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SENATE BILL NO. 578

Offered January 10, 2018

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A BILL to amend and reenact §§ 19.2-354, 19.2-354.1, 46.2-301, 46.2-395, 46.2-416, and 46.2-1200.1 of the Code of Virginia, relating to suspension of license for failure or refusal to pay fines.

Patrons—Ebbin; Delegate: Levine

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-354, 19.2-354.1, 46.2-301, 46.2-395, 46.2-416, and 46.2-1200.1 of the Code of Virginia are amended and reenacted as follows:

§ 19.2-354. Authority of court to order payment of fine, costs, forfeitures, penalties or restitution in installments or upon other terms and conditions; community work in lieu of payment.

A. Whenever (i) a defendant, convicted of a traffic infraction or a violation of any criminal law of the Commonwealth or of any political subdivision thereof, or found not innocent in the case of a juvenile, is sentenced to pay a fine, restitution, forfeiture or penalty and (ii) the defendant is unable to make payment of the fine, restitution, forfeiture, or penalty and costs within 30 days of sentencing, the court shall order the defendant to pay such fine, restitution, forfeiture or penalty and any costs which the defendant may be required to pay in deferred payments or installments. The court assessing the fine, restitution, forfeiture, or penalty and costs may authorize the clerk to establish and approve individual deferred or installment payment agreements. If the defendant owes court-ordered restitution and enters into a deferred or installment payment agreement, any money collected pursuant to such agreement shall be used first to satisfy such restitution order and any collection costs associated with restitution prior to being used to satisfy any other fine, forfeiture, penalty, or cost owed. Any payment agreement authorized under this section shall be consistent with the provisions of § 19.2-354.1, including any required minimum payments or other required conditions. The requirements set forth in § 19.2-354.1 shall be posted in the clerk's office and on the court's website, if a website is available. As a condition of every such agreement, a defendant who enters into an installment or deferred payment agreement shall promptly inform the court of any change of mailing address during the term of the agreement. If the defendant is unable to make payment within 90 days of sentencing, the court may assess a one-time fee not to exceed \$10 to cover the costs of management of the defendant's account until such account is paid in full. This one-time fee shall not apply to cases in which costs are assessed pursuant to § 17.1-275.1, 17.1-275.2, 17.1-275.3, 17.1-275.4, 17.1-275.7, 17.1-275.8, or 17.1-275.9. Installment or deferred payment agreements shall include terms for payment if the defendant participates in a program as provided in subsection B or C. The court, if such sum or sums are not paid in full by the date ordered, shall proceed in accordance with § 19.2-358.

B. When a person sentenced to the Department of Corrections or a local correctional facility owes any fines, costs, forfeitures, restitution or penalties, he shall be required as a condition of participating in any work release, home/electronic incarceration or nonconsecutive days program as set forth in § 53.1-60, 53.1-131, 53.1-131.1, or 53.1-131.2 to either make full payment or make payments in accordance with his installment or deferred payment agreement while participating in such program. If, after the person has an installment or deferred payment agreement, the person fails to pay as ordered, his participation in the program may be terminated until all fines, costs, forfeitures, restitution and penalties are satisfied. The Director of the Department of Corrections and any sheriff or other administrative head of any local correctional facility shall withhold such ordered payments from any amounts due to such person. Distribution of the money collected shall be made in the following order of priority to:

1. Meet the obligation of any judicial or administrative order to provide support and such funds shall be disbursed according to the terms of such order;
2. Pay any restitution as ordered by the court;
3. Pay any fines or costs as ordered by the court;
4. Pay travel and other such expenses made necessary by his work release employment or participation in an education or rehabilitative program, including the sums specified in § 53.1-150; and
5. Defray the offender's keep.

The balance shall be credited to the offender's account or sent to his family in an amount the offender so chooses.

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59 The Board of Corrections shall promulgate regulations governing the receipt of wages paid to  
60 persons participating in such programs, the withholding of payments and the disbursement of appropriate  
61 funds.

62 C. The court shall establish a program and may provide an option to any person upon whom a fine  
63 and costs have been imposed to discharge all or part of the fine or costs by earning credits for the  
64 performance of community service work before or after imprisonment. The program shall specify the  
65 rate at which credits are earned and provide for the manner of applying earned credits against the fine  
66 or costs. The court shall have such other authority as is reasonably necessary for or incidental to  
67 carrying out this program.

