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SENATE BILL NO. 402

Offered January 10, 2018

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A *BILL to amend and reenact §§ 18.2-270.1, 18.2-270.2, and 18.2-271.1 of the Code of Virginia, relating to driving under the influence; secure transdermal alcohol monitoring.*

Patron—McDougle

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-270.1, 18.2-270.2, and 18.2-271.1 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-270.1. Ignition interlock systems; secure transdermal alcohol monitoring device; penalty.

A. For purposes of this section and § 18.2-270.2:

"Commission" means the Commission on VASAP.

"Department" means the Department of Motor Vehicles.

"Ignition interlock system" means a device that (i) connects a motor vehicle ignition system to an analyzer that measures a driver's blood alcohol content; (ii) prevents a motor vehicle ignition from starting if a driver's blood alcohol content exceeds 0.02 percent; and (iii) is equipped with the ability to perform a rolling retest and to electronically log the blood alcohol content during ignition, attempted ignition and rolling retest.

"Rolling retest" means a test of the vehicle operator's blood alcohol content required at random intervals during operation of the vehicle, which triggers the sounding of the horn and flashing of lights if (i) the test indicates that the operator has a blood alcohol content which exceeds 0.02 percent or (ii) the operator fails to take the test.

"Secure transdermal alcohol monitoring device" means a device that provides continuous remote transdermal alcohol testing of the breath or blood or transdermal alcohol concentration levels regardless of the location of the person being monitored.

B. In addition to any penalty provided by law for a conviction under § 18.2-51.4 or 18.2-266 or a substantially similar ordinance of any county, city or town, any court of proper jurisdiction shall, as a condition of a restricted license, prohibit an offender from operating a motor vehicle that is not equipped with a functioning, certified ignition interlock system for any period of time not to exceed the period of license suspension and restriction, not less than six consecutive months without alcohol-related violations of the interlock requirements. The court shall, for a conviction under § 18.2-51.4, a second or subsequent offense of § 18.2-266 or a substantially similar ordinance of any county, city or town, or as a condition of license restoration pursuant to subsection C of § 18.2-271.1 or § 46.2-391, require that such a system be installed on each motor vehicle, as defined in § 46.2-100, owned by or registered to the offender, in whole or in part, for such period of time. Such condition shall be in addition to any purposes for which a restricted license may be issued pursuant to § 18.2-271.1. The court may order the installation of an ignition interlock system to commence immediately upon conviction. A fee of \$20 to cover court and administrative costs related to the ignition interlock system shall be paid by any such offender to the clerk of the court. The court shall require the offender to install an electronic log device with the ignition interlock system on a vehicle designated by the court to measure the blood alcohol content at each attempted ignition and random rolling retest during operation of the vehicle. The offender shall be enrolled in and supervised by an alcohol safety action program pursuant to § 18.2-271.1 and to conditions established by regulation under § 18.2-270.2 by the Commission during the period for which the court has ordered installation of the ignition interlock system. The offender shall be further required to provide to such program, at least quarterly during the period of court ordered ignition interlock installation, a printout from such electronic log indicating the offender's blood alcohol content during such ignitions, attempted ignitions, and rolling retests, and showing attempts to circumvent or tamper with the equipment. The period of time during which the offender (i) is prohibited from operating a motor vehicle that is not equipped with an ignition interlock system or (ii) is required to have an ignition interlock system installed on each motor vehicle owned by or registered to the offender, in whole or in part, shall be calculated from the date the offender is issued a restricted license by the court; however, such period of time shall be tolled upon the expiration of the restricted license issued by the court until such time as the person is issued a restricted license by the Department.

C. In any case in which the court requires the installation of an ignition interlock system, the court shall order the offender not to operate any motor vehicle that is not equipped with such a system for the

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59 period of time that the interlock restriction is in effect. The clerk of the court shall file with the
60 Department of Motor Vehicles a copy of the order, which shall become a part of the offender's
61 operator's license record maintained by the Department. The Department shall issue to the offender for
62 the period during which the interlock restriction is imposed a restricted license which shall appropriately
63 set forth the restrictions required by the court under this subsection and any other restrictions imposed
64 upon the offender's driving privilege, and shall also set forth any exception granted by the court under
65 subsection F H.

