

2000 SESSION

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1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 An Act to amend and reenact §§ 18.2-36.1, 18.2-51.4, 18.2-270, 18.2-271, 46.2-301, 46.2-357,
3 46.2-389, 46.2-391, 46.2-394 and 46.2-395 of the Code of Virginia, relating to suspended and
4 revoked driver's licenses; penalties.

5 [S 183]

6 Approved

7 Be it enacted by the General Assembly of Virginia:

8 1. That §§ 18.2-36.1, 18.2-51.4, 18.2-270, 18.2-271, 46.2-301, 46.2-357, 46.2-389, 46.2-391, 46.2-394
9 and 46.2-395 of the Code of Virginia are amended and reenacted as follows:

10 § 18.2-36.1. Certain conduct punishable as involuntary manslaughter.

11 A. Any person who, as a result of driving under the influence in violation of subdivision (ii), (iii), or
12 (iv) of § 18.2-266 or any local ordinance substantially similar thereto unintentionally causes the death
13 of another person, shall be guilty of involuntary manslaughter.

14 B. If, in addition, the conduct of the defendant was so gross, wanton and culpable as to show a
15 reckless disregard for human life, he shall be guilty of aggravated involuntary manslaughter, a felony
16 punishable by a term of imprisonment of not less than one nor more than twenty years, one year of
17 which shall be a mandatory, minimum term of imprisonment.

18 C. The provisions of this section shall not preclude prosecution under any other homicide statute.
19 This section shall not preclude any other revocation or suspension required by law. *The driver's license*
20 *of any person convicted under this section shall be revoked pursuant to subsection B of § 46.2-391.*

21 D. Upon a conviction under subsection A or B of this section, the court shall revoke such person's
22 driver's license for an indefinite period. However, upon expiration of three years of the revocation
23 period, the person may petition the circuit court of his residence for a restricted license to authorize such
24 person to drive a motor vehicle in the Commonwealth in the course of his employment and to and from
25 his home to the place of his employment. The court may order that a restricted license for such a person
26 be issued in accordance with subsection E of § 18.2-271.1, if the court is satisfied from the evidence
27 presented that the defendant does not constitute a threat to the safety and welfare of himself or others
28 with regard to the driving of a motor vehicle. The court may prohibit the person to whom the restricted
29 license is issued from operating a motor vehicle that is not equipped with a functioning, certified
30 ignition interlock system during all or any part of the term for which the restricted license is issued in
31 accordance with the provisions set forth in § 18.2-270.1. However, prior to acting on the petition, the
32 court shall order that an evaluation of the person be conducted by the Virginia Alcohol Safety Action
33 Program and recommendations therefrom be submitted to the court. The Virginia Alcohol Safety Action
34 Program shall during the term of the restricted license monitor the person's compliance with the terms of
35 the restrictions imposed by the court. Any violation of such restrictions, or any of the conditions set by
36 the court related thereto, shall be reported to the court, and the court shall hold a hearing to determine if
37 the license should be revoked. No restricted license issued pursuant to this subsection shall permit any
38 person to operate a commercial motor vehicle as defined in the Virginia Commercial Driver's License
39 Act (§ 46.2-341.1 et seq.). This section shall not prohibit a person from operating any farm tractor on
40 the highways when it is necessary to move the tractor from one tract of land used for agricultural
41 purposes to another tract of land used for agricultural purposes, provided that the distance between the
42 said tracts of land is no more than five miles.

43 E. Upon expiration of five years of the revocation period hereunder, such person may petition the
44 circuit court of his residence for restoration of his privilege to drive a motor vehicle in the
45 Commonwealth. On such petition, and for good cause shown, the court may, in its discretion, restore to
46 the person the privilege to drive a motor vehicle in the Commonwealth on whatever conditions the court
47 may prescribe, subject to the provisions of law relating to issuance of driver's licenses, if the court is
48 satisfied from the evidence presented that the defendant does not constitute a threat to the safety and
49 welfare of himself or others with regard to the driving of a motor vehicle. However, prior to acting on
50 the petition, the court shall order that an evaluation of the person be conducted by the Virginia Alcohol
51 Safety Action Program and recommendations therefrom be submitted to the court.

52 F. Any person convicted of driving a motor vehicle or any self-propelled machinery or equipment (i)
53 while his license is revoked pursuant to subsection D of this section or (ii) in violation of the terms of a
54 restricted license issued pursuant to such subsection shall be punished as follows:

55 1. If such driving does not, of itself, endanger the life, limb, or property of another, such person
56 shall be guilty of a misdemeanor punishable by confinement in jail for no more than ninety days or a

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57 fine of not more than \$2,500, or both. However, ten days of any such confinement shall not be
 58 suspended except in cases designated in subdivision 2 (ii) of this subsection.

59 2. If such driving of itself endangers the life, limb, or property of another or takes place while such
 60 person is in violation of § 18.2-266, irrespective of whether the driving of itself endangers the life, limb
 61 or property of another and one of the offender's underlying convictions is for a violation of subsection A
 62 or B of this section, § 18.2-51.4, § 18.2-266 or a parallel local ordinance, such person shall be guilty of
 63 a felony punishable by confinement in a state correctional facility for not less than one year nor more
 64 than five years or, in the discretion of the jury or the court trying the case without a jury, by
 65 confinement in jail for twelve months; no portion of such sentence shall be suspended. However, (i) if
 66 the sentence is for more than one year in a state correctional facility, any portion of such sentence in
 67 excess of one year may be suspended or (ii) in cases wherein an operation is necessitated in situations
 68 of apparent extreme emergency which require such operation to save life or limb, the sentence, or any
 69 part thereof, may be suspended.

