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**HOUSE BILL NO. 364**

Offered January 11, 2006

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A *BILL to amend and reenact §§ 4.1-333, 8.01-44.5, 18.2-259.1, 18.2-266, 18.2-268.10, 18.2-269, 18.2-271, 18.2-271.1, and 18.2-272 of the Code of Virginia, relating to those vehicles one may not pilot following a DUI conviction.*

\_\_\_\_\_  
Patron—Carrico

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Referred to Committee for Courts of Justice

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

**1. That §§ 4.1-333, 8.01-44.5, 18.2-259.1, 18.2-266, 18.2-268.10, 18.2-269, 18.2-271, 18.2-271.1, and 18.2-272 of the Code of Virginia are amended and reenacted as follows:**

§ 4.1-333. Interdiction of intoxicated driver or habitual drunkard.

A. When after a hearing upon due notice it appears to the satisfaction of the circuit court of any county or city that any person, residing within such county or city, has been convicted of driving any automobile, truck, *or* motorcycle, ~~engine or train~~ while intoxicated or has shown himself to be an habitual drunkard, the court may enter an order of interdiction prohibiting the sale of alcoholic beverages to such person until further ordered. The court entering any such order shall file a copy of the order with the Board.

B. The court entering any order of interdiction may alter, amend or cancel such order as it deems proper. A copy of any alteration, amendment or cancellation shall be filed with the Board.

§ 8.01-44.5. Exemplary damages for persons injured by intoxicated drivers.

In any action for personal injury or death arising from the operation of a motor vehicle, ~~engine or train~~, the finder of fact may, in its discretion, award exemplary damages to the plaintiff if the evidence proves that the defendant acted with malice toward the plaintiff or the defendant's conduct was so willful or wanton as to show a conscious disregard for the rights of others.

A defendant's conduct shall be deemed sufficiently willful or wanton as to show a conscious disregard for the rights of others when the evidence proves that (i) when the incident causing the injury or death occurred, the defendant had a blood alcohol concentration of 0.15 percent or more by weight by volume or 0.15 grams or more per 210 liters of breath; (ii) at the time the defendant began drinking alcohol, or during the time he was drinking alcohol, he knew or should have known that his ability to operate a motor vehicle, ~~engine or train~~ would be impaired, or when he was operating a motor vehicle he knew or should have known that his ability to operate a motor vehicle was impaired; and (iii) the defendant's intoxication was a proximate cause of the injury to or death of the plaintiff.

However, when a defendant has unreasonably refused to submit to a test of his blood alcohol content as required by § 18.2-268.2, a defendant's conduct shall be deemed sufficiently willful or wanton as to show a conscious disregard for the rights of others when the evidence proves that (i) when the incident causing the injury or death occurred the defendant was intoxicated, which may be established by evidence concerning the conduct or condition of the defendant; (ii) at the time the defendant began drinking alcohol, or during the time he was drinking alcohol, he knew or should have known that his ability to operate a motor vehicle was impaired; and (iii) the defendant's intoxication was a proximate cause of the injury to the plaintiff or death of the plaintiff's decedent. A certified copy of a court's determination of unreasonable refusal pursuant to § 18.2-268.3 shall be prima facie evidence that the defendant unreasonably refused to submit to the test.

§ 18.2-259.1. Forfeiture of driver's license for violations of article.

A. In addition to any other sanction or penalty imposed for a violation of this article, the (i) judgment of conviction under this article or (ii) placement on probation following deferral of further proceedings under § 18.2-251 or subsection H of § 18.2-258.1 for any such offense shall of itself operate to deprive the person so convicted or placed on probation after deferral of proceedings under § 18.2-251 or subsection H of § 18.2-258.1 of the privilege to drive or operate a motor vehicle, ~~engine, or train~~ in the Commonwealth for a period of six months from the date of such judgment or placement on probation. Such license forfeiture shall be in addition to and shall run consecutively with any other license suspension, revocation or forfeiture in effect or imposed upon the person so convicted or placed on probation. However, a juvenile who has had his license suspended or denied pursuant to § 16.1-278.9 shall not have his license forfeited pursuant to this section for the same offense.

