

VIRGINIA ACTS OF ASSEMBLY -- 2017 SESSION

CHAPTER 164

An Act to amend and reenact §§ 46.2-945 and 46.2-946 of the Code of Virginia, to amend the Code of Virginia by adding sections numbered 46.2-944.1 and 46.2-944.2, and to repeal § 46.2-944 of the Code of Virginia, relating to the Nonresident Violator Compact of 1977.

[S 1272]

Approved February 23, 2017

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-945 and 46.2-946 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 46.2-944.1 and 46.2-944.2 as follows:

§ 46.2-944.1. Compact entered into law; terms.

The Nonresident Violator Compact of 1977 is hereby enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

NONRESIDENT VIOLATOR COMPACT of 1977

Article I

Findings, Declaration of Policy and Purpose

(a) The party jurisdictions find that:

(1) In most instances, a motorist who is cited for a traffic violation in a jurisdiction other than his home jurisdiction:

(i) Must post collateral or bond to secure appearance for trial at a later date; or

(ii) If unable to post collateral or bond, is taken into custody until the collateral or bond is posted; or

(iii) Is taken directly to court for the trial to be held.

(2) In some instance, the motorist's driver's license may be deposited as collateral to be returned after he has complied with the terms of the citation.

(3) The purpose of the practices described in paragraphs (1) and (2) above is to ensure compliance with the terms of a traffic citation by the motorist who, if permitted to continue on his way after receiving the traffic citation, could return to his home jurisdiction and disregard his duty under the terms of the traffic citation.

(4) A motorist receiving a traffic citation in his home jurisdiction is permitted, except for certain violations, to accept the citation from the officer at the scene of the violation and to immediately continue on his way after promising or being instructed to comply with the terms of the citation.

(5) The practice described in paragraph (1) above causes unnecessary inconvenience and, at times, a hardship for the motorist who is unable at the time to post collateral, furnish a bond, stand trial, or pay the fine, and thus is compelled to remain in custody until some arrangement can be made.

(6) The deposit of a driver's license as a bail bond, as directed in paragraph (2) is viewed with disfavor.

(7) The practices described herein consume an undue amount of law enforcement time.

(b) It is the policy of the party jurisdictions to:

(1) Seek compliance with the laws, ordinances, and administrative rules and regulations relating to the operation of motor vehicles in each of the jurisdictions.

(2) Allow motorists to accept a traffic citation for certain violations and proceed on their way without delay whether or not the motorist is a resident of the jurisdiction in which the citation was issued.

(3) Extend cooperation to its fullest extent among the jurisdictions for obtaining compliance with the terms of a traffic citation issued in one jurisdiction to a resident of another jurisdiction.

(4) Maximize effective utilization of law enforcement personnel and assist court systems in the efficient disposition of traffic violations.

(c) The purpose of the compact is to:

(1) Provide a means through which the party jurisdictions may participate in a reciprocal program to effectuate the policies enumerated in paragraph (b) above in a uniform and orderly manner.

(2) Provide for the fair and impartial treatment of traffic violators operating within party jurisdictions in recognition of the motorist's right of due process and the sovereign status of a party jurisdiction.

Article II

Definitions

(a) In the Nonresident Violator Compact, the following words have the meaning indicated, unless the context requires otherwise.

(b) Definitions.

(1) "Citation" means any summons, ticket, or other official document issued by a police officer for a traffic violation containing an order which requires the motorist to respond.

(2) "Collateral" means any cash or other security deposited to secure an appearance for trial, following the issuance by a police officer of a citation for a traffic violation.

(3) "Compliance"* means the act of answering a citation, summons or subpoena through appearance at court, a tribunal, and/or payment of fines and costs.

(4) "Court" means a court of law or traffic tribunal.

(5) "Driver's License" means any license or privilege to operate a motor vehicle issued under the laws of the home jurisdiction.

(6) "Home Jurisdiction" means the jurisdiction that issued the driver's license of the traffic violator.

(7) "Issuing Jurisdiction" means the jurisdiction in which the traffic citation was issued to the motorist.

(8) "Jurisdiction" means a state, territory, or possession of the United States, the District of Columbia, Commonwealth of Puerto Rico, Provinces of Canada, or other countries.

(9) "Motorist" means driver of a motor vehicle operating in a party jurisdiction other than the home jurisdiction.

(10) "Personal Recognizance" means an agreement by a motorist made at the time of issuance of the traffic citation that he will comply with the terms of that traffic citation.

(11) "Police Officer" means any individual authorized by the party jurisdiction to issue a citation for a traffic violation.

(12) "Terms of the Citation" means those options expressly stated upon the citation.

*For purposes of the Nonresident Violator Compact the posting of collateral or bail has not been considered in this definition.

Article III

Procedure for Issuing Jurisdiction

(a) When issuing a citation for a traffic violation, a police officer shall issue the citation to a motorist who possesses a driver's license issued by a party jurisdiction and shall not, subject to the exceptions noted in paragraph (b) of this article, require the motorist to post collateral to secure appearance, if the officer receives the motorist's personal recognizance that he or she will comply with the terms of the citation.