70 3. If any such offense of driving is a second or subsequent violation, the person shall be punished as
 71 provided in subdivision 2 of this subsection, irrespective of whether the offense, of itself, endangers the
 72 life, limb, or property of another.

73 G. Notwithstanding the provisions of subdivisions 2 and 3 of subsection F, following conviction and
 74 prior to imposition of sentence with the consent of the defendant, the court may order the defendant to
 75 be evaluated for and to participate in the Boot Camp Incarceration Program pursuant to § 19.2-316.1, or
 76 the Detention Center Incarceration Program pursuant to § 19.2-316.2, or the Diversion Center
 77 Incarceration Program pursuant to § 19.2-316.3.

78 § 18.2-51.4. Maiming, etc., of another resulting from driving while intoxicated.

79 A. Any person who, as a result of driving while intoxicated in violation of § 18.2-266 or any local
 80 ordinance substantially similar thereto in a manner so gross, wanton and culpable as to show a reckless
 81 disregard for human life, unintentionally causes the serious bodily injury of another person resulting in
 82 permanent and significant physical impairment shall be guilty of a Class 6 felony. *The drivers' license of
 83 any person convicted under this section shall be revoked pursuant to subsection B of § 46.2-391.*

84 B. Upon a conviction under subsection A of this section, the court shall revoke such person's driver's
 85 license for an indefinite period. However, upon expiration of three years of the revocation period, the
 86 person may petition the circuit court of his residence for a restricted license to authorize such person to
 87 drive a motor vehicle in the Commonwealth in the course of his employment and to and from his home
 88 to the place of his employment. The court may order that a restricted license for such a person be issued
 89 in accordance with subsection E of § 18.2-271.1, if the court is satisfied from the evidence presented
 90 that the defendant does not constitute a threat to the safety and welfare of himself or others with regard
 91 to the driving of a motor vehicle. The court may prohibit the person to whom the restricted license is
 92 issued from operating a motor vehicle that is not equipped with a functioning, certified ignition interlock
 93 system during all or any part of the term for which the restricted license is issued in accordance with
 94 the provisions set forth in § 18.2-270.1. However, prior to acting on the petition, the court shall order
 95 that an evaluation of the person be conducted by the Virginia Alcohol Safety Action Program and
 96 recommendations therefrom be submitted to the court. The Virginia Alcohol Safety Action Program shall
 97 during the term of the restricted license monitor the person's compliance with the terms of the
 98 restrictions imposed by the court. Any violation of such restrictions, or any of the conditions set by the
 99 court related thereto, shall be reported to the court, and the court shall hold a hearing to determine if the
 100 license should be revoked. No restricted license issued pursuant to this subsection shall permit any
 101 person to operate a commercial motor vehicle as defined in the Virginia Commercial Driver's License
 102 Act (§ 46.2-341.1 et seq.). This section shall not prohibit a person from operating any farm tractor on
 103 the highways when it is necessary to move the tractor from one tract of land used for agricultural
 104 purposes to another tract of land used for agricultural purposes, provided that the distance between the
 105 said tracts of land is no more than five miles.

106 C. Upon expiration of five years of the revocation period hereunder, such person may petition the
 107 circuit court of his residence for restoration of his privilege to drive a motor vehicle in the
 108 Commonwealth. On such petition, and for good cause shown, the court may, in its discretion, restore to
 109 the person the privilege to drive a motor vehicle in the Commonwealth on whatever conditions the court
 110 may prescribe, subject to the provisions of law relating to issuance of driver's licenses, if the court is
 111 satisfied from the evidence presented that the defendant does not constitute a threat to the safety and
 112 welfare of himself or others with regard to the driving of a motor vehicle. However, prior to acting on
 113 the petition, the court shall order that an evaluation of the person be conducted by the Virginia Alcohol
 114 Safety Action Program and recommendations therefrom be submitted to the court.

115 D. Any person convicted of driving a motor vehicle or any self-propelled machinery or equipment (i)
 116 while his license is revoked pursuant to subsection B of this section or (ii) in violation of the terms of a
 117 restricted license issued pursuant to such subsection shall be punished as follows:

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118 1. If such driving does not, of itself, endanger the life, limb, or property of another, such person
 119 shall be guilty of a misdemeanor punishable by confinement in jail for no more than ninety days and a
 120 fine of not more than \$2,500, either or both. However, ten days of any such confinement shall not be
 121 suspended except in cases designated in subdivision 2 (ii) of this subsection.

122 2. If such driving of itself endangers the life, limb, or property of another or takes place while such
 123 person is in violation of § 18.2-266, irrespective of whether the driving of itself endangers the life, limb
 124 or property of another and one of the offender's underlying convictions is for subsection A of this
 125 section, §§ 18.2-36.1, 18.2-266 or a parallel local ordinance, such person shall be guilty of a felony
 126 punishable by confinement in a state correctional facility for not less than one year nor more than five
 127 years or, in the discretion of the jury or the court trying the case without a jury, by confinement in jail
 128 for twelve months; no portion of such sentence shall be suspended. However, (i) if the sentence is for
 129 more than one year in a state correctional facility, any portion of such sentence in excess of one year
 130 may be suspended or (ii) in cases wherein an operation is necessitated in situations of apparent extreme
 131 emergency which require such operation to save life or limb, the sentence, or any part thereof, may be
 132 suspended.