B. The court trying the case shall order any person so convicted or placed on probation to surrender his driver's license to be disposed of in accordance with the provisions of § 46.2-398 and shall notify the

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59 Department of Motor Vehicles of any such conviction entered and of the license forfeiture to be  
60 imposed.

61 C. In those cases where the court determines there are compelling circumstances warranting an  
62 exception, the court may provide that any individual be issued a restricted license to operate a motor  
63 vehicle for any of the purposes set forth in subsection E of § 18.2-271.1. No restricted license issued  
64 pursuant to this subsection shall permit any person to operate a commercial motor vehicle as defined in  
65 the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.). The court shall order the surrender  
66 of such person's license in accordance with the provisions of subsection B and shall forward to the  
67 Commissioner of the Department of Motor Vehicles a copy of its order entered pursuant to this  
68 subsection. This order shall specifically enumerate the restrictions imposed and contain such information  
69 regarding the person to whom such a permit is issued as is reasonably necessary to identify such person.  
70 The court shall also provide a copy of its order to such person who may operate a motor vehicle on the  
71 order until receipt from the Commissioner of the Department of Motor Vehicles of a restricted license,  
72 but only if the order provides for a restricted license for that period. A copy of the order and, after  
73 receipt thereof, the restricted license shall be carried at all times by such person while operating a motor  
74 vehicle. The court may require a person issued a restricted permit under the provisions of this subsection  
75 to be monitored by an alcohol safety action program during the period of license suspension. Any  
76 violation of the terms of the restricted license or of any condition set forth by the court related thereto,  
77 or any failure to remain drug-free during such period shall be reported forthwith to the court by such  
78 program. Any person who operates a motor vehicle in violation of any restriction imposed pursuant to  
79 this section shall be guilty of a violation of § 46.2-301.

80 § 18.2-266. Driving motor vehicle while intoxicated, etc.

81 It shall be unlawful for any person to drive or operate any motor vehicle; ~~engine or train~~ (i) while  
82 such person has a blood alcohol concentration of 0.08 percent or more by weight by volume or 0.08  
83 grams or more per 210 liters of breath as indicated by a chemical test administered as provided in this  
84 article, (ii) while such person is under the influence of alcohol, (iii) while such person is under the  
85 influence of any narcotic drug or any other self-administered intoxicant or drug of whatsoever nature, or  
86 any combination of such drugs, to a degree which impairs his ability to drive or operate any motor  
87 vehicle; ~~engine or train~~ safely, (iv) while such person is under the combined influence of alcohol and  
88 any drug or drugs to a degree which impairs his ability to drive or operate any motor vehicle; ~~engine or~~  
89 ~~train~~ safely, or (v) while such person has a blood concentration of any of the following substances at a  
90 level that is equal to or greater than: (a) 0.02 milligrams of cocaine per liter of blood, (b) 0.1 milligrams  
91 of methamphetamine per liter of blood, (c) 0.01 milligrams of phencyclidine per liter of blood, or (d)  
92 0.1 milligrams of 3,4-methylenedioxymethamphetamine per liter of blood. A charge alleging a violation  
93 of this section shall support a conviction under clauses (i), (ii), (iii), (iv), or (v).

94 For the purposes of this article, the term "motor vehicle" includes mopeds, while operated on the  
95 public highways of this Commonwealth.

96 § 18.2-268.10. Evidence of violation of driving under the influence offenses.

97 A. In any trial for a violation of § 18.2-266, 18.2-266.1, or subsection B of § 18.2-272 or a similar  
98 ordinance, the admission of the blood or breath test results shall not limit the introduction of any other  
99 relevant evidence bearing upon any question at issue before the court, and the court shall, regardless of  
100 the result of any blood or breath tests, consider other relevant admissible evidence of the condition of  
101 the accused. If the test results indicate the presence of any drug other than alcohol, the test results shall  
102 be admissible, except in a prosecution under clause (v) of § 18.2-266, only if other competent evidence  
103 has been presented to relate the presence of the drug or drugs to the impairment of the accused's ability  
104 to drive or operate any motor vehicle; ~~engine or train~~ safely.

