

049546332

HOUSE BILL NO. 990

Offered January 14, 2004

Prefiled January 14, 2004

*A BILL to amend and reenact § 18.2-270 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 46.2-726.1, relating to special license plates for persons convicted of DUI.*

Patrons—Hugo and Gear

Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:**

**1. That § 18.2-270 of the Code of Virginia is amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 46.2-726.1 as follows:**

§ 18.2-270. Penalty for driving while intoxicated; subsequent offense; prior conviction.

A. Except as otherwise provided herein, any person violating any provision of § 18.2-266 shall be guilty of a Class 1 misdemeanor. If the person's blood alcohol level as indicated by the chemical test administered as provided in this article was at least 0.20, but not more than 0.25, he shall be confined in jail for an additional mandatory, minimum period of five days or, if the level was more than 0.25, for an additional mandatory, minimum period of 10 days. The additional mandatory, minimum period of confinement shall not be suspended by the court. In addition, such person shall be fined a mandatory, minimum fine of \$250, which shall not be suspended by the court. *Any person convicted a second or subsequent time of a violation of § 18.2-266 who has a motor vehicle registered in his name in the Commonwealth shall display, on any and all such registered motor vehicles, license plates with red numerals and letters on a yellow background, issued by the Commissioner of the Department of Motor Vehicles. Upon a second conviction such license plates shall be displayed for two years and upon a third or subsequent conviction such license plates shall be displayed for five years. If a person is convicted of a subsequent offense during the time when he is already required to display such license plates, the display periods shall run consecutively. The court shall require the person, upon conviction, to surrender to the court the license plates of any and all vehicles registered in his name.*

B. 1. Any person convicted of a second offense committed within less than five years after a first offense under § 18.2-266 shall upon conviction of the second offense be punished by a mandatory, minimum fine of \$500, which shall not be suspended by the court, and by confinement in jail for not less than one month nor more than one year. Five days of such confinement shall be a mandatory, minimum sentence not subject to suspension by the court.

2. Any person convicted of a second offense committed within a period of five to ten years of a first offense under § 18.2-266 shall upon conviction of the second offense be punished by a mandatory, minimum fine of \$500, which shall not be suspended by the court, and by confinement in jail for not less than one month.

3. Upon conviction of a second offense within 10 years of a first offense, if the person's blood alcohol level as indicated by the chemical test administered as provided in this article was at least 0.20, but not more than 0.25, he shall be confined in jail for an additional minimum, mandatory period of 10 days or, if the level was more than 0.25, for an additional mandatory, minimum period of 20 days. The additional mandatory, minimum period of confinement shall not be suspended by the court. In addition, such person shall be fined a mandatory, minimum fine of \$500, which shall not be suspended by the court.

C. Any person convicted of three or more offenses of § 18.2-266 committed within a 10-year period shall upon conviction of the third offense be guilty of a Class 6 felony, and the sentence shall include a mandatory, minimum sentence of confinement for 10 days that shall not be subject to suspension by the court. In addition, such person shall be fined a mandatory, minimum fine of \$1,000, which shall not be suspended by the court. Any person convicted of a third offense committed within five years of an offense under § 18.2-266 shall upon conviction of the third offense be guilty of a Class 6 felony, and the sentence shall include a mandatory, minimum sentence of confinement for 30 days that shall not be subject to suspension by the court. In addition, such person shall be fined a mandatory, minimum fine of \$1,000, which shall not be suspended by the court. The punishment of any person convicted of a fourth or subsequent offense committed within a 10-year period shall, upon conviction, include a mandatory, minimum term of imprisonment of one year, none of which may be suspended in whole or in part. In addition, such person shall be fined a mandatory, minimum fine of \$1,000, which shall not be suspended by the court. Unless otherwise modified by the court, the defendant shall remain on probation and under

INTRODUCED

HB990

59 the terms of any suspended sentence for the same period as his operator's license was suspended, not to  
60 exceed three years.

61 D. In addition to the penalty otherwise authorized by this section or § 16.1-278.9, any person  
62 convicted of a violation of § 18.2-266 committed while transporting a person 17 years of age or younger  
63 shall be (i) fined an additional minimum of \$500 and not more than \$1000 and (ii) sentenced to a  
64 mandatory, minimum period of confinement of five days.

65 E. For the purpose of this section, an adult conviction of any person, or finding of guilty in the case  
66 of a juvenile, under the following shall be considered a prior conviction: (i) the provisions of  
67 § 18.2-36.1 or the substantially similar laws of any other state or of the United States, (ii) the provisions  
68 of §§ 18.2-51.4, 18.2-266, former § 18.1-54 (formerly § 18-75), the ordinance of any county, city or  
69 town in this Commonwealth or the laws of any other state or of the United States substantially similar  
70 to the provisions of §§ 18.2-51.4, and 18.2-266 through 18.2-269, or (iii) the provisions of subsection A  
71 of § 46.2-341.24 or the substantially similar laws of any other state or of the United States.

72 *§ 46.2-726.1. Special license plates; conviction for driving while intoxicated.*

73 *Notwithstanding any other provision of law, the Commissioner shall issue license plates with red*  
74 *numerals and letters on a yellow background to persons having a vehicle registered in the*  
75 *Commonwealth who have been convicted a second or subsequent time of a violation of § 18.2-266. The*  
76 *commissioner shall follow the timetable for duration of such special registration as set forth in*  
77 *§ 18.2-270.*

78 *For each set of license plates issued under this section, the Commissioner shall charge, in addition*  
79 *to the prescribed cost of state license plates, a one-time fee of \$250 for a person who has been*  
80 *convicted of violating § 18.2-266 twice, and a one-time fee of \$500 for a person who has been convicted*  
81 *of violating § 18.2-266 three or more times. If a person is convicted of a subsequent offense during a*  
82 *period when he is already required to display such license plates, the periods shall run consecutively.*