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SENATE BILL NO. 520

Offered January 8, 2020

Prefiled January 7, 2020

A *BILL to amend and reenact §§ 18.2-270.1, 18.2-270.2, 18.2-271.1 and 18.2-272 of the Code of Virginia, relating to driving under the influence; secure transdermal alcohol monitoring; penalty.*

Patron—McDougle

Referred to Committee on the Judiciary

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-270.1, 18.2-270.2, 18.2-271.1 and 18.2-272 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-270.1. Ignition interlock systems; 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 who has never been previously prohibited under*
67 *subsection B from operating a motor vehicle that is not equipped with a functioning ignition interlock*
68 *system, order that the offender (i) wear a secure transdermal alcohol monitoring device for a period of*
69 *time coextensive with the period of time of the prohibition imposed under subsection B and (ii) refrain*
70 *from alcohol consumption during such period of time. A fee of \$20 to cover court and administrative*
71 *costs related to the secure transdermal alcohol monitoring device shall be paid by any such offender to*
72 *the clerk of the court. The offender shall be enrolled in and supervised by an alcohol safety action*
73 *program pursuant to § 18.2-271.1 and shall comply with all conditions established by regulation under*
74 *§ 18.2-270.2 by the Commission during the period for which the court has ordered the wearing of a*
75 *secure transdermal alcohol monitoring device. The offender shall be further required to provide to such*
76 *program, at least quarterly during the period of time the offender is ordered to wear a secure*
77 *transdermal alcohol monitoring device, a copy of the data from such device indicating the offender's*
78 *blood alcohol content and showing attempts to circumvent or tamper with the device. The period of time*
79 *during which the offender is required to wear a secure transdermal alcohol monitoring device shall be*
80 *calculated from the date the offender is issued a restricted license by the court; however, such period of*
81 *time shall be tolled upon the expiration of the restricted license issued by the court until such time as*
82 *the person is issued a restricted license by the Department.*

83 Pursuant to § 18.2-271.1, the court may issue a restricted license to operate a motor vehicle for any
84 purpose to a person who is prohibited from operating a motor vehicle that is not equipped with a
85 functioning certified ignition interlock system when such person is ordered to wear a secure transdermal
86 alcohol monitoring device pursuant to this subsection and has a functioning, certified ignition interlock
87 system installed on each motor vehicle, as defined in § 46.2-100, owned by or registered to the offender,
88 in whole or in part.

89 E. The offender shall be ordered to provide the appropriate ASAP program, within 30 days of the
90 effective date of the order of court, proof of the installation of the ignition interlock system, and, if
91 applicable, proof that the offender is wearing a secure transdermal alcohol monitoring device. The
92 Program shall require the offender to have the system or device monitored and calibrated for proper
93 operation at least every 30 days by an entity approved by the Commission under the provisions of
94 § 18.2-270.2 and to demonstrate proof thereof. The offender shall pay the cost of leasing or buying and
95 monitoring and maintaining the ignition interlock system and the secure transdermal alcohol monitoring
96 device. Absent good cause shown, the court may revoke the offender's driving privilege for failing to (i)
97 timely install such system or wear such device or (ii) have the system or device properly monitored and
98 calibrated.

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

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

111 *Any person who violates this subsection shall have his restricted license issued pursuant to*
112 *subsection D revoked. The court may, in its discretion and for good cause shown, provide that such*
113 *person be issued a restricted permit to operate a motor vehicle in accordance with the terms of a*
114 *restricted license issued pursuant to subsection E of § 18.2-271.1.*

115 F. H. Any person prohibited from operating a motor vehicle under subsection B may, solely in the
116 course of his employment, operate a motor vehicle that is owned or provided by his employer without
117 installation of an ignition interlock system, if the court expressly permits such operation as a condition
118 of a restricted license at the request of the employer; such person shall not be permitted to operate any
119 other vehicle without a functioning ignition interlock system and, in no event, shall such person be
120 permitted to operate a school bus, school vehicle, or a commercial motor vehicle as defined in

§ 46.2-341.4. This subsection shall not apply if such employer is an entity wholly or partially owned or controlled by the person otherwise prohibited from operating a vehicle without an ignition interlock system.

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

§ 18.2-270.2. Ignition interlock system; certification by Commission on VASAP; regulations; sale or lease; monitoring use; reports.

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

The regulations adopted shall include requirements that ignition interlock systems:

1. Do not impede the safe operation of the vehicle;
2. Minimize opportunities to be bypassed, circumvented or tampered with, and provide evidence thereof;

3. Correlate accurately with established measures of blood alcohol content and be calibrated according to the manufacturer's specifications;

4. Work accurately and reliably in an unsupervised environment;

5. Have the capability to provide an accurate written measure of blood alcohol content for each ignition, attempted ignition, and rolling retest, and record each attempt to circumvent or tamper with the equipment;

6. Minimize inconvenience to other users;

7. Be manufactured or distributed by an entity responsible for installation, user training, service, and maintenance, and meet the safety and operational requirements promulgated by the National Highway Transportation Safety Administration;

8. Operate reliably over the range of motor vehicle environments or motor vehicle manufacturing standards;

9. Be manufactured by an entity which is adequately insured against liability, in an amount established by the Commission, including product liability and installation and maintenance errors;

10. Provide for an electronic log of the driver's experience with the system with an information management system capable of electronically delivering information to the agency supervising the interlock user within ~~twenty-four~~ 24 hours of the collection of such information from the datalogger; and

11. Provide for a rolling retest of the operator's blood alcohol content.

~~B. The Executive Director of the Commission on VASAP or his designee shall, pursuant to approval by the Commission, certify secure transdermal alcohol monitoring devices for use in the Commonwealth and adopt regulations and forms for the installation, maintenance, and certification of such secure transdermal alcohol monitoring devices.~~

C. Such regulations shall also provide for the establishment of a fund, using a percentage of fees received by the manufacturer or distributor providing ignition interlock services *or secure transdermal alcohol monitoring devices*, to afford persons found by the court to be indigent all or part of the costs of an ignition interlock system *or secure transdermal alcohol monitoring device*.