133 3. If any such offense of driving is a second or subsequent violation, such person shall be punished
 134 as provided in subdivision 2 of this subsection, irrespective of whether the offense, of itself, endangers
 135 the life, limb, or property of another.

136 E. Notwithstanding the provisions of subdivisions 2 and 3 of subsection D, following conviction and
 137 prior to imposition of sentence with the consent of the defendant, the court may order the defendant to
 138 be evaluated for and to participate in the Boot Camp Incarceration Program pursuant to § 19.2-316.1, or
 139 the Detention Center Incarceration Program pursuant to § 19.2-316.2, or the Diversion Center
 140 Incarceration Program pursuant to § 19.2-316.3.

141 F. Notwithstanding any other provision of this section, the period of license revocation or suspension
 142 shall not begin to expire until the person convicted has surrendered his license to the court or to the
 143 Department of Motor Vehicles.

144 G. The provisions of this section shall not apply to, and shall have no effect upon, any
 145 disqualification from operating a commercial motor vehicle imposed under the provisions of the
 146 Commercial Driver's License Act (§ 46.2-341.1 et seq.).

147 H. For the purpose of this section a "prior offense" means a violation of: (i) the provisions of
 148 § 18.2-266, former § 18.1-54 (formerly § 18-75), this section, the ordinance of any county, city or town
 149 in this Commonwealth or the laws of any other state or of the United States substantially similar to the
 150 provisions of §§ 18.2-266 through 18.2-269 or this section or (ii) the provisions of subsection A of
 151 § 46.2-341.24 or the substantially similar laws of any other state or of the United States.

152 I. The provisions of Article 2 (§ 18.2-266 et seq.) of Chapter 7 of Title 18.2 shall apply, mutatis
 153 mutandis, upon arrest for a violation of this section.

154 § 18.2-270. Penalty for driving while intoxicated; subsequent offense; prior conviction.

155 Except as otherwise provided herein, any person violating any provision of § 18.2-266 shall be guilty
 156 of a Class 1 misdemeanor.

157 Any person convicted of a second offense committed within less than five years after a first offense
 158 under § 18.2-266 shall be punishable by a fine of not less than \$200 nor more than \$2,500 and by
 159 confinement in jail for not less than one month nor more than one year. Forty-eight hours of such
 160 confinement shall be a mandatory, minimum sentence not subject to suspension by the court. Any
 161 person convicted of a second offense committed within a period of five to ten years of a first offense
 162 under § 18.2-266 shall be punishable by a fine of not less than \$200 nor more than \$2,500 and by
 163 confinement in jail for not less than one month nor more than one year. Any person convicted of a third
 164 or subsequent offense *three or more offenses of § 18.2-266* committed within a ten-year years of an
 165 offense under § 18.2-266 period shall be guilty of a Class 6 felony. Upon conviction for a fourth or
 166 subsequent offense within ten years, the sentence shall include a mandatory, minimum term of
 167 imprisonment of one year, none of which may be suspended in whole or in part. Unless otherwise
 168 modified by the court, the defendant shall remain on probation and under the terms of any suspended
 169 sentence for the same period as his operator's license was suspended, not to exceed three years.

170 In addition to the penalty otherwise authorized by this section or § 16.1-278.9, any person convicted
 171 of a violation of § 18.2-266 committed while transporting a person seventeen years of age or younger
 172 shall be (i) fined an additional minimum of \$500 and not more than \$1000 and (ii) sentenced to perform
 173 forty hours of community service in a program benefiting children or, for a subsequent offense, eighty
 174 hours of community service in such a program.

175 For the purpose of this section, a *an adult* conviction of any person, or finding of guilty in the case
 176 of a juvenile, under the following shall be considered a prior conviction: (i) the provisions of
 177 § 18.2-36.1 or the substantially similar laws of any other state or of the United States, (ii) the provisions
 178 of §§ 18.2-51.4, 18.2-266, former § 18.1-54 (formerly § 18-75), the ordinance of any county, city or

179 town in this Commonwealth or the laws of any other state or of the United States substantially similar
180 to the provisions of § 18.2-51.4, and §§ 18.2-266 through 18.2-269, or (iii) the provisions of subsection
181 A of § 46.2-341.24 or the substantially similar laws of any other state or of the United States.

182 § 18.2-271. Forfeiture of driver's license for driving while intoxicated.

183 A. Except as provided in § 18.2-271.1, the judgment of conviction if for a first offense under
184 § 18.2-266 or for a similar offense under any county, city, or town ordinance, or for a first offense
185 under subsection A of § 46.2-341.24, shall of itself operate to deprive the person so convicted of the
186 privilege to drive or operate any motor vehicle, engine or train in the Commonwealth for a period of
187 one year from the date of such judgment. This suspension period shall be in addition to the suspension
188 period provided under § 46.2-391.2.