(b) Personal recognizance is acceptable only if not prohibited by law. If mandatory appearance is required, it should take place immediately following issuance of the citation.

(c) Upon failure of a motorist to comply with the terms of a traffic citation, the appropriate official shall report the failure to comply to the licensing authority of the jurisdiction in which the traffic citation was issued. The report shall be made in accordance with procedures specified by the issuing jurisdiction and shall contain information as specified in the Compact Manual as minimum requirements for effective processing by the home jurisdiction.

(d) Upon receipt of the report, the licensing authority of the issuing jurisdiction shall transmit to the licensing authority in the home jurisdiction of the motorist, the information in a form and content as contained in the Compact Manual.

(e) The licensing authority of the issuing jurisdiction need not suspend the privilege of a motorist for whom a report has been transmitted.

(f) The licensing authority of the issuing jurisdiction shall not transmit a report on any violation if the date of transmission is more than six months after the date on which the traffic citation was issued.

(g) The licensing authority of the issuing jurisdiction shall not transmit a report on any violation where the date of issuance of the citation predates the most recent of the effective dates of entry for the two jurisdictions affected.

Article IV

Procedure for Home Jurisdiction

(a) Upon receipt of a report of a failure to comply from the licensing authority of the issuing jurisdiction, the licensing authority of the home jurisdiction shall notify the motorist and initiate a suspension action in accordance with the home jurisdiction's procedures, to suspend the motorist's driver's license until satisfactory evidence of compliance with the terms of the traffic citation has been furnished to the home jurisdiction licensing authority. Due process safeguards will be accorded.

(b) The licensing authority of the home jurisdiction shall maintain a record of actions taken and make reports to issuing jurisdictions as provided in the Compact Manual.

Article V

Applicability of Other Laws

Except as expressly required by provisions of this compact, nothing contained herein shall be construed to affect the right of any party jurisdiction to apply any of its other laws relating to license to drive to any person or circumstance, or to invalidate or prevent any driver license agreement or other cooperative arrangements between a party jurisdiction and a nonparty jurisdiction.

Article VI

Compact Administrator Procedures

(a) For the purpose of administering the provisions of this compact and to serve as a governing body for the resolution of all matters relating to the operation of this compact, a Board of Compact Administrators is established. The board shall be composed of one representative from each party jurisdiction to be known as the compact administrator. The compact administrator shall be appointed by the jurisdiction executive and will serve and be subject to removal in accordance with the laws of the jurisdiction he represents. A compact administrator may provide for the discharge of his duties and the performance of his functions as a board member by an alternate. An alternate may not be entitled to serve unless written notification of his identity has been given to the board.

(b) Each member of the Board of Compact Administrators shall be entitled to one vote. No action of the board shall be binding unless taken at a meeting at which a majority of the total number of votes on the board are cast in favor. Action by the board shall be only at a meeting at which a majority of the party jurisdictions are represented.

(c) The board shall elect annually, from its membership, a chairman and vice chairman.

(d) The board shall adopt bylaws, not inconsistent with the provisions of this compact or the laws of a party jurisdiction, for the conduct of its business and shall have the power to amend and rescind its bylaws.

(e) The board may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any jurisdiction, the United States, or any other governmental agency, and may receive, utilize, and dispose of the same.

(f) The board may contract with, or accept services or personnel from any governmental or intergovernmental agency, person, firm, or corporation, or any private nonprofit organization or institution.

(g) The board shall formulate all necessary procedures and develop uniform forms and documents for administering the provisions of this compact. All procedures and forms adopted pursuant to board action shall be contained in the Compact Manual.

Article VII

Entry into Compact and Withdrawal

(a) This compact shall become effective when it has been adopted by at least two jurisdictions.

(b) (1) Entry into the compact shall be made by a Resolution of Ratification executed by the authorized officials of the applying jurisdiction and submitted to the chairman of the board.

(2) The resolution shall be in a form and content as provided in the Compact Manual and shall include statements that in substance are as follows:

(i) A citation of the authority by which the jurisdiction is empowered to become a party to this compact.

(ii) Agreement to comply with the terms and provisions of the compact.

(iii) That compact entry is with all jurisdiction then party to the compact and with any jurisdiction that legally becomes a party to the compact.

(3) The effective date of entry shall be specified by the applying jurisdiction, but it shall not be less than 60 days after notice has been given by the chairman of the Board of Compact Administrators or by the secretariat of the board to each party jurisdiction that the resolution from the applying jurisdiction has been received.

(c) A party jurisdiction may withdraw from this compact by official written notice to the other party jurisdictions, but a withdrawal shall not take effect until 90 days after notice of withdrawal is given. The notice shall be directed to the compact administrator of each member jurisdiction. No withdrawal shall affect the validity of this compact as to the remaining party jurisdictions.

Article VIII

Exceptions

The provisions of this compact shall not apply to parking or standing violations, highway weight limit violations, and violations of law governing the transportation of hazardous materials.

Article IX

Amendments to the Compact

(a) This compact may be amended from time to time. Amendments shall be presented in resolution form to the chairman of the Board of Compact Administrators and may be initiated by one or more party jurisdictions.