68 D. When the court has authorized deferred payment or installment payments, the clerk shall give  
69 notice to the defendant that upon his failure to pay as ordered he may be fined or imprisoned pursuant  
70 to § 19.2-358 and his privilege to operate a motor vehicle will be suspended pursuant to § 46.2-395.

71 E. The failure of the defendant to enter into a deferred payment or installment payment agreement  
72 with the court or the failure of the defendant to make payments as ordered by the agreement shall allow  
73 the Tax Commissioner to act in accordance with § 19.2-349 to collect all fines, costs, forfeitures and  
74 penalties.

75 **§ 19.2-354.1. Deferred or installment payment agreements.**

76 A. For purposes of this section:

77 "Deferred payment agreement" means an agreement in which no installment payments are required  
78 and the defendant agrees to pay the full amount of the fines and costs at the end of the agreement's  
79 stated term.

80 "Fines and costs" means all fines, court costs, forfeitures, and penalties assessed in any case by a  
81 single court against a defendant for the commission of any crime or traffic infraction. "Fines and costs"  
82 includes restitution unless the court orders a separate payment schedule for restitution.

83 "Installment payment agreement" means an agreement in which the defendant agrees to make  
84 monthly or other periodic payments until the fines and costs are paid in full.

85 "Modified deferred payment agreement" means a deferred payment agreement in which the defendant  
86 also agrees to use best efforts to make monthly or other periodic payments.

87 B. The court shall give a defendant ordered to pay fines and costs written notice of the availability  
88 of deferred, modified deferred, and installment payment agreements and, if a community service  
89 program has been established, the availability of earning credit toward discharge of fines and costs  
90 through the performance of community service work. The court shall offer any defendant who is unable  
91 to pay in full the fines and costs within 30 days of sentencing the opportunity to enter into a deferred  
92 payment agreement, modified deferred payment agreement, or installment payment agreement.

93 C. The court shall not deny a defendant the opportunity to enter into a deferred, modified deferred,  
94 or installment payment agreement solely (i) because of the category of offense for which the defendant  
95 was convicted or found not innocent, (ii) because of the total amount of all fines and costs, (iii) because  
96 the defendant previously defaulted under the terms of a payment agreement, (iv) because the fines and  
97 costs have been referred for collections pursuant to § 19.2-349, (v) because the defendant has not  
98 established a payment history, or (vi) because the defendant is eligible for a restricted driver's license  
99 under subsection ~~E~~ D of § 46.2-395.

100 D. In determining the length of time to pay under a deferred, modified deferred, or installment  
101 payment agreement and the amount of the payments, a court shall take into account the defendant's  
102 financial resources and obligations, including any fines and costs owed by the defendant in other courts.  
103 In assessing the defendant's ability to pay, the court shall use a written financial statement, on a form  
104 developed by the Executive Secretary of the Supreme Court, setting forth the defendant's financial  
105 resources and obligations or conduct an oral examination of the defendant to determine his financial  
106 resources and obligations. The court may require the defendant to present a summary prepared by the  
107 Department of Motor Vehicles of the other courts in which the defendant also owes fines and costs. The  
108 length of a payment agreement and the amount of the payments shall be reasonable in light of the  
109 defendant's financial resources and obligations and shall not be based solely on the amount of fines and  
110 costs. The court may offer a payment agreement combining an initial period during which no payment  
111 of fines and costs is required followed by a period of installment payments.

112 E. A court may require a down payment as a condition of a defendant entering a deferred, modified  
113 deferred, or installment payment agreement. Any down payment shall be a minimal amount to  
114 demonstrate the defendant's commitment to paying the fines and costs. In the case of an installment  
115 payment agreement, the required down payment may not exceed (i) if the fines and costs owed are \$500  
116 or less, 10 percent of such amount or (ii) if the fines and costs owed are more than \$500, five percent  
117 of such amount or \$50, whichever is greater. A defendant may make a larger down payment than what  
118 is provided by this subsection.

119 F. All fines and costs that a defendant owes for all cases in any single court may be incorporated  
120 into one payment agreement, unless otherwise ordered by the court in specific cases. A payment

121 agreement shall include only those outstanding fines and costs for which the limitations period set forth  
122 in § 19.2-341 has not run.

123 G. Any payment received within 10 days of its due date shall be considered to be timely made.

124 H. At any time during the duration of a payment agreement, the defendant may request a  
125 modification of the agreement in writing on a form provided by the Executive Secretary of the Supreme  
126 Court, and the court may grant such modification based on a good faith showing of need.