189 B. If a person is (i) tried on a process alleging a second offense *Any adult convicted, or any juvenile*
190 *found guilty*, of violating § 18.2-266 or subsection A of § 46.2-341.24, or any substantially similar local
191 ordinance, or law of any other jurisdiction, two or more times in any combination within ten years of a
192 first offense for which the person was convicted, or found guilty in the case of a juvenile, under
193 § 18.2-266 or subsection A of § 46.2-341.24 or any valid county, city, or town ordinance or law of any
194 other state or of the United States substantially similar to § 18.2-266 or subsection A of § 46.2-341.24
195 and (ii) is convicted thereof, such person's license to operate a motor vehicle, engine or train shall, upon
196 the second conviction, have his driver's license be revoked for a period of three years from the date of
197 the judgment of conviction as provided in subsection A of § 46.2-391. This suspension period shall be in
198 addition to the suspension period provided under § 46.2-391.2. Any period of license suspension or
199 revocation imposed pursuant to this section, in any case, shall run consecutively with any period of
200 suspension for failure to permit a blood or breath sample to be taken as required by §§ 18.2-268.1
201 through 18.2-268.12 or §§ 46.2-341.26:1 through 46.2-341.26:11.

202 C. If a person is tried on a process alleging a third or subsequent offense *Any adult convicted, or any*
203 *juvenile found guilty*, of violating § 18.2-266 or subsection A of § 46.2-341.24, or any substantially similar local
204 ordinance, or law of any other jurisdiction, three or more times in any combination within
205 ten years of two other offenses for which the person was convicted, or found guilty in the case of a
206 juvenile, under § 18.2-266, subsection A of § 46.2-341.24 or any valid county, city or town ordinance or
207 law of any other state or of the United States substantially similar to § 18.2-266 or subsection A of
208 § 46.2-341.24, and is convicted thereof, such person shall not be eligible for participation in a program
209 pursuant to § 18.2-271.1 and shall, upon the third conviction, have his license revoked as provided in
210 subsection B of § 46.2-391. The court trying such case shall order the surrender of the person's driver's
211 license of the person so convicted, to be disposed of in accordance with § 46.2-398, and shall notify
212 such person that his license has been revoked indefinitely.

213 D. Notwithstanding any other provision of this section, the period of license revocation or suspension
214 shall not begin to expire until the person convicted has surrendered his license to the court or to the
215 Department of Motor Vehicles.

216 E. The provisions of this section shall not apply to, and shall have no effect upon, any
217 disqualification from operating a commercial motor vehicle imposed under the provisions of the
218 Commercial Driver's License Act (§ 46.2-341.1 et seq.).

219 § 46.2-301. Driving while license, permit, or privilege to drive suspended or revoked.

220 A. In addition to any other penalty provided by this section, any motor vehicle administratively
221 impounded or immobilized under the provisions of § 46.2-301.1 may, in the discretion of the court, be
222 impounded or immobilized for an additional period of up to ninety days upon conviction of an offender
223 for driving while his driver's license, learner's permit, or privilege to drive a motor vehicle has been
224 suspended or revoked for (i) a violation of §§ 18.2-36.1, 18.2-51.4, or driving while under the influence
225 in violation of §§ 18.2-266, or § 46.2-341.24 or a substantially similar ordinance or law in any other
226 jurisdiction or (ii) driving after adjudication as an habitual offender, where such adjudication was based
227 in whole or in part on an alcohol-related offense, or where such person's license has been
228 administratively suspended under the provisions of § 46.2-391.2. However, if, at the time of the
229 violation, the offender was driving a motor vehicle owned by another person, the court shall have no
230 jurisdiction over such motor vehicle but may order the impoundment or immobilization of a motor
231 vehicle owned solely by the offender at the time of arrest. All costs of impoundment or immobilization,
232 including removal or storage expenses, shall be paid by the offender prior to the release of his motor
233 vehicle.

234 B. Except as provided in §§ 46.2-304 and 46.2-357, no resident or nonresident (i) whose driver's
235 license, learner's permit, or privilege to drive a motor vehicle has been suspended or revoked or (ii) who
236 has been directed not to drive by any court, by the Commissioner, or by operation of law pursuant to
237 this title or (iii) who has been forbidden, as prescribed by law, by the Commissioner, the State
238 Corporation Commission, the Commonwealth Transportation Commissioner, any court, or the
239 Superintendent of State Police, to operate a motor vehicle in the Commonwealth shall thereafter drive

240 any motor vehicle or any self-propelled machinery or equipment on any highway in the Commonwealth
 241 until the period of such suspension or revocation has terminated. A clerk's notice of suspension of
 242 license for failure to pay fines or costs given in accordance with § 46.2-395 shall be sufficient notice for
 243 the purpose of maintaining a conviction under this section. For the purposes of this section, the phrase
 244 "motor vehicle or any self-propelled machinery or equipment" shall not include mopeds.

245 C. A first *or second* offense of violating this section shall constitute a Class 2 1 misdemeanor. A
 246 *second third* or subsequent offense shall constitute a Class 1 misdemeanor *punishable by a minimum,*
mandatory term of confinement in jail of ten days which shall not be suspended in whole or in part.
However, the court shall not be required to impose a minimum, mandatory term of confinement in any
case where a motor vehicle is operated in violation of this section in a situation of apparent extreme
emergency which requires such operation to save life or limb.

