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## HOUSE BILL NO. 61

Offered January 14, 2004

Prefiled December 8, 2003

*A BILL to amend and reenact §§ 46.2-301 and 46.2-392 of the Code of Virginia, relating to driving while license, permit, or privilege to drive suspended or revoked.*

Patron—Louderback

Referred to Committee on Transportation

**Be it enacted by the General Assembly of Virginia:****1. That §§ 46.2-301 and 46.2-392 of the Code of Virginia are 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~~ 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 *subsection C and 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. *Notwithstanding the foregoing provisions of this section, any prisoner in any jail may be allowed by the sheriff having custody of such prisoner to work on any of the types of property specified in § 53.1-128 to operate a farm tractor, as defined in § 46.2-100, on a highway for the sole purpose of moving such farm tractor from one such parcel of property to another, provided (i) the distance of such operation on a highway is no more than five miles and (ii) such operation is specifically authorized by the sheriff or his designee. Any jail prisoner whose driver's license, permit, or privilege to operate a motor vehicle has been suspended or revoked who operates a farm tractor on a highway except as specifically authorized by the sheriff or his designee shall, upon conviction, be punishable as provided in subsection D. In the operation of a farm tractor under this subsection, the prisoner shall be subject to all other laws pertaining to the operation of a motor vehicle on a highway.*

D. 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.~~ E. 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

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59 previous suspension or revocation unless the previous suspension or revocation has expired prior to the  
60 ordering of an additional suspension or revocation.

61 § 46.2-392. Suspension of license or issuance of a restricted license on conviction of reckless driving;  
62 probationary conditions required; generally.

63 In addition to the penalties for reckless driving prescribed in § 46.2-868 any court may suspend any  
64 license issued to a convicted person under Articles 1 through 9 (§ 46.2-300 et seq.) of this chapter for a  
65 period of not less than ten days nor more than six months and the court shall require the convicted  
66 person to surrender his license so suspended to the court where it will be disposed of in accordance with  
67 § 46.2-398. Additionally, any person convicted of a reckless driving offense which the court has reason  
68 to believe is alcohol-related or drug-related may be required as a condition of probation or otherwise to  
69 enter into and successfully complete an alcohol safety action program.

70 If a person so convicted has not obtained the license required by this chapter, or is a nonresident, the  
71 court may direct in the judgment of conviction that he shall not, for a period of not less than ten days  
72 or more than six months as may be prescribed in the judgment, drive any motor vehicle in the  
73 Commonwealth. The court or the clerk of court shall transmit the license to the Commissioner along  
74 with the report of the conviction required to be sent to the Department.

75 The court may, in its discretion and for good cause shown, provide that such person be issued a  
76 restricted permit to operate a motor vehicle during the period of suspension for any of the purposes set  
77 forth in subsection E of § 18.2-271.1. The court shall order the surrender of such person's license to  
78 operate a motor vehicle to be disposed of in accordance with the provisions of § 46.2-398 and shall  
79 forward to the Commissioner a copy of its order entered pursuant to this subsection, which shall  
80 specifically enumerate the restrictions imposed and contain such information regarding the person to  
81 whom such a permit is issued as is reasonably necessary to identify such person. The court shall also  
82 provide a copy of its order to the person who may operate a motor vehicle on the order until receipt  
83 from the Commissioner of a restricted license. A copy of such order and, after receipt thereof, the  
84 restricted license shall be carried at all times while operating a motor vehicle. Any person who operates  
85 a motor vehicle in violation of any restrictions imposed pursuant to this section shall be punished as  
86 provided in subsection C of § 46.2-301. No restricted license issued pursuant to this section shall  
87 permit any person to operate a commercial motor vehicle as defined in the Virginia Commercial Driver's  
88 License Act (§ 46.2-341.1 et seq.).