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HOUSE BILL NO. 558

Offered January 9, 2008

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A BILL to amend and reenact §§ 18.2-266, 46.2-304, 46.2-341.24, and 46.2-411 of the Code of Virginia, relating to driving while intoxicated; elimination of requirement that intoxicant be self-administered.

Patron—Valentine

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-266, 46.2-304, 46.2-341.24, and 46.2-411 of the Code of Virginia are amended and reenacted as follows:

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

It shall be unlawful for any person to drive or operate any motor vehicle, engine or train (i) while such person has a blood alcohol concentration of 0.08 percent or more by weight by volume or 0.08 grams or more per 210 liters of breath as indicated by a chemical test administered as provided in this article, (ii) while such person is under the influence of alcohol, (iii) while such person *knows or should know that he* is under the influence of any narcotic drug or any other ~~self-administered~~ intoxicant or drug of whatsoever nature, or any combination of such drugs, to a degree which impairs his ability to drive or operate any motor vehicle, engine or train safely, (iv) while such person is under the combined influence of alcohol and any drug or drugs to a degree which impairs his ability to drive or operate any motor vehicle, engine or train safely, or (v) while such person has a blood concentration of any 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. A charge alleging a violation of this section shall support a conviction under clauses (i), (ii), (iii), (iv), or (v).

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

§ 46.2-304. Limited operation of farm tractor by persons convicted of driving under influence of intoxicants or drugs.

The conviction of a person for driving under the influence of intoxicants or some other ~~self-administered~~ drug in violation of any state law or local ordinance shall not prohibit the person from operating a farm tractor on the highways when it is necessary to move the tractor from one tract of land used for agricultural purposes to another tract of land used for the same purposes, provided that the distance between the said tracts of land does not exceed five miles.

§ 46.2-341.24. Driving a commercial motor vehicle while intoxicated, etc.

A. It shall be unlawful for any person to drive or operate any commercial motor vehicle (i) while such person has a blood alcohol concentration of 0.08 percent or more by weight by volume or 0.08 grams per 210 liters of breath as indicated by a chemical test administered as provided in this article; (ii) while such person is under the influence of alcohol; (iii) while such person *knows or should know that he* is under the influence of any narcotic drug or any other ~~self-administered~~ intoxicant or drug of whatsoever nature, or any combination of such drugs, to a degree which impairs his ability to drive or operate any commercial motor vehicle safely; (iv) while such person is under the combined influence of alcohol and any drug or drugs to a degree which impairs his ability to drive or operate any commercial motor vehicle safely; or (v) while such person has a blood concentration of any 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.

B. It shall be unlawful and a lesser included offense of an offense under provision (i), (ii), or (iv) of subsection A of this section for a person to drive or operate a commercial motor vehicle while such person has a blood alcohol concentration of 0.04 percent or more by weight by volume or 0.04 grams or more per 210 liters of breath as indicated by a chemical test administered in accordance with the provisions of this article.

§ 46.2-411. Reinstatement of suspended or revoked license or other privilege to operate or register a motor vehicle; proof of financial responsibility; reinstatement fee.

A. The Commissioner may refuse, after a hearing if demanded, to issue to any person whose license has been suspended or revoked any new or renewal license, or to register any motor vehicle in the name

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59 of the person, whenever he deems or in case of a hearing finds it necessary for the safety of the public
60 on the highways in the Commonwealth.

61 B. Before granting or restoring a license or registration to any person whose driver's license or other
62 privilege to drive motor vehicles or privilege to register a motor vehicle has been revoked or suspended
63 pursuant to § 46.2-389, 46.2-391, 46.2-391.1, or 46.2-417, the Commissioner shall require proof of
64 financial responsibility in the future as provided in Article 15 (§ 46.2-435 et seq.) of this chapter, but no
65 person shall be licensed who may not be licensed under the provisions of §§ 46.2-389 through 46.2-431.

