

VIRGINIA ACTS OF ASSEMBLY -- 2017 SESSION

CHAPTER 156

An Act to amend and reenact § 46.2-400 of the Code of Virginia and to repeal § 46.2-314 of the Code of Virginia, relating to suspension of license of person not competent to drive; notice.

[H 1878]

Approved February 23, 2017

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-400 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-400. Suspension of license of person not competent to drive; restoration of license; duty of clerk of the court.

A. The Commissioner, on receipt of notice ~~that from a court~~, shall suspend the license of any person who has been legally adjudged to be incapacitated in accordance with Article 1 (§ 64.2-2000 et seq.) of Chapter 20 of Title 64.2 ~~or that~~. No driver's license shall be issued to any applicant who has previously been adjudged incapacitated and not competent to drive unless, at the time of such application, (i) the applicant has been adjudged restored to capacity by judicial decree or has a court order restoring or retaining the privilege to drive and (ii) the Department is satisfied that the applicant is competent to drive a motor vehicle with safety to persons and property pursuant to § 46.2-322 or 46.2-325. The clerk of the court in which the adjudication is made shall send a certified copy or abstract of such adjudication to the Commissioner.

B. The Commissioner shall not suspend the license or prior privilege to drive of any person legally adjudged to be incapacitated in accordance with Article 1 (§ 64.2-2000 et seq.) of Chapter 20 of Title 64.2, where the court order specifically permits such person to retain his driver's license or the privilege to drive or to apply for such license. In such case, the clerk of the court in which the adjudication is made shall not send a copy of the order to the Commissioner. However, a court may order any person adjudicated legally incapacitated to submit to an examination pursuant to § 46.2-322 or 46.2-325. In such case, the clerk of the court shall forward a copy of the order requiring an examination to the Department. Upon completion of the examination, the Department shall take whatever action may be appropriate and may (i) suspend the license or privilege to drive a motor vehicle in the Commonwealth, (ii) permit the examinee to retain his license or privilege to drive a motor vehicle in the Commonwealth, or (iii) issue a license subject to the restrictions authorized by § 46.2-329.

C. Upon receipt of notice that a person has been discharged from a facility operated or licensed by the Department of Behavioral Health and Developmental Services and is, in the opinion of the authorities of the facility, not competent because of mental illness, intellectual disability, alcoholism, or drug addiction to drive a motor vehicle with safety to persons or property, the Commissioner shall forthwith suspend his license; ~~but~~ however he shall not suspend the license if the person has been adjudged competent by judicial order or decree. The Commissioner shall require any person whose license has been suspended pursuant to this subsection to submit to an examination pursuant to § 46.2-322 or 46.2-325.

In any case in which the person's license has been suspended prior to his discharge, it shall not be returned to him unless the Commissioner is satisfied, after an examination ~~such as is required of applicants by~~ pursuant to § 46.2-322 or 46.2-325, that the person is competent to drive a motor vehicle with safety to persons and property.

~~The clerk of the court in which the adjudication is made shall forthwith send a certified copy or abstract of such adjudication to the Commissioner.~~

The facility operated or licensed by the Department of Behavioral Health and Developmental Services shall send the necessary information to the Commissioner to initiate the examination process pursuant to § 46.2-322 or 46.2-325.

D. Notwithstanding any other provision of law, the Department reserves the right to examine any licensed driver, any person applying for a driver's license or renewal thereof, or any person whose license has been suspended or revoked to determine his fitness to drive a motor vehicle pursuant to § 46.2-322 or 46.2-325.

2. That § 46.2-314 of the Code of Virginia is repealed.

3. That an emergency exists and this act is in force from its passage.