105 B. The failure of an accused to permit a blood or breath sample to be taken to determine the alcohol  
106 or drug content of his blood is not evidence and shall not be subject to comment by the Commonwealth  
107 at the trial of the case, except in rebuttal or pursuant to subsection C; nor shall the fact that a blood or  
108 breath test had been offered the accused be evidence or the subject of comment by the Commonwealth,  
109 except in rebuttal or pursuant to subsection C.

110 C. Evidence of a finding against the defendant under § 18.2-268.3 for his unreasonable refusal to  
111 permit a blood or breath sample to be taken to determine the alcohol or drug content of his blood shall  
112 be admissible into evidence, upon the motion of the Commonwealth or the defendant, for the sole  
113 purpose of explaining the absence at trial of a chemical test of such sample. When admitted pursuant to  
114 this subsection such evidence shall not be considered evidence of the accused's guilt.

115 D. The court or jury trying the case involving a violation of clause (ii), (iii) or (iv) of § 18.2-266 or  
116 § 18.2-266.1, or a similar ordinance shall determine the innocence or guilt of the defendant from all the  
117 evidence concerning his condition at the time of the alleged offense.

118 § 18.2-269. Presumptions from alcohol or drug content of blood.

119 A. In any prosecution for a violation of § 18.2-36.1 or clause (ii), (iii) or (iv) of § 18.2-266, or any  
120 similar ordinance, the amount of alcohol or drugs in the blood of the accused at the time of the alleged

offense as indicated by a chemical analysis of a sample of the accused's blood or breath to determine the alcohol or drug content of his blood in accordance with the provisions of §§ 18.2-268.1 through 18.2-268.12 shall give rise to the following rebuttable presumptions:

(1) If there was at that time 0.05 percent or less by weight by volume of alcohol in the accused's blood or 0.05 grams or less per 210 liters of the accused's breath, it shall be presumed that the accused was not under the influence of alcohol intoxicants at the time of the alleged offense;

(2) If there was at that time in excess of 0.05 percent but less than 0.08 percent by weight by volume of alcohol in the accused's blood or 0.05 grams but less than 0.08 grams per 210 liters of the accused's breath, such facts shall not give rise to any presumption that the accused was or was not under the influence of alcohol intoxicants at the time of the alleged offense, but such facts may be considered with other competent evidence in determining the guilt or innocence of the accused;

(3) If there was at that time 0.08 percent or more by weight by volume of alcohol in the accused's blood or 0.08 grams or more per 210 liters of the accused's breath, it shall be presumed that the accused was under the influence of alcohol intoxicants at the time of the alleged offense; or

(4) If there was at that time an amount of the following substances at a level that is equal to or greater than: (a) 0.02 milligrams of cocaine per liter of blood, (b) 0.1 milligrams of methamphetamine per liter of blood, (c) 0.01 milligrams of phencyclidine per liter of blood, or (d) 0.1 milligrams of 3,4-methylenedioxymethamphetamine per liter of blood, it shall be presumed that the accused was under the influence of drugs at the time of the alleged offense to a degree which impairs his ability to drive or operate any motor vehicle, ~~engine or train~~ safely.

B. The provisions of this section shall not apply to and shall not affect any prosecution for a violation of § 46.2-341.24.

§ 18.2-271. Forfeiture of driver's license for driving while intoxicated.

A. Except as provided in § 18.2-271.1, the judgment of conviction if for a first offense under § 18.2-266 or for a similar offense under any county, city, or town ordinance, or for a first offense under subsection A of § 46.2-341.24, shall of itself operate to deprive the person so convicted of the privilege to drive or operate any motor vehicle, ~~engine or train~~ in the Commonwealth for a period of one year from the date of such judgment. This suspension period shall be in addition to the suspension period provided under § 46.2-391.2.

