

2001 SESSION

SENATE SUBSTITUTE

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HOUSE BILL NO. 1617

FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by Senator Kenneth W. Stolle)

on February 21, 2001)

(Patrons Prior to Substitute—Delegates Griffith and Cranwell)

A BILL to amend the Code of Virginia by adding a section numbered 46.2-410.1, relating to judicial review of revocation or suspension by Commissioner of Motor Vehicles.

Be it enacted by the General Assembly of Virginia:

That the Code of Virginia is amended by adding a section numbered 46.2-410.1 as follows:

§ 46.2-410.1 Judicial review of revocation or suspension by Commissioner.

A. Notwithstanding the provisions of § 46.2-410, when the Commissioner orders a revocation or suspension of a person's driver's license under the provisions of this chapter unless such revocation or suspension is required under § 46.2-390.1, the person so aggrieved may, in cases of manifest injustice, within sixty days of receipt of notice of the suspension or revocation, petition the circuit court of the jurisdiction wherein he resides for a hearing to review the Commissioner's order. Manifest injustice shall be limited to those instances where the Commissioner's order was the result of an error or was issued without authority or jurisdiction, or actually conflicts with a valid final order of a court in the Commonwealth. The person shall provide notice of his petition to the attorney for the Commonwealth of that jurisdiction.

B. At the hearing on the petition, if the court finds that the Commissioner's order is manifestly unjust the court may, notwithstanding any other provision of law, order the Commissioner to modify the order or issue the person a restricted license in accordance with the provisions of § 18.2-271.1. For any action under this section, no appeal shall lie from the determination of the circuit court.

C. This section shall not apply to any disqualification of eligibility to operate a commercial motor vehicle imposed by the Commissioner pursuant to Article 6.1 (§ 46.2-341.1 et seq.) of this chapter.

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