127 I. A court shall consider a request by a defendant who has defaulted on a payment agreement to  
128 enter into a subsequent payment agreement. In determining whether to approve the request for a  
129 subsequent payment agreement, the court shall consider any change in the defendant's circumstances. A  
130 court shall require a down payment to enter into a subsequent payment agreement, provided that the  
131 down payment required to enter into a subsequent payment agreement shall not exceed (i) if the fines  
132 and costs owed are \$500 or less, 10 percent of such amount or (ii) if the fines and costs owed are more  
133 than \$500, five percent of such amount or \$50, whichever is greater. When a defendant enters into a  
134 subsequent payment agreement, a court shall not require a defendant to establish a payment history on  
135 the subsequent payment agreement before restoring the defendant's driver's license.

136 **§ 46.2-301. Driving while license, permit, or privilege to drive suspended or revoked.**

137 A. In addition to any other penalty provided by this section, any motor vehicle administratively  
138 impounded or immobilized under the provisions of § 46.2-301.1 may, in the discretion of the court, be  
139 impounded or immobilized for an additional period of up to 90 days upon conviction of an offender for  
140 driving while his driver's license, learner's permit, or privilege to drive a motor vehicle has been  
141 suspended or revoked for (i) a violation of § 18.2-36.1, 18.2-51.4, 18.2-266, 18.2-272, or 46.2-341.24  
142 or a substantially similar ordinance or law in any other jurisdiction or (ii) driving after adjudication as  
143 an habitual offender, where such adjudication was based in whole or in part on an alcohol-related  
144 offense, or where such person's license has been administratively suspended under the provisions of  
145 § 46.2-391.2. However, if, at the time of the violation, the offender was driving a motor vehicle owned  
146 by another person, the court shall have no jurisdiction over such motor vehicle but may order the  
147 impoundment or immobilization of a motor vehicle owned solely by the offender at the time of arrest.  
148 All costs of impoundment or immobilization, including removal or storage expenses, shall be paid by  
149 the offender prior to the release of his motor vehicle.

150 B. Except as provided in §§ 46.2-304 and 46.2-357, no resident or nonresident (i) whose driver's  
151 license, learner's permit, or privilege to drive a motor vehicle has been suspended or revoked or (ii) who  
152 has been directed not to drive by any court or by the Commissioner, or (iii) who has been forbidden, as  
153 prescribed by operation of any statute of the Commonwealth or a substantially similar ordinance of any  
154 county, city or town, to operate a motor vehicle in the Commonwealth shall thereafter drive any motor  
155 vehicle or any self-propelled machinery or equipment on any highway in the Commonwealth until the  
156 period of such suspension or revocation has terminated or the privilege has been reinstated or a  
157 restricted license is issued pursuant to subsection E. A clerk's notice of suspension of license for failure  
158 to pay fines or costs ~~given in accordance with~~ *pursuant to a court order as provided in § 46.2-395* shall  
159 be sufficient notice for the purpose of maintaining a conviction under this section. For the purposes of  
160 this section, the phrase "motor vehicle or any self-propelled machinery or equipment" shall not include  
161 mopeds.

162 C. A violation of subsection B is a Class 1 misdemeanor. A third or subsequent offense occurring  
163 within a 10-year period shall include a mandatory minimum term of confinement in jail of 10 days.  
164 However, the court shall not be required to impose a mandatory minimum term of confinement in any  
165 case where a motor vehicle is operated in violation of this section in a situation of apparent extreme  
166 emergency which requires such operation to save life or limb.

167 D. Upon a violation of subsection B, the court shall suspend the person's license or privilege to drive  
168 a motor vehicle for the same period for which it had been previously suspended or revoked. In the event  
169 the person violated subsection B by driving during a period of suspension or revocation which was not  
170 for a definite period of time, the court shall suspend the person's license, permit or privilege to drive for  
171 an additional period not to exceed 90 days, to commence upon the expiration of the previous suspension  
172 or revocation or to commence immediately if the previous suspension or revocation has expired;  
173 however, in the event that the person violated subsection B by driving during a period of suspension  
174 imposed pursuant to § 46.2-395, the additional 90-day suspension imposed pursuant to this subsection  
175 shall run concurrently with the suspension imposed pursuant to § 46.2-395 in accordance with subsection  
176 ~~E~~ *E* of § 46.2-395.