B. If a person (i) is tried on a process alleging a second offense of violating § 18.2-266 or subsection A of § 46.2-341.24, or any substantially similar local ordinance, or law of any other jurisdiction, within ten years of a first offense for which the person was convicted, or found guilty in the case of a juvenile, under § 18.2-266 or subsection A of § 46.2-341.24 or any valid local ordinance or any law of any other jurisdiction substantially similar to § 18.2-266 or subsection A of § 46.2-341.24 and (ii) is convicted thereof, such conviction shall of itself operate to deprive the person so convicted of the privilege to drive or operate any motor vehicle, ~~engine or train~~ in the Commonwealth for a period of three years from the date of the judgment of conviction and such person shall have his license revoked as provided in subsection A of § 46.2-391. The court trying such case shall order the surrender of the person's driver's license, to be disposed of in accordance with § 46.2-398, and shall notify such person that his license has been revoked for a period of three years and that the penalty for violating that revocation is as set out in § 46.2-391. This suspension period shall be in addition to the suspension period provided under § 46.2-391.2. Any period of license suspension or revocation imposed pursuant to this section, in any case, shall run consecutively with any period of suspension for failure to permit a blood or breath sample to be taken as required by §§ 18.2-268.1 through 18.2-268.12 or §§ 46.2-341.26:1 through 46.2-341.26:11.

C. If a person (i) is tried on a process alleging a third or subsequent offense of violating § 18.2-266 or subsection A of § 46.2-341.24, or any substantially similar local ordinance, or law of any other jurisdiction, within ten years of two other offenses for which the person was convicted, or found not innocent in the case of a juvenile, under § 18.2-266 or subsection A of § 46.2-341.24 or any valid local ordinance or any law of any other jurisdiction substantially similar to § 18.2-266 or subsection A of § 46.2-341.24 and (ii) is convicted thereof, such conviction shall of itself operate to deprive the person so convicted of the privilege to drive or operate any motor vehicle, ~~engine or train~~ in the Commonwealth and such person shall not be eligible for participation in a program pursuant to § 18.2-271.1 and shall, upon such conviction, have his license revoked as provided in subsection B of § 46.2-391. The court trying such case shall order the surrender of the person's driver's license, to be disposed of in accordance with § 46.2-398, and shall notify such person that his license has been revoked indefinitely and that the penalty for violating that revocation is as set out in § 46.2-391.

D. Notwithstanding any other provision of this section, the period of license revocation or suspension shall not begin to expire until the person convicted has surrendered his license to the court or to the Department of Motor Vehicles.

E. The provisions of this section shall not apply to, and shall have no effect upon, any

182 disqualification from operating a commercial motor vehicle imposed under the provisions of the  
183 Commercial Driver's License Act (§ 46.2-341.1 et seq.).

184 § 18.2-271.1. Probation, education and rehabilitation of person charged or convicted; person  
185 convicted under law of another state.

186 A. Any person convicted of a first or second offense of § 18.2-266 (i), (ii), (iii) or (iv), or any  
187 ordinance of a county, city, or town similar to the provisions thereof, or provisions of subsection A of  
188 § 46.2-341.24, shall be required by court order, as a condition of probation or otherwise, to enter into  
189 and successfully complete an alcohol safety action program in the judicial district in which such charge  
190 is brought or in any other judicial district upon such terms and conditions as the court may set forth.  
191 However, upon motion of a person convicted of any such offense following an assessment of the person  
192 conducted by an alcohol safety action program, the court, for good cause, may decline to order  
193 participation in such a program if the assessment by the alcohol safety action program indicates that  
194 intervention is not appropriate for such person. In no event shall such persons be permitted to enter any  
195 such program which is not certified as meeting minimum standards and criteria established by the  
196 Commission on the Virginia Alcohol Safety Action Program (VASAP) pursuant to subsection H of this  
197 section and to § 18.2-271.2. However, any person charged with a violation of a first or second offense  
198 of § 18.2-266 (i), (ii), (iii) or (iv), or any ordinance of a county, city, or town similar to the provisions  
199 thereof, or provisions of subsection A of § 46.2-341.24, may, at any time prior to trial, enter into an  
200 alcohol safety action program in the judicial district in which such charge is brought or in any other  
201 judicial district.

202 B. The court shall require the person entering such program under the provisions of this section to  
203 pay a fee of no less than \$250 but no more than \$300. A reasonable portion of such fee, as may be  
204 determined by the Commission on VASAP, but not to exceed 10 percent, shall be forwarded monthly to  
205 be deposited with the State Treasurer for expenditure by the Commission on VASAP, and the balance  
206 shall be held in a separate fund for local administration of driver alcohol rehabilitation programs. Upon  
207 a positive finding that the defendant is indigent, the court may reduce or waive the fee. In addition to  
208 the costs of the proceeding, fees as may reasonably be required of defendants referred for intervention  
209 under any such program may be charged.