66 C. Whenever the driver's license or registration cards, license plates and decals, or other privilege to
67 drive or to register motor vehicles of any resident or nonresident person is suspended or revoked by the
68 Commissioner or by a district court or circuit court pursuant to the provisions of Title 18.2 or this title,
69 or any valid local ordinance, the order of suspension or revocation shall remain in effect and the driver's
70 license, registration cards, license plates and decals, or other privilege to drive or register motor vehicles
71 shall not be reinstated and no new driver's license, registration cards, license plates and decals, or other
72 privilege to drive or register motor vehicles shall be issued or granted unless such person, in addition to
73 complying with all other provisions of law, pays to the Commissioner a reinstatement fee of \$30. The
74 reinstatement fee shall be increased by \$30 whenever such suspension or revocation results from
75 conviction of involuntary manslaughter in violation of § 18.2-36.1; conviction of maiming resulting from
76 driving while intoxicated in violation of § 18.2-51.4; conviction of driving while intoxicated in violation
77 of § 18.2-266 or 46.2-341.24; conviction of driving after illegally consuming alcohol in violation of
78 § 18.2-266.1 or failure to comply with court imposed conditions pursuant to subsection D of
79 § 18.2-271.1; unreasonable refusal to submit to drug or alcohol testing in violation of § 18.2-268.2;
80 conviction of driving while a license, permit or privilege to drive was suspended or revoked in violation
81 of § 46.2-301 or 46.2-341.21; disqualification pursuant to § 46.2-341.20; violation of driver's license
82 probation pursuant to § 46.2-499; failure to attend a driver improvement clinic pursuant to § 46.2-503 or
83 habitual offender interventions pursuant to former § 46.2-351.1; conviction of eluding police in violation
84 of § 46.2-817; conviction of hit and run in violation of § 46.2-894; conviction of reckless driving in
85 violation of Article 7 (§ 46.2-852 et seq.) of Chapter 8 of Title 46.2 or a conviction, finding or
86 adjudication under any similar local ordinance, federal law or law of any other state. Five dollars of the
87 additional amount shall be retained by the Department as provided in this section and \$25 dollars shall
88 be transferred to the Commonwealth Neurotrauma Initiative Trust Fund established pursuant to Chapter
89 3.1 (§ 51.5-12.1 et seq.) of Title 51.5. When three years have elapsed from the termination date of the
90 order of suspension or revocation and the person has complied with all other provisions of law, the
91 Commissioner may relieve him of paying the reinstatement fee.

92 D. No reinstatement fee shall be required when the suspension or revocation of license results from
93 the person's suffering from mental or physical infirmities or disabilities from natural causes not related
94 to the use of self-administered intoxicants or drugs. No reinstatement fee shall be collected from any
95 person whose license is suspended by a court of competent jurisdiction for any reason, other than a
96 cause for mandatory suspension as provided in this title, provided the court ordering the suspension is
97 not required by § 46.2-398 to forward the license to the Department during the suspended period.

98 E. Except as otherwise provided in this section and § 18.2-271.1, reinstatement fees collected under
99 the provisions of this section shall be paid by the Commissioner into the state treasury and shall be set
100 aside as a special fund to be used to meet the expenses of the Department.

101 F. Before granting or restoring a license or registration to any person whose driver's license or other
102 privilege to drive motor vehicles or privilege to register a motor vehicle has been revoked or suspended,
103 the Commissioner shall collect from such person, in addition to all other fees provided for in this
104 section, an additional fee of \$40. The Commissioner shall pay all fees collected pursuant to this
105 subsection into the Trauma Center Fund, created pursuant to § 18.2-270.01, for the purpose of defraying
106 the costs of providing emergency medical care to victims of automobile accidents attributable to alcohol
107 or drug use.

108 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**
109 **commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot**
110 **be determined for periods of imprisonment in state adult correctional facilities and is \$0 for**
111 **periods of commitment to the custody of the Department of Juvenile Justice.**