251 In addition, the court shall suspend the person's *driver's* license, *permit, or privilege to drive* for the
 252 same period for which it had been previously suspended or revoked when the person violated this
 253 section.

254 D. In the event the person has violated this section by driving during a period of suspension or
 255 revocation which was not for a definite period of time, the court shall suspend the person's license,
 256 permit or privilege to drive for an additional period not to exceed ninety days. Any additional
 257 suspension ordered under the provisions of this section shall commence upon the expiration of the
 258 previous suspension or revocation unless the previous suspension or revocation has expired prior to the
 259 ordering of an additional suspension or revocation.

260 § 46.2-357. Operation of motor vehicle or self-propelled machinery or equipment by habitual
 261 offender prohibited; penalty; enforcement of section.

262 A. It shall be unlawful for any person determined or adjudicated an habitual offender to drive any
 263 motor vehicle or self-propelled machinery or equipment on the highways of the Commonwealth while
 264 the revocation of the person's driving privilege remains in effect. However, the revocation determination
 265 shall not prohibit the person from operating any farm tractor on the highways when it is necessary to
 266 move the tractor from one tract of land used for agricultural purposes to another tract of land used for
 267 agricultural purposes, provided that the distance between the said tracts of land is no more than five
 268 miles.

269 B. Except as provided in subsection D, any person found to be an habitual offender under this
 270 article, who is thereafter convicted of driving a motor vehicle or self-propelled machinery or equipment
 271 in the Commonwealth while the revocation determination is in effect, shall be punished as follows:

272 1. If such driving does not, of itself, endanger the life, limb, or property of another, such person
 273 shall be guilty of a *Class 1* misdemeanor *punishable by minimum, mandatory term of confinement in jail*
for no more less than ninety ten days, and a fine of not more than \$2,500, either or both. However, ten
days of any such confinement which shall not be suspended except in cases designated in subdivision 2
(ii) of this subsection.

277 2. If such driving of itself endangers the life, limb, or property of another or takes place while such
 278 person is in violation of §§ 18.2-36.1, 18.2-51.4, 18.2-266, *or* § 46.2-341.24, irrespective of whether the
 279 driving of itself endangers the life, limb or property of another and *one of the offender's underlying*
convictions is for the person has been previously convicted of a violation of §§ 18.2-36.1, 18.2-51.4,
18.2-266 or § 46.2-341.24 or a parallel local ordinance, such person shall be guilty of a felony
 280 punishable by confinement in a state correctional facility for not less than one year nor more than five
 281 years or, in the discretion of the jury or the court trying the case without a jury, by confinement in jail
 282 for twelve months and no portion of such sentence shall be suspended. However, (i) if the sentence is
 283 more than one year in a state correctional facility, any portion of such sentence in excess of one year
 284 may be suspended or (ii) in cases wherein such operation is necessitated in situations of apparent
 285 extreme emergency which require such operation to save life or limb, said sentence, or any part thereof
 286 may be suspended. *For the purposes of this section, an offense in violation of a valid local ordinance,*
or law of any other jurisdiction, which ordinance or law is substantially similar to any provision of law
herein shall be considered an offense in violation of such provision of law.

291 3. If the offense of driving while a determination as an habitual offender is in effect is a second or
 292 subsequent such offense, such person shall be punished as provided in subdivision 2 of this subsection,
 293 irrespective of whether the offense, of itself, endangers the life, limb, or property of another.

294 C. For the purpose of enforcing this section, in any case in which the accused is charged with
 295 driving a motor vehicle or self-propelled machinery or equipment while his license, permit, or privilege
 296 to drive is suspended or revoked or is charged with driving without a license, the court before hearing
 297 the charge shall determine whether the person has been determined an habitual offender and, by reason
 298 of this determination, is barred from driving a motor vehicle or self-propelled machinery or equipment
 299 on the highways in the Commonwealth. If the court determines the accused has been determined to be
 300 an habitual offender and finds there is probable cause that the alleged offense under this section is a

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301 felony, it shall certify the case to the circuit court of its jurisdiction for trial.

302 D. Notwithstanding the provisions of subdivisions 2 and 3 of subsection B, following conviction and
303 prior to imposition of sentence with the consent of the defendant, the court may order the defendant to
304 be evaluated for and to participate in the Boot Camp Incarceration Program pursuant to § 19.2-316.1, or
305 the Detention Center Incarceration Program pursuant to § 19.2-316.2, or the Diversion Center
306 Incarceration Program pursuant to § 19.2-316.3.

307 § 46.2-389. Required revocation for one year upon conviction or finding of guilty of certain offenses;
308 exceptions.