177 E. Any person who is otherwise eligible for a restricted license may petition each court that  
178 suspended his license pursuant to subsection D for authorization for a restricted license, provided that  
179 the period of time for which the license was suspended by the court pursuant to subsection D, if  
180 measured from the date of conviction, has expired, even though the suspension itself has not expired. A  
181 court may, for good cause shown, authorize the Department of Motor Vehicles to issue a restricted

182 license for any of the purposes set forth in subsection E of § 18.2-271.1. No restricted license shall be  
183 issued unless each court that issued a suspension of the person's license pursuant to subsection D  
184 authorizes the Department to issue a restricted license. Any restricted license issued pursuant to this  
185 subsection shall be in effect until the expiration of any and all suspensions issued pursuant to subsection  
186 D, except that it shall automatically terminate upon the expiration, cancellation, suspension, or  
187 revocation of the person's license or privilege to drive for any other cause. No restricted license issued  
188 pursuant to this subsection shall permit a person to operate a commercial motor vehicle as defined in the  
189 Commercial Driver's License Act (§ 46.2-341.1 et seq.). The court shall forward to the Commissioner a  
190 copy of its authorization entered pursuant to this subsection, which shall specifically enumerate the  
191 restrictions imposed and contain such information regarding the person to whom such a license is issued  
192 as is reasonably necessary to identify the person. The court shall also provide a copy of its authorization  
193 to the person, who may not operate a motor vehicle until receipt from the Commissioner of a restricted  
194 license. A copy of the restricted license issued by the Commissioner shall be carried at all times while  
195 operating a motor vehicle.

196 F. Any person who operates a motor vehicle or any self-propelled machinery or equipment in  
197 violation of the terms of a restricted license issued pursuant to subsection E of § 18.2-271.1 is not guilty  
198 of a violation of this section but is guilty of a violation of § 18.2-272.

199 **§ 46.2-395. Suspension of license for failure or refusal to pay fines or costs.**

200 A. Any person, whether licensed by Virginia or not, who drives a motor vehicle on the highways in  
201 the Commonwealth shall thereby, as a condition of such driving, consent to pay all lawful fines, court  
202 costs, forfeitures, restitution, and penalties assessed against him for violations of the laws of the  
203 Commonwealth; of any county, city, or town; or of the United States. For the purpose of this section,  
204 such fines and costs shall be deemed to include any fee assessed by the court under the provisions of  
205 § 18.2-271.1 for entry by a person convicted of a violation of § 18.2-51.4 or 18.2-266 into an alcohol  
206 safety action program.

207 B. In addition to any penalty provided by law and subject to the limitations on collection under  
208 §§ 19.2-340 and 19.2-341, when any person is convicted of any violation of the law of the  
209 Commonwealth or of the United States or of any valid local ordinance and fails or refuses to provide  
210 for immediate payment in full of any fine, costs, forfeitures, restitution, or penalty *within 90 days of*  
211 *such fine, costs, forfeitures, restitution, or penalty being* lawfully assessed against him, or fails to make  
212 deferred payments or installment payments as ordered by the court, the court shall *forthwith* suspend the  
213 person's privilege to drive a motor vehicle on the highways in the Commonwealth. The driver's license  
214 of the person shall continue suspended until the fine, costs, forfeiture, restitution, or penalty has been  
215 paid in full. However, if the defendant, after having his license suspended, pays the reinstatement fee to  
216 the Department of Motor Vehicles and enters into an agreement under §- 19.2-354 that is acceptable to  
217 the court to make deferred payments or installment payments of unpaid fines, costs, forfeitures,  
218 restitution, or penalties as ordered by the court, the defendant's driver's license shall thereby be restored  
219 *may, upon its own motion, require such person to show cause why his driver's license shall not be*  
220 *suspended. Upon a finding that the defendant's default was not due to an intentional refusal of the*  
221 *defendant to obey the sentence of the court, nor attributable to a failure on the defendant's part to make*  
222 *a good faith effort to obtain the necessary funds for payment, the court shall not suspend the defendant's*  
223 *driver's license but may enter an order authorizing a payment agreement pursuant to § 19.2-354. Upon*  
224 *a finding that the defendant intentionally refused to obey the sentence of the court or failed to make a*  
225 *good faith effort to obtain the necessary funds for payment, the court may suspend the defendant's*  
226 *driver's license until such time as the defendant pays in full or enters into a payment agreement*  
227 *pursuant to § 19.2-354. If the person has not obtained a license as provided in this chapter, or is a*  
228 *nonresident, the court may direct in the judgment of conviction that the person shall not drive any motor*  
229 *vehicle in Virginia for a period to coincide with the nonpayment of the amounts due.*