(b) Adoption of an amendment shall require endorsement of all party jurisdictions and shall become effective 30 days after the date of the last endorsement.

(c) Failure of a party jurisdiction to respond to the compact chairman within 120 days after receipt of the proposed amendment shall constitute endorsement.

Article X

Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes stated herein. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the construction of any party jurisdiction or of the United States

or the applicability thereof to any government agency, person, or circumstance, the compact shall not be affected thereby. If this compact shall be held contrary to the constitution of any jurisdiction party thereto, the compact shall remain in full force and effect as to the remaining jurisdictions and in full force and effect as to the jurisdiction affected as to all severable matters.

Article XI

Title

This compact shall be known as the Nonresident Violator Compact of 1977.

§ 46.2-944.2. Department of Motor Vehicles to be "licensing authority" within meaning of compact; duties of Department.

As used in the Nonresident Violator Compact of 1977, which shall apply only to traffic infractions as defined in § 46.2-100, "licensing authority," with reference to the Commonwealth, means the Department of Motor Vehicles. The Department shall furnish to the appropriate authorities of any other party state any information or documents reasonably necessary to facilitate the administration of Articles III and IV of the compact.

§ 46.2-945. Issuance of citation to motorist; party jurisdiction; police officer to report noncompliance with citation.

A. When issuing a citation for a traffic violation, a police officer shall issue the citation to a motorist who is a resident of or holds a driver's license issued by a party jurisdiction ~~and shall not, subject to the exceptions noted in subsection C of this section, require such motorist to post collateral or bond to secure appearance for trial, but shall accept such motorist's written promise that he will comply with the terms of such citation; in accordance with Article III of the Nonresident Violator Compact, provided, however, that the motorist shall have the right upon his request to post collateral or bond in a manner provided by law and, in such case, the provisions of this article shall not apply.~~

B. In the absence of the motorist's ~~written promise~~ *personal recognizance*, the officer shall proceed according to the provisions of § 46.2-940.

C. No motorist shall be entitled to receive a citation under the terms of ~~subsection A of this section~~ *this article*, nor shall any police officer issue such citation under the same, in the event ~~that~~ the offense for which the citation is issued ~~shall be~~ *is* one of the following: (i) an offense for which the issuance of a citation in lieu of a hearing or the posting of collateral or bond is prohibited by the laws of ~~this the~~ Commonwealth; or (ii) an offense, the conviction of or the forfeiture of collateral for which requires the revocation of the motorist's license.

D. ~~Upon the failure of any motorist to comply with the terms of a traffic citation, the police officer or the appropriate official shall report this fact to the Department of Motor Vehicles. Such~~ *The* report required by subsection (c) of Article III of the Nonresident Violator Compact shall clearly identify the motorist; describe the violation, specifying the section of the statute, code, or ordinance violated; ~~shall indicate the location of the offense; give a description of vehicle involved; and show the registration or license number of the vehicle. Such report shall be signed by the police officer or appropriate official.~~

§ 46.2-946. Department to transmit officer's report to party jurisdiction; suspension of resident's license for noncompliance with citation issued by party jurisdiction.

Upon receipt of the report as described in § 46.2-945, the Department of Motor Vehicles shall transmit a certified copy of such report to the official in charge of the issuance of driver's licenses in the home jurisdiction in which the motorist resides or by which he is licensed.

Upon receipt from the issuing jurisdiction of a certification of noncompliance with a citation by a motorist holding a driver's license issued by this Commonwealth, the Commissioner of the Department of Motor Vehicles forthwith shall suspend such motorist's driver's license. The order of suspension authorized by subsection (a) of Article IV of the Nonresident Violator Compact shall indicate the reason for the order; and shall notify the motorist that his license shall remain suspended until he has furnished evidence satisfactory to the Commissioner that he has fully complied with the terms of the citation ~~which that~~ was the basis for the suspension order.

The licensing authority of the issuing jurisdiction may suspend the privilege of a motorist for whom a report has been transmitted.

It shall be the duty of the Commissioner of Motor Vehicles to ascertain and remain informed as to which jurisdictions are party jurisdictions hereunder and, accordingly, to maintain a current listing of such jurisdictions, which listing he shall from time to time cause to be disseminated among the appropriate departments, divisions, bureaus, and agencies of ~~this the~~ Commonwealth; the principal executive officers of the several counties, cities, and towns of ~~this the~~ Commonwealth; and the licensing authorities in all other jurisdictions ~~which that~~ are, have been, or claim to be a party jurisdiction pursuant hereto.

Consistent with the terms of the applicable Nonresident Violator Compact, the home jurisdiction shall take no action regarding any report transmitted by the issuing jurisdiction, which is transmitted more than six months after the date on which the traffic citation was issued.

Consistent with the terms of the applicable Nonresident Violator Compact, the home jurisdiction shall take no action regarding any report on any violation where the date of issuance of the citation predates the entry into the compact for the two party jurisdictions affected.

2. That § 46.2-944 of the Code of Virginia is repealed.