309 A. The Commissioner shall forthwith revoke, and not thereafter reissue for a period of time specified
310 in subsection B, except as provided in § 18.2-271 or § 18.2-271.1, the driver's license of any resident or
311 nonresident on receiving a record of his conviction or a record of his having been found guilty in the
312 case of a juvenile of any of the following crimes, committed in violation of a state law or a valid
313 county, city, or town ordinance or law of the United States, or a law of any other state, substantially
314 paralleling and substantially conforming to a like state law and to all changes and amendments of it:

315 1. Voluntary or involuntary manslaughter resulting from the driving of a motor vehicle;

316 2. Violation of § 18.2-266 or § 18.2-272, or subsection A of § 46.2-341.24 or violation of a ~~valid~~
317 ~~substantially similar~~ local ordinance ~~paralleling and substantially conforming to § 18.2-266 or~~
318 ~~§ 18.2-272~~;

319 3. Perjury or the making of a false affidavit to the Department under this chapter or any other law of
320 the Commonwealth requiring the registration of motor vehicles or regulating their operation on the
321 highways;

322 4. The making of a false statement to the Department on any application for a driver's license;

323 5. Any crime punishable as a felony under the motor vehicle laws of the Commonwealth or any
324 other felony in the commission of which a motor vehicle is used;

325 6. Failure to stop and disclose his identity at the scene of the accident, on the part of a driver of a
326 motor vehicle involved in an accident resulting in the death of or injury to another person; or

327 7. Violation of § 18.2-36.1 or § 18.2-51.4.

328 B. ~~Upon~~ For conviction of an offense set forth in subsection A, the ~~person's~~ period of revocation
329 ~~driver's~~ license shall be revoked for one year; ~~except; however,~~ for a violation of subdivision A 1 or A
330 7, the ~~revocation~~ driver's license shall be for an indefinite period revoked as provided in subsection B of
331 § 46.2-391.

332 § 46.2-391. Revocation of license for multiple convictions of driving while intoxicated; exception;
333 petition for restoration of privilege.

334 A. The Commissioner shall forthwith revoke and not thereafter reissue for three years the driver's
335 license of any person on receiving a record of the conviction of any person who is ~~adjudged to be a~~
336 ~~second offender convicted of (i) any combination of two or more offenses, if the second or subsequent~~
337 ~~violation occurred within ten years of the prior adjudication~~, in violation of the provisions of subsection
338 A of § 46.2-341.24 (driving a commercial motor vehicle under the influence of drugs or intoxicants),
339 ~~§ 18.2-51.4 (maiming committed while driving under the influence of drugs or intoxicants), or~~
340 ~~§ 18.2-266 (driving under the influence of drugs or intoxicants), or (ii) any two or more offenses of~~
341 ~~§ 18.2-272 (driving while the driver's license has been forfeited for a conviction under § 18.2-266)~~; if the
342 ~~second or subsequent violation occurred within ten years of the prior adjudication. However, if the~~
343 ~~Commissioner has received a copy of a court order as provided in subsection E of § 18.2-271.1, he~~
344 ~~shall proceed as provided in the order of the court. For the purposes of this subsection, an offense in a~~
345 ~~violation of a federal law or a law of any other state or a valid local ordinance, or law of any other~~
346 ~~jurisdiction, which ordinance or law is substantially similar to any provision of Virginia law herein~~
347 ~~shall be considered an offense in violation of such provision of Virginia law county, city, or town of the~~
348 ~~Commonwealth similar to subsection A of § 46.2-341.24, §§ 18.2-51.4, 18.2-266 or 18.2-272, if the~~
349 ~~second violation adjudication occurred within ten years from the prior violation. However, if the~~
350 ~~Commissioner has received a copy of a court order as provided in subsection E of § 18.2-271.1, he shall~~
351 ~~proceed as provided in the order of the court.~~

352 B. The Commissioner shall forthwith revoke and not thereafter reissue the driver's license of any
353 person after receiving a record of the conviction of any person ~~convicted of (i) a violation of § 18.2-36.1~~
354 ~~or § 18.2-51.4 adjudged to be a third offender or (ii) any combination of three convictions~~ within a
355 period of ten years ~~in of a~~ violation of the provisions of subsection A of § 46.2-341.24, ~~§§ 18.2-51.4, or~~
356 ~~§ 18.2-266, or a violation of federal law or a substantially similar ordinance or law of any other~~
357 ~~jurisdiction state or a valid ordinance of any county, city, or town of the Commonwealth similar to~~
358 ~~subsection A of § 46.2-341.24, §§ 18.2-51.4, 18.2-266 or 18.2-272~~. At the expiration of ten years from
359 the date of the revocation hereunder, the person may petition the circuit court in the county or city in
360 which he resides, and for good cause shown, his license may in the discretion of the court be restored
361 on such conditions as the court may prescribe.

362 C. Any person who has had his driver's license revoked in accordance with subsection B of this
363 section may petition the circuit court of his residence, *or, if a nonresident of Virginia, any circuit court:*

364 1. For restoration of his privilege to drive a motor vehicle in the Commonwealth after the expiration
365 of five years from the date of his last conviction. On such petition, and for good cause shown, the court
366 may, in its discretion, restore to the person the privilege to drive a motor vehicle in the Commonwealth
367 on whatever conditions the court may prescribe, subject to the provisions of law relating to issuance of
368 driver's licenses, if the court is satisfied from the evidence presented that: (i) at the time of his previous
369 convictions, the petitioner was addicted to or psychologically dependent on the use of alcohol or other
370 drugs; (ii) at the time of the hearing on the petition, he is no longer addicted to or psychologically
371 dependent on the use of alcohol or other drugs; and (iii) the defendant does not constitute a threat to the
372 safety and welfare of himself or others with regard to the driving of a motor vehicle. However, prior to
373 acting on the petition, the court shall order that an evaluation of the person be conducted by a Virginia
374 Alcohol Safety Action Program and recommendations therefrom be submitted to the court. The court
375 may, in lieu of restoring the person's privilege to drive, authorize the issuance of a restricted license for
376 a period not to exceed five years in accordance with the provisions of subsection E of § 18.2-271.1. The
377 court shall notify the Virginia Alcohol Safety Action Program which shall during the term of the
378 restricted license monitor the person's compliance with the terms of the restrictions imposed by the
379 court. Any violation of the restrictions shall be reported to the court, and the court may then modify the
380 restrictions or revoke the license.