66 D. *The court may, upon request of any person prohibited under subsection B from operating a motor*
67 *vehicle that is not equipped with a functioning ignition interlock system, order that the offender (i) wear*
68 *a secure transdermal alcohol monitoring device for a period of time coextensive with the period of time*
69 *of the prohibition imposed under subsection B and (ii) refrain from alcohol consumption during such*
70 *period of time. A fee of \$20 to cover court and administrative costs related to the secure transdermal*
71 *alcohol monitoring device shall be paid by any such offender to the clerk of the court. The offender*
72 *shall be enrolled in and supervised by an alcohol safety action program pursuant to § 18.2-271.1 and to*
73 *conditions established by regulation under § 18.2-270.2 by the Commission during the period for which*
74 *the court has ordered the wearing of a secure transdermal alcohol monitoring device. The offender shall*
75 *be further required to provide to such program, at least quarterly during the period of time the offender*
76 *is ordered to wear a secure transdermal alcohol monitoring device, a copy of the data from such device*
77 *indicating the offender's blood alcohol content and showing attempts to circumvent or tamper with the*
78 *device. The period of time during which the offender is required to wear a secure transdermal alcohol*
79 *monitoring device shall be calculated from the date the offender is issued a restricted license by the*
80 *court; however, such period of time shall be tolled upon the expiration of the restricted license issued*
81 *by the court until such time as the person is issued a restricted license by the Department.*

82 E. The offender shall be ordered to provide the appropriate ASAP program, within 30 days of the
83 effective date of the order of court, proof of the installation of the ignition interlock system *and, if*
84 *applicable, proof that the offender is wearing a secure transdermal alcohol monitoring device.* The
85 Program shall require the offender to have the system *or device* monitored and calibrated for proper
86 operation at least every 30 days by an entity approved by the Commission under the provisions of
87 § 18.2-270.2 and to demonstrate proof thereof. The offender shall pay the cost of leasing or buying and
88 monitoring and maintaining the ignition interlock system *and the secure transdermal alcohol monitoring*
89 *device.* Absent good cause shown, the court may revoke the offender's driving privilege for failing to (i)
90 timely install such system *or wear such device* or (ii) have the system *or device* properly monitored and
91 calibrated.

92 F. No person shall start or attempt to start a motor vehicle equipped with an ignition interlock
93 system for the purpose of providing an operable motor vehicle to a person who is prohibited under this
94 section from operating a motor vehicle that is not equipped with an ignition interlock system. No person
95 shall tamper with, or in any way attempt to circumvent the operation of, an ignition interlock system
96 that has been installed in the motor vehicle of a person under this section. Except as authorized in
97 subsection F H, no person shall knowingly furnish a motor vehicle not equipped with a functioning
98 ignition interlock system to any person prohibited under subsection B from operating any motor vehicle
99 which is not equipped with such system. A violation of this subsection is punishable as a Class 1
100 misdemeanor.

101 G. *No person shall tamper with, or in any way attempt to circumvent the operation of, a secure*
102 *transdermal alcohol monitoring device that an offender is ordered to wear under this section. A*
103 *violation of this subsection is punishable as a Class 1 misdemeanor.*

104 F. H. Any person prohibited from operating a motor vehicle under subsection B may, solely in the
105 course of his employment, operate a motor vehicle that is owned or provided by his employer without
106 installation of an ignition interlock system, if the court expressly permits such operation as a condition
107 of a restricted license at the request of the employer; such person shall not be permitted to operate any
108 other vehicle without a functioning ignition interlock system and, in no event, shall such person be
109 permitted to operate a school bus, school vehicle, or a commercial motor vehicle as defined in
110 § 46.2-341.4. This subsection shall not apply if such employer is an entity wholly or partially owned or
111 controlled by the person otherwise prohibited from operating a vehicle without an ignition interlock
112 system.

