

VIRGINIA ACTS OF ASSEMBLY -- 2008 SESSION

CHAPTER 729

An Act to amend and reenact § 18.2-266.1 of the Code of Virginia, relating to penalties for underage drinking and driving.

[H 719]

Approved March 27, 2008

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-266.1 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-266.1. Persons under age 21 driving after illegally consuming alcohol; penalty.

A. It shall be unlawful for any person under the age of 21 to operate any motor vehicle after illegally consuming alcohol. Any such person with a blood alcohol concentration of 0.02 percent or more by weight by volume or 0.02 grams or more per 210 liters of breath but less than 0.08 by weight by volume or less than 0.08 grams per 210 liters of breath as indicated by a chemical test administered as provided in this article shall be in violation of this section.

B. A violation of this section ~~shall be punishable by~~ *is a Class 1 misdemeanor. Punishment shall be* (i) forfeiture of such person's license to operate a motor vehicle for a period of ~~six months~~ *one year* from the date of conviction and ~~by~~ (ii) *a mandatory minimum* fine of ~~not more than~~ \$500 *or performance of a mandatory minimum of 50 hours of community service*. This suspension period shall be in addition to the suspension period provided under § 46.2-391.2. The penalties and license forfeiture provisions set forth in §§ 16.1-278.9, 18.2-270 and 18.2-271 shall not apply to a violation of this section. Any person convicted of a violation of this section shall be eligible to attend an Alcohol Safety Action Program under the provisions of § 18.2-271.1 and may, in the discretion of the court, be issued a restricted license during the term of license suspension.

C. Notwithstanding §§ 16.1-278.8 and 16.1-278.9, upon adjudicating a juvenile delinquent based upon a violation of this section, the juvenile and domestic relations district court shall order disposition as provided in subsection B.

2. That the provisions of this act shall expire on July 1, 2010.

3. That the Department of Criminal Justice Services shall submit to the Chairmen of the House and Senate Committees for Courts of Justice an interim report not later than January 15, 2009, and a final report not later than November 1, 2009, on the number of detentions pursuant to § 18.2-266.1 of the Code of Virginia that are in violation of the federal Juvenile Justice and Delinquency Prevention Act.