381 2. For a restricted ~~permit~~ license to authorize such person to drive a motor vehicle in the
382 Commonwealth in the course of his employment and to drive a motor vehicle to and from his home to
383 the place of his employment after the expiration of three years from the date of his last conviction. The
384 court may order that a restricted license for such purposes be issued in accordance with the procedures
385 of subsection E of § 18.2-271.1, if the court is satisfied from the evidence presented that (i) at the time
386 of the previous convictions, the petitioner was addicted to or psychologically dependent on the use of
387 alcohol or other drugs; (ii) at the time of the hearing on the petition, he is no longer addicted to or
388 psychologically dependent on the use of alcohol or such other drugs; and (iii) the defendant does not
389 constitute a threat to the safety and welfare of himself and others with regard to the driving of a motor
390 vehicle. The court may prohibit the person to whom a restricted license is issued from operating a motor
391 vehicle that is not equipped with a functioning, certified ignition interlock system during all or any part
392 of the term for which the restricted license is issued, in accordance with the provisions set forth in
393 § 18.2-270.1. However, prior to acting on the petition, the court shall order that an evaluation of the
394 person be conducted by a Virginia Alcohol Safety Action Program and recommendations therefrom be
395 submitted to the court. The Virginia Alcohol Safety Action Program shall during the term of the
396 restricted license monitor the person's compliance with the terms of the restrictions imposed by the
397 court. Any violation of the restrictions shall be reported to the court, and the court may then modify the
398 restrictions or revoke the license.

399 In the computation of the five-year and three-year periods under subdivisions 1 and 2 of this
400 subsection, such person shall be given credit for any period his driver's license was revoked under
401 § 46.2-360 after adjudication as an habitual offender.

402 D. Any person convicted of driving a motor vehicle or any self-propelled machinery or equipment (i)
403 while his license is revoked pursuant to subsection A or B or (ii) in violation of the terms of a restricted
404 license issued pursuant to subsection C shall be punished as follows:

405 1. If such driving does not, of itself, endanger the life, limb, or property of another, such person
406 shall be guilty of a *Class 1* misdemeanor punishable by *a minimum, mandatory term of confinement* in
407 jail for *no less than ten more than ninety* days, *or a fine of not more than \$2,500, or both.* *However, ten*
408 *days of any such confinement which shall not be suspended except in cases designated in subdivision 2*
409 *(ii) of this subsection.*

410 2.a. If such driving (i) of itself endangers the life, limb, or property of another or (ii) takes place
411 while such person is in violation of §§ 18.2-36.1, 18.2-51.4, 18.2-266, subsection A of § 46.2-341.24, or
412 a substantially similar law or ordinance of another jurisdiction, irrespective of whether the driving of
413 itself endangers the life, limb or property of another and ~~one of the offender's underlying convictions is~~
414 ~~for person has been previously convicted of a violation of §§ 18.2-36.1, 18.2-51.4, 18.2-266, subsection~~
415 ~~A of § 46.2-341.24, or a parallel substantially similar local ordinance, or law of another jurisdiction,~~
416 such person shall be guilty of a felony punishable by confinement in a state correctional facility for not
417 less than one year nor more than five years or, in the discretion of the jury or the court trying the case
418 without a jury, by confinement in jail for twelve months and no portion of such sentence shall be
419 suspended.

420 2.b. However, (i) if the sentence is more than one year in a state correctional facility, any portion of
421 such sentence in excess of one year may be suspended or (ii) in cases wherein such operation is
422 necessitated in situations of apparent extreme emergency which require such operation to save life or

423 limb, said sentence, or any part thereof may be suspended.

424 3. If any such offense of driving is a second or subsequent violation, such person shall be punished
 425 as provided in subdivision 2 of this subsection, irrespective of whether the offense, of itself, endangers
 426 the life, limb, or property of another.

427 E. Notwithstanding the provisions of subdivisions 2 and 3 of subsection D, following conviction and
 428 prior to imposition of sentence with the consent of the defendant, the court may order the defendant to
 429 be evaluated for and to participate in the Boot Camp Incarceration Program pursuant to § 19.2-316.1, or
 430 the Detention Center Incarceration Program pursuant to § 19.2-316.2, or the Diversion Center
 431 Incarceration Program pursuant to § 19.2-316.3.

432 F. *Any period of driver's license revocation imposed pursuant to this section shall commence with
 433 the surrender of the license to the court or to the Department of Motor Vehicles.*

434 G. *Nothing in this section shall prohibit a person from operating any farm tractor on the highways
 435 when it is necessary to move the tractor from one tract of land used for agricultural purposes to
 436 another such tract of land when the distance between the tracts is no more than five miles.*

437 § 46.2-394. Revocation of license for fourth conviction of certain offenses.

