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HOUSE BILL NO. 1131

Offered January 14, 2004

Prefiled January 14, 2004

A BILL to amend and reenact § 46.2-301 of the Code of Virginia, relating to driving while license, permit, or privilege to drive suspended or revoked.

Patrons—McDonnell and Cole

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:**1. That § 46.2-301 of the Code of Virginia is amended and reenacted as follows:**

§ 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 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.

C.1. Any person who is found to have unreasonably refused to provide a blood or breath sample in violation of § 18.2-268.3 while also in violation of this section because of a license suspension or revocation for a conviction of §§ 18.2-36.1, 18.2-51.4, 18.2-266, 18.2-266.1 or § 46.2-341.24 or a substantially similar ordinance or law in any other jurisdiction, or a license suspension under § 46.2-391.2, shall be punished by a mandatory minimum term of confinement in jail of 90 days, which shall not be suspended in whole or in part. The charges for unreasonable refusal and driving on a suspended or revoked license shall be tried together. Upon conviction hereunder, any license suspension ordered for unreasonable refusal under § 18.2-268.4 shall run consecutively with any existing license suspension.

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 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

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59 ordering of an additional suspension or revocation.