210 C. Upon conviction of a violation of § 18.2-266 or any ordinance of a county, city or town similar to  
211 the provisions thereof, or subsection A of § 46.2-341.24, the court shall impose the sentence authorized  
212 by § 18.2-270 or § 46.2-341.28 and the license revocation as authorized by § 18.2-271. In addition, if  
213 the conviction was for a second offense committed within less than five years after a first such offense,  
214 the court shall order that restoration of the person's license to drive be conditioned upon the installation  
215 of an ignition interlock system on each motor vehicle, as defined in § 46.2-100, owned by or registered  
216 to the person, in whole or in part, for a period of six months beginning at the end of the three year  
217 license revocation, unless such a system has already been installed for six months prior to that time  
218 pursuant to a restricted license order under subsection E of this section. Upon a finding that a person so  
219 convicted is required to participate in the program described herein, the court shall enter the conviction  
220 on the warrant, and shall note that the person so convicted has been referred to such program. The court  
221 may then proceed to issue an order in accordance with subsection E of this section, if the court finds  
222 that the person so convicted is eligible for a restricted license. If the court finds good cause for a person  
223 not to participate in such program or subsequently that such person has violated, without good cause,  
224 any of the conditions set forth by the court in entering the program, the court shall dispose of the case  
225 as if no program had been entered, in which event the revocation provisions of § 46.2-389 and  
226 subsection A of § 46.2-391 shall be applicable to the conviction. The court shall, upon final disposition  
227 of the case, send a copy of its order to the Commissioner of the Department of Motor Vehicles. If such  
228 order provides for the issuance of a restricted license, the Commissioner of the Department of Motor  
229 Vehicles, upon receipt thereof, shall issue a restricted license. Appeals from any such disposition shall  
230 be allowed as provided by law. The time within which an appeal may be taken shall be calculated from  
231 the date of the final disposition of the case or any motion for rehearing, whichever is later.

232 D. Any person who has been convicted in another state of the violation of a law of such state  
233 substantially similar to the provisions of § 18.2-266 or subsection A of § 46.2-341.24, and whose  
234 privilege to operate a motor vehicle in this Commonwealth is subject to revocation under the provisions  
235 of § 46.2-389 and subsection A of § 46.2-391, may petition the general district court of the county or  
236 city in which he resides that he be given probation and assigned to a program as provided in subsection  
237 A of this section and that, upon entry into such program, he be issued an order in accordance with  
238 subsection E of this section. If the court finds that such person would have qualified therefor if he had  
239 been convicted in this Commonwealth of a violation of § 18.2-266 or subsection A of § 46.2-341.24, the  
240 court may grant the petition and may issue an order in accordance with subsection E of this section as  
241 to the period of license suspension or revocation imposed pursuant to § 46.2-389 or subsection A of  
242 § 46.2-391. Such order shall be conditioned upon the successful completion of a program by the  
243 petitioner. If the court subsequently finds that such person has violated any of the conditions set forth by

the court, the court shall dispose of the case as if no program had been entered and shall notify the Commissioner, who shall revoke the person's license in accordance with the provisions of § 46.2-389 or subsection A of § 46.2-391. A copy of the order granting the petition or subsequently revoking or suspending such person's license to operate a motor vehicle shall be forthwith sent to the Commissioner of the Department of Motor Vehicles.

No period of license suspension or revocation shall be imposed pursuant to this subsection which, when considered together with any period of license suspension or revocation previously imposed for the same offense in any state, results in such person's license being suspended for a period in excess of the maximum periods specified in this subsection.