113 G. I. The Commission shall promulgate such regulations and forms as are necessary to implement the
114 procedures outlined in this section.

115 **§ 18.2-270.2. Ignition interlock system; secure transdermal alcohol monitoring device;**
116 **certification by Commission on VASAP; regulations; sale or lease; monitoring use; reports.**

117 A. The Executive Director of the Commission on VASAP or his designee shall, pursuant to approval
118 by the Commission, certify ignition interlock systems for use in ~~this~~ the Commonwealth and adopt
119 regulations and forms for the installation, maintenance and certification of such ignition interlock
120 systems.

121 The regulations adopted shall include requirements that ignition interlock systems:
 122 1. Do not impede the safe operation of the vehicle;
 123 2. Minimize opportunities to be bypassed, circumvented or tampered with, and provide evidence
 124 thereof;
 125 3. Correlate accurately with established measures of blood alcohol content and be calibrated
 126 according to the manufacturer's specifications;
 127 4. Work accurately and reliably in an unsupervised environment;
 128 5. Have the capability to provide an accurate written measure of blood alcohol content for each
 129 ignition, attempted ignition, and rolling retest, and record each attempt to circumvent or tamper with the
 130 equipment;
 131 6. Minimize inconvenience to other users;
 132 7. Be manufactured or distributed by an entity responsible for installation, user training, service, and
 133 maintenance, and meet the safety and operational requirements promulgated by the National Highway
 134 Transportation Safety Administration;
 135 8. Operate reliably over the range of motor vehicle environments or motor vehicle manufacturing
 136 standards;
 137 9. Be manufactured by an entity which is adequately insured against liability, in an amount
 138 established by the Commission, including product liability and installation and maintenance errors;
 139 10. Provide for an electronic log of the driver's experience with the system with an information
 140 management system capable of electronically delivering information to the agency supervising the
 141 interlock user within ~~twenty-four~~ 24 hours of the collection of such information from the datalogger; and
 142 11. Provide for a rolling retest of the operator's blood alcohol content.
 143 *B. The Executive Director of the Commission on VASAP or his designee shall, pursuant to approval*
 144 *by the Commission, certify secure transdermal alcohol monitoring devices for use in the Commonwealth*
 145 *and adopt regulations and forms for the installation, maintenance, and certification of such secure*
 146 *transdermal alcohol monitoring devices.*
 147 *C. Such regulations shall also provide for the establishment of a fund, using a percentage of fees*
 148 *received by the manufacturer or distributor providing ignition interlock services or secure transdermal*
 149 *alcohol monitoring services, to afford persons found by the court to be indigent all or part of the costs*
 150 *of an ignition interlock system or secure transdermal alcohol monitoring device.*
 151 *D. The Commission shall design and adopt a warning label to be affixed to an ignition interlock*
 152 *system or secure transdermal alcohol monitoring device upon installation. The warning label shall state*
 153 *that a person tampering with, or attempting to circumvent the ignition interlock system or secure*
 154 *transdermal alcohol monitoring device shall be guilty of a Class 1 misdemeanor and, upon conviction,*
 155 *shall be subject to a fine or incarceration or both.*
 156 *E. The Commission shall publish a list of certified ignition interlock systems and secure transdermal*
 157 *alcohol monitoring devices and shall ensure that such systems or devices are available throughout the*
 158 *Commonwealth. The local alcohol safety action program shall make the list available to eligible*
 159 *offenders, who shall have the responsibility and authority to choose which certified ignition interlock*
 160 *company or certified secure transdermal alcohol monitoring company will supply the offender's*
 161 *equipment. A manufacturer or distributor of an ignition interlock system or a secure transdermal*
 162 *alcohol monitoring device that seeks to sell or lease the ignition interlock system or a secure*
 163 *transdermal alcohol monitoring device to persons subject to the provisions of § 18.2-270.1 shall pay the*
 164 *reasonable costs of obtaining the required certification, as set forth by the Commission.*
 165 *B. F. A person may not sell or lease or offer to sell or lease an ignition interlock system or a secure*
 166 *transdermal alcohol monitoring device to any person subject to the provisions of § 18.2-270.1 unless:*
 167 1. The system or device has been certified by the Commission; and
 168 2. The warning label adopted by the Commission is affixed to the system.
 169 *G. A manufacturer or distributor of an ignition interlock system or secure transdermal alcohol*
 170 *monitoring device shall provide such services as may be required at no cost to the Commonwealth. Such*
 171 *services shall include a toll free, ~~twenty-four hour~~ 24-hour telephone number for the users of ignition*
 172 *interlock systems or secure transdermal alcohol monitoring devices.*
 173 **§ 18.2-271.1. Probation, education, and rehabilitation of person charged or convicted; person**
 174 **convicted under law of another state or federal law.**
 175 A. Any person convicted of a first or second offense of § 18.2-266, or any ordinance of a county,
 176 city, or town similar to the provisions thereof, or provisions of subsection A of § 46.2-341.24, shall be
 177 required by court order, as a condition of probation or otherwise, to enter into and successfully complete
 178 an alcohol safety action program in the judicial district in which such charge is brought or in any other
 179 judicial district upon such terms and conditions as the court may set forth. However, upon motion of a
 180 person convicted of any such offense following an assessment of the person conducted by an alcohol
 181 safety action program, the court, for good cause, may decline to order participation in such a program if