230 C. Before transmitting to the Commissioner a record of the person's failure or refusal to pay all or  
231 part of any fine, costs, forfeiture, restitution, or penalty or a failure to comply with an order issued  
232 pursuant to §-19.2-354, the clerk of the court that convicted the person shall provide or cause to be sent  
233 to the person written notice of the suspension of his license or privilege to drive a motor vehicle in  
234 Virginia, effective 30 days from the date of conviction, if the fine, costs, forfeiture, restitution, or  
235 penalty is not paid prior to the effective date of the suspension as stated on the notice. Notice shall be  
236 provided to the person at the time of trial or shall be mailed by first-class mail to the address certified  
237 on the summons or bail recognizance document as the person's current mailing address, or to such  
238 mailing address as the person has subsequently provided to the court as a change of address. If so  
239 mailed on the date of conviction or within five business days thereof, or if delivered to the person at the  
240 time of trial, such notice shall be adequate notice of the license suspension and of the person's ability to  
241 avoid suspension by paying the fine, costs, forfeiture, restitution, or penalty prior to the effective date.  
242 No other notice shall be required to make the suspension effective. A record of the person's failure or  
243 refusal and of the license suspension shall be sent to the Commissioner if the fine, costs, forfeiture,

244 restitution, or penalty remains unpaid on the effective date of the suspension specified in the notice or  
 245 on the failure to make a scheduled payment.

246 C1. Whenever a person provides for payment of a fine, costs, forfeiture, restitution or penalty other  
 247 than by cash and such provision for payment fails, the clerk of the court that convicted the person shall  
 248 cause to be sent to the person written notice of the failure and of the suspension of his license or  
 249 privilege to drive in Virginia. The license suspension shall be effective 10 days from the date of the  
 250 notice. The notice shall be effective notice of the suspension and of the person's ability to avoid the  
 251 suspension by paying the full amount owed by cash, cashier's check or certified check prior to the  
 252 effective date of the suspension if the notice is mailed by first class mail to the address provided by the  
 253 person to the court pursuant to subsection C or § 19.2-354. Upon such a failure of payment and notice,  
 254 the fine, costs, forfeiture, restitution or penalty due shall be paid only in cash, cashier's check or  
 255 certified check, unless otherwise ordered by the court, for good cause shown.

256 D. C. If the person pays the amounts assessed against him subsequent to the time the suspended  
 257 license has been transmitted to the Department, and his license is not under suspension or revocation for  
 258 any other lawful reason, except pursuant to this section, then the Commissioner shall return the license  
 259 to the person on presentation of the official report of the court evidencing the payment of the fine, costs,  
 260 forfeiture, restitution, or penalty.

261 E. D. Any person otherwise eligible for a restricted license may petition each court that suspended  
 262 his license pursuant to this section for authorization for a restricted license. A court may, upon written  
 263 verification of employment and for good cause shown, authorize the Department of Motor Vehicles to  
 264 issue a restricted license to operate a motor vehicle for any of the purposes set forth in subsection E of  
 265 § 18.2-271.1. No restricted license may be issued unless each court which suspended the person's  
 266 license pursuant to this section provides authorization for a restricted license. Such restricted license  
 267 shall not be issued for more than a six-month period. No restricted license issued pursuant to this  
 268 subsection shall permit a person to operate a commercial motor vehicle as defined in the Commercial  
 269 Driver's License Act (§ 46.2-341.1 et seq.).

270 The court shall forward to the Commissioner a copy of its authorization entered pursuant to this  
 271 section, which shall specifically enumerate the restrictions imposed and contain such information  
 272 regarding the person to whom such a license is issued as is reasonably necessary to identify the person.  
 273 The court shall also provide a copy of its authorization to the person, who may not operate a motor  
 274 vehicle until receipt from the Commissioner of a restricted license. A copy of the restricted license  
 275 issued by the Commissioner shall be carried at all times while operating a motor vehicle. Any person  
 276 who operates a motor vehicle in violation of any restrictions imposed pursuant to this section shall be  
 277 punished as provided in subsection C of § 46.2-301.

