
 51 § 22.1-205. Only public schools and those driver training schools that are licensed as computer-based driver
 52 education providers shall be authorized to administer the parent/student driver education component of the
 53 driver education curriculum through a virtual, computer-based program. Completion of such education
 54 component shall satisfy the requirement for the additional 90-minute parent/student driver education
 55 component so long as there is participation of the student's parent or guardian and the content provided is
 56 comparable to that which is offered in the Commonwealth's public schools and emphasizes (a) parental

57 responsibilities regarding juvenile driver behavior, (b) juvenile driving restrictions pursuant to this Code, (c)
58 the dangers of driving while intoxicated and underage consumption of alcohol, and (d) the dangers of
59 distracted driving.

60 The Commissioner shall have authority to approve any driver education course offered by any Class A
61 licensee if he finds the course meets the requirements for such courses as set forth in this chapter and as
62 otherwise established by the Department. Class A licensees shall not be permitted to administer
63 behind-the-wheel examinations unless authorized pursuant to § 46.2-326.1. Driver education courses offered
64 by any Class B licensee shall be based on the driver education curriculum currently approved by the
65 Department of Education and the Department.

66 In addition to programs authorized pursuant to this chapter, the Commissioner may authorize driver
67 training schools to administer programs pursuant to § 46.2-324.1 and subsection B of § 46.2-325.

68 The Commissioner may accept, in lieu of requirements established by the Department of Education for
69 instructor qualification, (1) 20 years' service with the Virginia Department of State Police by a
70 law-enforcement officer who retired or resigned while in good standing from such Department or (2) (i) 20
71 years' service as a traffic enforcement officer with patrol experience with any local police department by a
72 law-enforcement officer who has been certified by the Virginia Department of Criminal Justice Services
73 pursuant to § 15.2-1706, (ii) who retired or resigned while in good standing from such department, and (iii)
74 who has been certified to teach driver training by the Virginia Department of Criminal Justice Services.

75 **§ 46.2-1705. Suspension, revocation, cancellation, or refusal to renew license; limitations on**
76 **operations; imposition of monetary penalties.**

77 A. Except as otherwise provided in this section, (i) no license issued under this chapter shall be
78 suspended, revoked, or cancelled or renewal thereof denied; (ii) no limitation on operations shall be imposed
79 pursuant to subsection F; and (iii) no monetary penalty shall be imposed pursuant to § 46.2-1706, unless the
80 licensee has been furnished a written copy of the complaint against him with the grounds upon which the
81 action is taken and has been offered an opportunity for an administrative hearing to show cause why such
82 action should not be taken.

83 B. The order suspending, revoking, cancelling, or denying renewal of a license, imposing a limitation on
84 operation, or imposing a monetary penalty, except as otherwise provided in subsection E, shall not become
85 effective until the licensee has had 30 days after notice of the opportunity for a hearing to make a written
86 request for such a hearing. If no hearing has been requested within such 30-day period, the order shall
87 become effective and no hearing shall thereafter be held. A timely request for a hearing shall automatically
88 stay operation of the order until after the hearing.

89 C. Notice of an order suspending, revoking, cancelling or denying renewal of a license, imposing a
90 limitation on operation, or imposing a monetary penalty and advising the licensee of the opportunity for a
91 hearing shall be mailed to the licensee by registered mail to the school address as shown on the licensee's
92 most recent application for license and shall be considered served when mailed.

93 D. A licensee whose license has been revoked may reapply for a license after a period to be determined by
94 the Commissioner; ~~not to exceed five years;~~ after considering (i) the number and severity of current
95 violations, (ii) the number and severity of past violations, (iii) any past revocations or suspensions, (iv)
96 highway safety concerns, and (v) public safety concerns. *If an instructor license has been revoked due to a*
97 *conviction of (a) driving under the influence, (b) reckless driving, (c) refusal to submit to alcohol or drug*
98 *testing, or (d) vehicular manslaughter, such period shall be no less than 10 years.* No licensee who has been
99 denied renewal shall apply for a new license within 180 days of such action.

100 E. Notwithstanding the provisions of subsection B, an order suspending, revoking, cancelling, or denying
101 renewal of an instructor license shall be effective immediately if the order is based upon a finding by the
102 Commissioner (i) that the instructor's driving record is such that he is not presently qualified to act as an
103 instructor or (ii) that he is otherwise a danger to the safety of his students or the public. Such finding by the
104 Commissioner shall be based on records of driver's license suspension or revocation, upon records of
105 conviction of serious motor vehicle related offenses punishable as a misdemeanor or felony including driving
106 under the influence or reckless driving, and upon such other criteria as the Commissioner may establish by
107 regulation.