438 If any person is convicted *four times* of a ~~fourth offense as provided in violation of §§ 18.2-51.4,~~
 439 ~~18.2-266, 46.2-301, 46.2-865, 46.2-894, and or § 46.2-895, or any substantially similar ordinance or law~~
 440 ~~of any county, city, or town in Virginia other jurisdiction, the court in which the conviction is held shall~~
 441 ~~revoke his driver's license for five years.~~

442 § 46.2-395. Suspension of license for failure or refusal to pay fines or costs.

443 A. Any person, whether licensed by Virginia or not, who drives a motor vehicle on the highways in
 444 the Commonwealth shall thereby, as a condition of such driving, consent to pay all lawful fines, court
 445 costs, forfeitures, restitution, and penalties assessed against him for violations of the laws of the
 446 Commonwealth; of any county, city, or town; or of the United States. For the purpose of this section,
 447 such fines and costs shall be deemed to include any fee assessed by the court under the provisions of
 448 § 18.2-271.1 for entry by a person convicted of a violation of § 18.2-51.4 or § 18.2-266 into an alcohol
 449 safety action program.

450 B. In addition to any penalty provided by law, when any person is convicted of any violation of the
 451 law of the Commonwealth or of the United States or of any valid local ordinance and fails or refuses to
 452 provide for immediate payment in full of any fine, costs, forfeitures, restitution, or penalty lawfully
 453 assessed against him, or fails to make deferred payments or installment payments as ordered by the
 454 court, the court shall forthwith suspend the person's privilege to drive a motor vehicle on the highways
 455 in the Commonwealth. The driver's license of the person shall continue suspended until the fine, costs,
 456 forfeiture, restitution, or penalty has been paid in full. *However, if the defendant, after having his license
 457 suspended, pays the reinstatement fee to the Department of Motor Vehicles and enters into an agreement
 458 under § 19.2-354 that is acceptable to the court to make deferred payments or installment payments of
 459 unpaid fines, costs, forfeitures, restitution, or penalties as ordered by the court, the court shall restore
 460 the defendant's driver's license.* If the person has not obtained a license as required by provided in this
 461 chapter, or is a nonresident, the court may direct in the judgment of conviction that the person shall not
 462 drive any motor vehicle in Virginia for a period to coincide with the nonpayment of the amounts due.

463 C. Before transmitting to the Commissioner a record of the person's failure or refusal to pay all or
 464 part of any fine, costs, forfeiture, restitution, or penalty or a failure to comply with an order issued
 465 pursuant to § 19.2-354, the clerk of the court that convicted the person shall send or provide the person
 466 written notice of the suspension of his license or privilege to drive a motor vehicle in Virginia, effective
 467 ten days from the date of conviction, if the fine, costs, forfeiture, restitution, or penalty is not paid prior
 468 to the effective date of the suspension as stated on the notice. Notice shall be provided to the person at
 469 the time of trial or shall be mailed by first-class mail to the address certified on the summons or bail
 470 recognizance document as the person's current mailing address, or to such mailing address as the person
 471 has subsequently provided to the court as a change of address. If so mailed on the date of conviction or
 472 within two business days thereof, or if delivered to the person at the time of trial, such notice shall be
 473 adequate notice of the license suspension and of the person's ability to avoid suspension by paying the
 474 fine, costs, forfeiture, restitution, or penalty prior to the effective date. No other notice shall be required
 475 to make the suspension effective. A record of the person's failure or refusal and of the license
 476 suspension shall be sent to the Commissioner if the fine, costs, forfeiture, restitution, or penalty remains
 477 unpaid on the effective date of the suspension specified in the notice or on the failure to make a
 478 scheduled payment.

479 C1. Whenever a person provides for payment of a fine, costs, forfeiture, restitution or penalty other
 480 than by cash and such provision for payment fails, the clerk of the court that convicted the person shall
 481 send to the person written notice of the failure and of the suspension of his license or privilege to drive
 482 in Virginia. The license suspension shall be effective ten days from the date of the notice. The notice
 483 shall be the effective notice of the suspension and of the person's ability to avoid the suspension by

484 paying the full amount owed by cash, cashier's check or certified check prior to the effective date of the
485 suspension if the notice is mailed by first class mail to the address provided by the person to the court
486 pursuant to subsection C or § 19.2-354. Upon such a failure of payment and notice, the fine, costs,
487 forfeiture, restitution or penalty due shall be paid only by cash, cashier's check or certified check, unless
488 otherwise ordered by the court, for good cause shown.

489 D. If the person pays the amounts assessed against him subsequent to the time the *suspended* license
490 has been transmitted to the Department, and his license is not under suspension or revocation for any
491 other lawful reason, except pursuant to this section, then the Commissioner shall return the license to the
492 person on presentation of the official report of the court evidencing the payment of the fine, costs,
493 forfeiture, restitution, or penalty.

494 E. If the court has suspended or revoked the driver's license for any lawful reason other than this
495 section, or the conviction is one for which revocation or suspension is required under any provision of
496 this title, except for this section, then the suspension permitted under this section shall be in addition to,
497 and run consecutively with, the revocation or suspension. The period of suspension shall be calculated
498 from the date of the assessment of the fine, costs, forfeiture, restitution, or penalty until the date it has
499 been paid.

500 2. That the provisions of this act may result in a net increase in periods of imprisonment in state
501 correctional facilities. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation
502 is \$0 in FY 2010.

ENROLLED

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