

VIRGINIA ACTS OF ASSEMBLY -- 2004 SESSION

CHAPTER 948

An Act to amend and reenact §§ 18.2-272, 46.2-301 and 46.2-329 of the Code of Virginia, relating to driving after forfeiture of license for DUI conviction.

[H 557]

Approved April 15, 2004

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-272, 46.2-301 and 46.2-329 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-272. Driving after forfeiture of license.

If any person so convicted shall, during the time for which he is deprived of his right so to do, drive or operate any motor vehicle, engine or train in this Commonwealth, he shall be guilty of a Class 1 misdemeanor. Any person who drives or operates any motor vehicle, engine or train in the Commonwealth during the time for which he was deprived of the right to do so by § 18.2-271 or § 46.2-391.2, after his license has been revoked pursuant to § 46.2-389 or § 46.2-391, or in violation of the terms of a restricted license issued pursuant to subsection E of § 18.2-271.1, is guilty of a Class 1 misdemeanor, except as otherwise provided in § 46.2-391, and is subject to administrative revocation of his driver's license pursuant to §§ 46.2-389 and 46.2-391.

Nothing in this section or §§ 18.2-266, 18.2-270 or § 18.2-271, shall be construed as conflicting with or repealing any ordinance or resolution of any city, town or county which restricts still further the right of such persons to drive or operate any such vehicle or conveyance.

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

A. In addition to any other penalty provided by this section, any motor vehicle administratively impounded or immobilized under the provisions of § 46.2-301.1 may, in the discretion of the court, be impounded or immobilized for an additional period of up to ~~ninety~~ 90 days upon conviction of an offender for driving while his driver's license, learner's permit, or privilege to drive a motor vehicle has been suspended or revoked for (i) a violation of §§ 18.2-36.1, 18.2-51.4, 18.2-266 or § 46.2-341.24 or a substantially similar ordinance or law in any other jurisdiction or (ii) driving after adjudication as an habitual offender, where such adjudication was based in whole or in part on an alcohol-related offense, or where such person's license has been administratively suspended under the provisions of § 46.2-391.2. However, if, at the time of the violation, the offender was driving a motor vehicle owned by another person, the court shall have no jurisdiction over such motor vehicle but may order the impoundment or immobilization of a motor vehicle owned solely by the offender at the time of arrest. All costs of impoundment or immobilization, including removal or storage expenses, shall be paid by the offender prior to the release of his motor vehicle.

B. Except as provided in §§ 46.2-304 and 46.2-357, no resident or nonresident (i) whose driver's license, learner's permit, or privilege to drive a motor vehicle has been suspended or revoked or (ii) who has been directed not to drive by any court, by the Commissioner, or by operation of law pursuant to this title or (iii) who has been forbidden, as prescribed by law, by the Commissioner, the State Corporation Commission, the Commonwealth Transportation Commissioner, any court, or the Superintendent of State Police, to operate a motor vehicle in the Commonwealth shall thereafter drive any motor vehicle or any self-propelled machinery or equipment on any highway in the Commonwealth until the period of such suspension or revocation has terminated. A clerk's notice of suspension of license for failure to pay fines or costs given in accordance with § 46.2-395 shall be sufficient notice for the purpose of maintaining a conviction under this section. For the purposes of this section, the phrase "motor vehicle or any self-propelled machinery or equipment" shall not include mopeds.

C. A first or second offense of violating this section shall constitute a Class 1 misdemeanor. A third or subsequent offense shall constitute a Class 1 misdemeanor punishable by a minimum, mandatory term of confinement in jail of ~~ten~~ 10 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.

In addition, the court shall suspend the person's driver's license for the same period for which it had been previously suspended or revoked when the person violated this section.

D. In the event the person has violated this section by driving during a period of suspension or revocation which was not for a definite period of time, the court shall suspend the person's license, permit or privilege to drive for an additional period not to exceed ~~ninety~~ 90 days. Any additional suspension ordered under the provisions of this section shall commence upon the expiration of the previous suspension or revocation unless the previous suspension or revocation has expired prior to the

ordering of an additional suspension or revocation.

E. Any person who operates a motor vehicle or any self-propelled machinery or equipment in violation of the terms of a restricted license issued pursuant to subsection E of § 18.2-271.1 is not guilty of a violation of this section but is guilty of a violation of § 18.2-272.

§ 46.2-329. Special restrictions on particular licensees.

The Department, on issuing a driver's license may, whenever good cause appears, impose restrictions suitable to the licensee's driving ability with respect to the type of, or special mechanical control devices required on, a motor vehicle which the licensee may drive, or any other restrictions applicable to the licensee as the Department may determine. When it appears from the records of the Department that the licensee has failed or refused to comply with the restrictions imposed on the licensee's driving of a motor vehicle, the Department may, after ~~ten~~ 10 days' written notice to the address indicated in the records of the Department, suspend the person's driver's license and the suspension shall remain in effect until this section has been complied with.

Any person issued a driver's license on which there are printed or stamped restrictions as provided by this section, and who drives a motor vehicle in violation of these restrictions shall be guilty of a Class 2 misdemeanor.

Any person who operates a motor vehicle or any self-propelled machinery or equipment in violation of the terms of a restricted license issued pursuant to subsection E of § 18.2-271.1 is not guilty of a violation of this section but is guilty of a violation of § 18.2-272.