182 the assessment by the alcohol safety action program indicates that intervention is not appropriate for
183 such person. In no event shall such persons be permitted to enter any such program which is not
184 certified as meeting minimum standards and criteria established by the Commission on the Virginia
185 Alcohol Safety Action Program (VASAP) pursuant to this section and to § 18.2-271.2. However, any
186 person charged with a violation of a first or second offense of § 18.2-266, or any ordinance of a county,
187 city, or town similar to the provisions thereof, or provisions of subsection A of § 46.2-341.24, may, at
188 any time prior to trial, enter into an alcohol safety action program in the judicial district in which such
189 charge is brought or in any other judicial district. Any person who enters into such program prior to
190 trial may pre-qualify with the program to have an ignition interlock system installed on any motor
191 vehicle owned or operated by him. However, no ignition interlock company shall install an ignition
192 interlock system on any such vehicle until a court issues to the person a restricted license with the
193 ignition interlock restriction.

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

202 C. Upon conviction of a violation of § 18.2-266 or any ordinance of a county, city or town similar to
203 the provisions thereof, or subsection A of § 46.2-341.24, the court shall impose the sentence authorized
204 by § 18.2-270 or 46.2-341.28 and the license revocation as authorized by § 18.2-271. In addition, if the
205 conviction was for a second offense committed within less than 10 years after a first such offense, the
206 court shall order that restoration of the person's license to drive be conditioned upon the installation of
207 an ignition interlock system on each motor vehicle, as defined in § 46.2-100, owned by or registered to
208 the person, in whole or in part, for a period of six months beginning at the end of the three year license
209 revocation, unless such a system has already been installed for six months prior to that time pursuant to
210 a restricted license order under subsection E. Upon a finding that a person so convicted is required to
211 participate in the program described herein, the court shall enter the conviction on the warrant, and shall
212 note that the person so convicted has been referred to such program. The court may then proceed to
213 issue an order in accordance with subsection E, if the court finds that the person so convicted is eligible
214 for a restricted license. If the court finds good cause for a person not to participate in such program or
215 subsequently that such person has violated, without good cause, any of the conditions set forth by the
216 court in entering the program, the court shall dispose of the case as if no program had been entered, in
217 which event the revocation provisions of § 46.2-389 and subsection A of § 46.2-391 shall be applicable
218 to the conviction. The court shall, upon final disposition of the case, send a copy of its order to the
219 Commissioner of the Department of Motor Vehicles. If such order provides for the issuance of a
220 restricted license, the Commissioner of the Department of Motor Vehicles, upon receipt thereof, shall
221 issue a restricted license. The period of time during which the person (i) is prohibited from operating a
222 motor vehicle that is not equipped with an ignition interlock system ~~or~~, (ii) is required to have an
223 ignition interlock system installed on each motor vehicle owned by or registered to the person, in whole
224 or in part, *or (iii) is required to wear a secure transdermal alcohol monitoring device* shall be
225 calculated from the date the person is issued a restricted license by the court; however, such period of
226 time shall be tolled upon the expiration of the restricted license issued by the court until such time as
227 the person is issued a restricted license by the Department of Motor Vehicles. Appeals from any such
228 disposition shall be allowed as provided by law. The time within which an appeal may be taken shall be
229 calculated from the date of the final disposition of the case or any motion for rehearing, whichever is
230 later.