E. Except as otherwise provided herein, whenever a person enters a certified program pursuant to this section, and such person's license to operate a motor vehicle, ~~engine or train~~ in the Commonwealth has been suspended or revoked, the court may, in its discretion and for good cause shown, provide that such person be issued a restricted permit to operate a motor vehicle for any of the following purposes: (i) travel to and from his place of employment; (ii) travel to and from an alcohol rehabilitation or safety action program; (iii) travel during the hours of such person's employment if the operation of a motor vehicle is a necessary incident of such employment; (iv) travel to and from school if such person is a student, upon proper written verification to the court that such person is enrolled in a continuing program of education; (v) travel for health care services, including medically necessary transportation of an elderly parent with a serious medical problem upon written verification of need by a licensed health professional; (vi) travel necessary to transport a minor child under the care of such person to and from school, day care, and facilities housing medical service providers; (vii) travel to and from court-ordered visitation with a child of such person; (viii) travel to a screening, evaluation and education program entered pursuant to § 18.2-251 or subsection H of § 18.2-258.1; or (ix) travel to and from court appearances in which he is a subpoenaed witness or a party and appointments with his probation officer and to and from any programs required by the court or as a condition of probation. No restricted license issued pursuant to this subsection shall permit any person to operate a commercial motor vehicle as defined in the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.). The court shall order the surrender of such person's license to operate a motor vehicle to be disposed of in accordance with the provisions of § 46.2-398 and shall forward to the Commissioner of the Department of Motor Vehicles a copy of its order entered pursuant to this subsection, which shall specifically enumerate the restrictions imposed and contain such information regarding the person to whom such a permit is issued as is reasonably necessary to identify such person. The court shall also provide a copy of its order to the person so convicted who may operate a motor vehicle on the order until receipt from the Commissioner of the Department of Motor Vehicles of a restricted license, if the order provides for a restricted license for that time period. A copy of such order and, after receipt thereof, the restricted license shall be carried at all times while operating a motor vehicle. Any person who operates a motor vehicle in violation of any restrictions imposed pursuant to this section shall be guilty of a violation of § 18.2-272. Such restricted license shall be conditioned upon enrollment within 15 days in, and successful completion of, a program as described in subsection A of this section. No restricted license shall be issued during the first four months of a revocation imposed pursuant to subsection B of § 18.2-271 or subsection A of § 46.2-391 for a second offense of the type described therein committed within 10 years of a first such offense. No restricted license shall be issued during the first year of a revocation imposed pursuant to subsection B of § 18.2-271 or subsection A of § 46.2-391 for a second offense of the type described therein committed within five years of a first such offense. No restricted license shall be issued during any revocation period imposed pursuant to subsection C of § 18.2-271 or subsection B of § 46.2-391. Notwithstanding the provisions of § 46.2-411, the fee charged pursuant to § 46.2-411 for reinstatement of the driver's license of any person whose privilege or license has been suspended or revoked as a result of a violation of § 18.2-266, subsection A of § 46.2-341.24 or of any ordinance of a county, city or town, or of any federal law or the laws of any other state similar to the provisions of § 18.2-266 or subsection A of § 46.2-341.24 shall be \$105. Forty dollars of such reinstatement fee shall be retained by the Department of Motor Vehicles as provided in § 46.2-411, \$40 shall be transferred to the Commission on VASAP, and \$25 shall be transferred to the Commonwealth Neurotrauma Initiative Trust Fund.

F. The court shall have jurisdiction over any person entering such program under any provision of this section until such time as the case has been disposed of by either successful completion of the program, or revocation due to ineligibility or violation of a condition or conditions imposed by the court, whichever shall first occur. Revocation proceedings shall be commenced by notice to show cause why the court should not revoke the privilege afforded by this section. Such notice shall be made by first-class mail to the last known address of such person, and shall direct such person to appear before the court in response thereto on a date contained in such notice, which shall not be less than 10 days from the date of mailing of the notice. Failure to appear in response to such notice shall of itself be

305 grounds for revocation of such privilege. Notice of revocation under this subsection shall be sent  
306 forthwith to the Commissioner of the Department of Motor Vehicles.

307 G. For the purposes of this section, any court which has convicted a person of a violation of  
308 § 18.2-266, subsection A of § 46.2-341.24 or any ordinance of a county, city or town similar to the  
309 provisions of § 18.2-266 shall have continuing jurisdiction over such person during any period of license  
310 revocation related to that conviction, for the limited purposes of (i) referring such person to a certified  
311 alcohol safety action program, (ii) providing for a restricted permit for such person in accordance with  
312 the provisions of subsection E, and (iii) imposing terms, conditions and limitations for actions taken  
313 pursuant to clauses (i) and (ii), whether or not it took either such action at the time of the conviction.  
314 This continuing jurisdiction is subject to the limitations of subsection E that provide that no restricted  
315 license shall be issued during a revocation imposed pursuant to subsection C of § 18.2-271 or subsection  
316 B of § 46.2-391 or during the first four months or first year, whichever is applicable, of the revocation  
317 imposed pursuant to subsection B of § 18.2-271 or subsection A of § 46.2-391. The provisions of this  
318 subsection shall apply to a person convicted of a violation of § 18.2-266, subsection A of § 46.2-341.24  
319 or any ordinance of a county, city or town similar to the provisions of § 18.2-266 on, after and at any  
320 time prior to July 1, 2003.