278 E. E. Notwithstanding any other provision of law imposing a license suspension, revocation, or  
 279 forfeiture against a person whose license is suspended pursuant to this section, the period of suspension  
 280 imposed under this section shall run concurrently with any other license suspension, revocation, or  
 281 forfeiture imposed.

282 **§ 46.2-416. Notice of suspension or revocation of license.**

283 A. Whenever it is provided in this title that a driver's license may or shall be suspended or revoked  
 284 either by the Commissioner or by a court, notice of the suspension or revocation or any certified copy  
 285 of the decision or order of the Commissioner may be sent by the Department by certified mail to the  
 286 driver at the most recent address of the driver on file at the Department. If the driver has previously  
 287 been notified by mail or in person of the suspension or revocation ~~or of an impending suspension for~~  
 288 ~~failure to pay fines and costs pursuant to § 46.2-395~~, whether notice is given by the court or  
 289 law-enforcement officials as provided by law, and the Department has been notified by the court that  
 290 notice was so given ~~and the fines and costs were not paid within 30 days~~, no notice of suspension shall  
 291 be sent by the Department to the driver. If the certificate of the Commissioner or someone designated  
 292 by him for that purpose shows that the notice or copy has been so sent or provided, it shall be deemed  
 293 prima facie evidence that the notice or copy has been sent and delivered or otherwise provided to the  
 294 driver for all purposes involving the application of the provisions of this title. In the discretion of the  
 295 Commissioner, service may be made as provided in § 8.01-296, which service on the driver shall be  
 296 made by delivery in writing to the driver in person in accordance with subdivision 1 of § 8.01-296 by a  
 297 sheriff or deputy sheriff in the county or city in which the address is located, who shall, as directed by  
 298 the Commissioner, take possession of any suspended or revoked license, registration card, or set of  
 299 license plates or decals and return them to the office of the Commissioner. No such service shall be  
 300 made if, prior to service, the driver has complied with the requirement which caused the issuance of the  
 301 decision or order. In any such case, return shall be made to the Commissioner.

302 B. In lieu of making a direct payment to sheriffs as a fee for delivery of the Department's processes,  
 303 the Commissioner shall effect a transfer of funds, on a monthly basis, to the Compensation Board to be  
 304 used to provide additional support to sheriffs' departments. The amount of funds so transferred shall be

305 as provided in the general appropriation act.

306 C. The Department may contract with the United States Postal Service or an authorized agent to use  
307 the National Change of Address System for the purpose of obtaining current address information for a  
308 person whose name appears in customer records maintained by the Department. If the Department  
309 receives information from the National Change of Address System indicating that a person whose name  
310 appears in a Department record has submitted a permanent change of address to the Postal Service, the  
311 Department may then update its records with the mailing address obtained from the National Change of  
312 Address System.

313 **§ 46.2-1200.1. Abandoning motor vehicles prohibited; penalty.**

314 No person shall cause any motor vehicle to become an abandoned motor vehicle as defined in  
315 § 46.2-1200. In any prosecution for a violation of this section, proof that the defendant was, at the time  
316 that the vehicle was found abandoned, the owner of the vehicle shall constitute in evidence a rebuttable  
317 presumption that the owner was the person who committed the violation. Such presumption, however,  
318 shall not arise if the owner of the vehicle provided notice to the Department, as provided in § 46.2-604,  
319 that he had sold or otherwise transferred the ownership of the vehicle.

320 A summons for a violation of this section shall be executed by mailing a copy of the summons by  
321 first-class mail to the address of the owner of the vehicle as shown on the records of the Department of  
322 Motor Vehicles. If the person fails to appear on the date of return set out in the summons, a new  
323 summons shall be issued and delivered to the sheriff of the county, city, or town for service on the  
324 accused personally. If the person so served then fails to appear on the date of return set out in the  
325 summons, proceedings for contempt shall be instituted.

326 Any person convicted of a violation of this section shall be subject to a civil penalty of no more than  
327 \$500. ~~If any person fails to pay any such penalty, his privilege to drive a motor vehicle on the highways~~  
328 ~~of the Commonwealth shall be suspended as provided in § 46.2-395.~~

329 All penalties collected under this section shall be paid into the state treasury to be credited to the  
330 Literary Fund as provided in § 46.2-114.