231 D. Any person who has been convicted under the law of another state or the United States of an
232 offense substantially similar to the provisions of § 18.2-266 or subsection A of § 46.2-341.24, and whose
233 privilege to operate a motor vehicle in this Commonwealth is subject to revocation under the provisions
234 of § 46.2-389 and subsection A of § 46.2-391, may petition the general district court of the county or
235 city in which he resides that he be given probation and assigned to a program as provided in subsection
236 A and that, upon entry into such program, he be issued an order in accordance with subsection E. If the
237 court finds that such person would have qualified therefor if he had been convicted in this
238 Commonwealth of a violation of § 18.2-266 or subsection A of § 46.2-341.24, the court may grant the
239 petition and may issue an order in accordance with subsection E as to the period of license suspension
240 or revocation imposed pursuant to § 46.2-389 or subsection A of § 46.2-391. The court (i) shall, as a
241 condition of a restricted license, prohibit such person from operating a motor vehicle that is not
242 equipped with a functioning certified ignition interlock system for a period of time not to exceed the
243 period of license suspension and restriction, not less than six consecutive months without alcohol-related

violations of interlock requirements *and (ii) may, upon request of such person and as a condition of a restricted license, require such person to wear a secure transdermal alcohol monitoring device in accordance with the provisions of subsection D of § 18.2-270.1.* Such order shall be conditioned upon the successful completion of a program by the 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. The period of time during which the person (a) is prohibited from operating a motor vehicle that is not equipped with an ignition interlock system *or (b) is required to wear a secure transdermal alcohol monitoring device* shall be calculated from the date the person is issued a restricted license by the court; however, such period of time shall be tolled upon the expiration of the restricted license issued by the court until such time as the person is issued a restricted license by 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 under the law of another state or the United States, 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 or, as designated by the court, any person residing in the person's household 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; (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; (x) travel to and from a place of religious worship one day per week at a specified time and place; (xi) travel to and from appointments approved by the Division of Child Support Enforcement of the Department of Social Services as a requirement of participation in an administrative or court-ordered intensive case monitoring program for child support for which the participant maintains written proof of the appointment, including written proof of the date and time of the appointment, on his person; (xii) travel to and from jail to serve a sentence when such person has been convicted and sentenced to confinement in jail and pursuant to § 53.1-131.1 the time to be served is on weekends or nonconsecutive days; (xiii) travel to and from the facility that installed or monitors the ignition interlock in the person's vehicle; or (xiv) travel to and from a job interview for which he maintains on his person written proof from the prospective employer of the date, time, and location of the job interview. *However, if a person is ordered to wear a secure transdermal alcohol monitoring device pursuant to subsection D of § 18.2-270.1, the only conditions of a restricted license shall be those imposed pursuant to § 18.2-270.1.* 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. 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 grounds for revocation of such privilege. Notice of revocation under this subsection shall be sent forthwith to the Commissioner of the Department of Motor Vehicles.

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

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

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

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

2. That the provisions of this act may result in a net increase in periods of imprisonment or

367 commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot
368 be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter
369 836 of the Acts of Assembly of 2017 requires the Virginia Criminal Sentencing Commission to
370 assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4, the estimated amount of the
371 necessary appropriation cannot be determined for periods of commitment to the custody of the
372 Department of Juvenile Justice.

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