321 H. The State Treasurer, the Commission on VASAP or any city or county is authorized to accept any  
322 gifts or bequests of money or property, and any grant, loan, service, payment or property from any  
323 source, including the federal government, for the purpose of driver alcohol education. Any such gifts,  
324 bequests, grants, loans or payments shall be deposited in the separate fund provided in subsection B.

325 I. The Commission on VASAP, or any county, city, town, or any combination thereof may establish  
326 and, if established, shall operate, in accordance with the standards and criteria required by this  
327 subsection, alcohol safety action programs in connection with highway safety. Each such program shall  
328 operate under the direction of a local independent policy board chosen in accordance with procedures  
329 approved and promulgated by the Commission on VASAP. Local sitting or retired district court judges  
330 who regularly hear or heard cases involving driving under the influence and are familiar with their local  
331 alcohol safety action programs may serve on such boards. The Commission on VASAP shall establish  
332 minimum standards and criteria for the implementation and operation of such programs and shall  
333 establish procedures to certify all such programs to ensure that they meet the minimum standards and  
334 criteria stipulated by the Commission. The Commission shall also establish criteria for the administration  
335 of such programs for public information activities, for accounting procedures, for the auditing  
336 requirements of such programs and for the allocation of funds. Funds paid to the Commonwealth  
337 hereunder shall be utilized in the discretion of the Commission on VASAP to offset the costs of state  
338 programs and local programs run in conjunction with any county, city or town and costs incurred by the  
339 Commission. The Commission shall submit an annual report as to actions taken at the close of each  
340 calendar year to the Governor and the General Assembly.

341 J. Notwithstanding any other provisions of this section or of § 18.2-271, nothing in this section shall  
342 permit the court to suspend, reduce, limit, or otherwise modify any disqualification from operating a  
343 commercial motor vehicle imposed under the provisions of the Virginia Commercial Driver's License  
344 Act (§ 46.2-341.1 et seq.).

345 § 18.2-272. Driving after forfeiture of license.

346 A. Any person who drives or operates any motor vehicle, ~~engine or train~~ in the Commonwealth  
347 during the time for which he was deprived of the right to do so (i) upon conviction of a violation of  
348 § 18.2-268.3 or of an offense set forth in subsection E of § 18.2-270, (ii) by § 18.2-271 or 46.2-391.2,  
349 (iii) after his license has been revoked pursuant to § 46.2-389 or 46.2-391, or (iv) in violation of the  
350 terms of a restricted license issued pursuant to subsection E of § 18.2-271.1, is guilty of a Class 1  
351 misdemeanor, except as otherwise provided in § 46.2-391, and is subject to administrative revocation of  
352 his driver's license pursuant to §§ 46.2-389 and 46.2-391.

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

356 B. Regardless of compliance with any other restrictions on his privilege to drive or operate a motor  
357 vehicle, it shall be a violation of this section for any person whose privilege to drive or operate a motor  
358 vehicle has been restricted, suspended or revoked because of a violation of § 18.2-36.1, 18.2-51.4,  
359 18.2-266, 18.2-268.3, 46.2-341.24, or a similar ordinance or law of another state or the United States to  
360 drive or operate a motor vehicle while he has a blood alcohol content of 0.02 percent or more.

361 Any person suspected of a violation of this subsection shall be entitled to a preliminary breath test in  
362 accordance with the provisions of § 18.2-267, shall be deemed to have given his implied consent to have  
363 samples of his blood, breath or both taken for analysis pursuant to the provisions of § 18.2-268.2, and,  
364 when charged with a violation of this subsection, shall be subject to the provisions of §§ 18.2-268.1  
365 through 18.2-268.12.