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HOUSE BILL NO. 996

Offered January 24, 2000

A *BILL to amend and reenact § 18.2-268.4 of the Code of Virginia, relating to restricted license eligibility after conviction for refusal to give blood or breath in DUI case.*

Patrons—Robinson and Melvin

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 18.2-268.4 of the Code of Virginia is amended and reenacted as follows:**

§ 18.2-268.4. Appeal and trial; sanctions for refusal.

The procedure for appeal and trial shall be the same as provided by law for misdemeanors; if requested by either party on appeal to the circuit court, trial by jury shall be as provided in Article 4 (§ 19.2-260 et seq.) of Chapter 15 of Title 19.2, and the Commonwealth shall be required to prove its case beyond a reasonable doubt.

If the court or jury finds the defendant guilty as charged in the warrant or summons issued pursuant to § 18.2-268.3, the court shall, *in its discretion, either* suspend the defendant's privilege to drive for a period of one year *or provide that the defendant be issued a restricted driver's license for a period of one year for any or all of the purposes set forth in subsection E of § 18.2-271.1.* ~~This~~ Any suspension period ~~is imposed hereunder shall be~~ in addition to the suspension period provided under § 46.2-391.2. However, if the defendant pleads guilty to a violation of § 18.2-266 or § 18.2-266.1 or of a similar ordinance, the court may dismiss the warrant or summons.

The court shall forward the defendant's license to the Commissioner of the Department of Motor Vehicles of Virginia as in other cases of similar nature for suspension of license. However, if the defendant appeals his conviction, the court shall return the license to him upon his appeal being perfected; however, the defendant's license shall not be returned during any period of suspension imposed under § 46.2-391.2.

INTRODUCED

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