108 Notice of the order of suspension, revocation, cancellation, or denial shall be in writing and mailed in
109 accordance with subsection C. Upon receipt of a request for a hearing appealing the suspension, revocation,
110 cancellation, or denial, the licensee shall be afforded the opportunity for a hearing as soon as practicable, but
111 in no case later than 30 days from receipt of the hearing request. The order shall remain in effect pending the
112 outcome of the hearing.

113 F. If the Commissioner makes a finding that the conduct of a licensee is in violation of this chapter or
114 regulations adopted pursuant to this chapter, he may suspend, revoke, cancel, or refuse to renew the license of
115 such licensee or may order the licensee, in accordance with subsections A, B, and C, to limit the types of
116 driver education training provided, restrict the use of the licensee's training vehicles, or both. Whenever the
117 Commissioner takes action limiting operations under this subsection, the Commissioner shall require the
118 licensee to post conspicuous notice of the Commissioner's action under this subsection at the same location as

119 the licensee's license was issued under this chapter, as soon as the Commissioner's order becomes effective.
 120 Orders of the Commissioner limiting operations and requiring posting of notices shall remain in effect until
 121 (i) the time period for the limitations or restriction has expired and the Commissioner makes a finding that the
 122 violations causing the imposition of such limitations or restrictions have been remedied by the licensee or (ii)
 123 the Commissioner's order is lifted as the result of an appeal under § 46.2-1704 or by a court of competent
 124 jurisdiction.

125 No investigation of a licensee, driver training school owner, or employee of a driver training school shall
 126 terminate or abate upon the surrender of a license required pursuant to § 46.2-1701, nor shall any such
 127 surrender impair the Commissioner's ability to impose any sanction or remedy authorized pursuant to this
 128 chapter.

129 G. If the Commissioner makes a finding, after conducting a preliminary investigation, that the conduct of
 130 a licensee (i) is in violation of this chapter or regulations adopted pursuant to this chapter and (ii) such
 131 violation constitutes a danger to public safety, the Commissioner may issue an order suspending the licensee's
 132 license to operate a driver training school. Notice of the suspension shall be in writing and mailed in
 133 accordance with subsection C. Upon receipt of a request for a hearing appealing the suspension, the licensee
 134 shall be afforded the opportunity for a hearing as soon as practicable, but in no case later than 30 days from
 135 receipt of the hearing request. The suspension shall remain in effect pending the outcome of the hearing.

136 H. The Commissioner may suspend, revoke, or refuse to renew any license issued pursuant to this chapter
 137 for any conduct prohibited pursuant to § 46.2-1707.

138 **§ 46.2-1707.1. Notification of offenses by licensees; report.**

139 *A. For purposes of this section, "penalty" means any disciplinary action taken by the Department against*
 140 *an instructor or driver training school, including civil or monetary penalties and license suspensions,*
 141 *revocations, cancellations, or refusals to renew.*

142 *B. The Department shall establish and maintain a public, searchable database containing any penalty that*
 143 *occurred on or after January 1, 2022. Such database shall be searchable by the name of any instructor or*
 144 *driver training school licensed by the Department. The database shall include in any results related to a*
 145 *driver training school any penalties assessed against such driver training school and any instructors*
 146 *employed by such driver training school at the time of the offense.*

147 *C. Driver training schools shall notify, in writing, students and prospective students, and, if such student*
 148 *or prospective student is a minor, the parent or legal guardian of such student or prospective student, of any*
 149 *penalty that involves such driver training school or an instructor employed by such driver training school at*
 150 *the time of the offense. Such notification shall include any penalties assessed within the preceding 24 months.*
 151 *The driver training school shall notify existing students, and if such student is a minor, the parent or legal*
 152 *guardian of such student, of any penalties assessed against such driver training school or an instructor*
 153 *employed by such driver training school at the time of the offense within 24 hours of the determination of the*
 154 *Department.*

155 *D. The Department shall annually by November 1 submit a report to the Chairs of the House and Senate*
 156 *Committees on Transportation detailing penalties assessed by the Department in the preceding year.*