

2004 SESSION

INTRODUCED

043920204

HOUSE BILL NO. 127

Offered January 14, 2004

Prefiled December 23, 2003

A BILL to amend and reenact § 18.2-268.4 of the Code of Virginia, relating to sanctions for refusal to submit to blood or breath test.

Patrons—Albo, Bell, Hurt, Janis and Jones, S.C.

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 suspend the defendant's privilege to drive for a period of one year. *If the court or jury finds the defendant guilty of the offense of refusal within 10 years of a prior offense of § 18.2-266 or any offense set forth in subsection E of § 18.2-270, as charged in the warrant or summons issued pursuant to § 18.2-268.3, the court shall suspend the defendant's privilege to drive for a period of three years.* This suspension period is 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.

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