D. The Commission shall design and adopt a warning label to be affixed to an ignition interlock system *or secure transdermal alcohol monitoring device* upon installation. The warning label shall state that a person tampering with, or attempting to circumvent the ignition interlock system *or secure transdermal alcohol monitoring device* shall be guilty of a Class 1 misdemeanor and, upon conviction, shall be subject to a fine or incarceration or both.

E. The Commission shall publish a list of certified ignition interlock systems *and secure transdermal alcohol monitoring devices* and shall ensure that such systems *or devices* are available throughout the Commonwealth. The local alcohol safety action program shall make the list available to eligible offenders, who shall have the responsibility and authority to choose which certified ignition interlock company *or certified secure transdermal alcohol monitoring company* will supply the offender's equipment. A manufacturer or distributor of an ignition interlock system *or a secure transdermal alcohol monitoring device* that seeks to sell or lease the ignition interlock system *or a secure transdermal alcohol monitoring device* to persons subject to the provisions of § 18.2-270.1 shall pay the reasonable costs of obtaining the required certification, as set forth by the Commission.

~~B. F.~~ A person may not sell or lease or offer to sell or lease an ignition interlock system *or a secure transdermal alcohol monitoring device* to any person subject to the provisions of § 18.2-270.1 unless:

1. The system *or device* has been certified by the Commission; and

2. The warning label adopted by the Commission is affixed to the system.

~~C. G.~~ A manufacturer or distributor of an ignition interlock system *or secure transdermal alcohol monitoring device* shall provide such services as may be required at no cost to the Commonwealth. Such

182 services shall include a toll free, ~~twenty-four-hour~~ 24-hour telephone number for the users of ignition
183 interlock systems *or secure transdermal alcohol monitoring devices*.

184 **§ 18.2-271.1. Probation, education, and rehabilitation of person charged or convicted; person**
185 **convicted under law of another state or federal law.**

186 A. Any person convicted 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, shall be
188 required by court order, as a condition of probation or otherwise, to enter into and successfully complete
189 an alcohol safety action program in the judicial district in which such charge is brought or in any other
190 judicial district upon such terms and conditions as the court may set forth. However, upon motion of a
191 person convicted of any such offense following an assessment of the person conducted by an alcohol
192 safety action program, the court, for good cause, may decline to order participation in such a program if
193 the assessment by the alcohol safety action program indicates that intervention is not appropriate for
194 such person. In no event shall such persons be permitted to enter any such program which is not
195 certified as meeting minimum standards and criteria established by the Commission on the Virginia
196 Alcohol Safety Action Program (VASAP) pursuant to this section and to § 18.2-271.2. However, any
197 person charged with a violation of a first or second offense of § 18.2-266, or any ordinance of a county,
198 city, or town similar to the provisions thereof, or provisions of subsection A of § 46.2-341.24, may, at
199 any time prior to trial, enter into an alcohol safety action program in the judicial district in which such
200 charge is brought or in any other judicial district. Any person who enters into such program prior to
201 trial may pre-qualify with the program to have an ignition interlock system installed on any motor
202 vehicle owned or operated by him. However, no ignition interlock company shall install an ignition
203 interlock system on any such vehicle until a court issues to the person a restricted license with the
204 ignition interlock restriction.

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

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

242 D. Any person who has been convicted under the law of another state or the United States of an
243 offense substantially similar to the provisions of § 18.2-266 or subsection A of § 46.2-341.24, and whose

privilege to operate a motor vehicle in this Commonwealth is subject to revocation under the provisions of § 46.2-389 and subsection A of § 46.2-391, may petition the general district court of the county or city in which he resides that he be given probation and assigned to a program as provided in subsection A and that, upon entry into such program, he be issued an order in accordance with subsection E. If the court finds that such person would have qualified therefor if he had been convicted in this Commonwealth of a violation of § 18.2-266 or subsection A of § 46.2-341.24, the court may grant the petition and may issue an order in accordance with subsection E as to the period of license suspension or revocation imposed pursuant to § 46.2-389 or subsection A of § 46.2-391. The court (i) shall, as a condition of a restricted license, prohibit such person from operating a motor vehicle that is not equipped with a functioning certified ignition interlock system for a period of time not to exceed the 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, any such person ordered to wear a secure transdermal alcohol monitoring device pursuant to subsection D of § 18.2-270.1 and who has a functioning, certified ignition interlock system as required by law may be issued a restricted permit to operate a motor vehicle for any lawful purpose.* 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

305 motor vehicle to be disposed of in accordance with the provisions of § 46.2-398 and shall forward to the
306 Commissioner of the Department of Motor Vehicles a copy of its order entered pursuant to this
307 subsection, which shall specifically enumerate the restrictions imposed and contain such information
308 regarding the person to whom such a permit is issued as is reasonably necessary to identify such person.
309 The court shall also provide a copy of its order to the person so convicted who may operate a motor
310 vehicle on the order until receipt from the Commissioner of the Department of Motor Vehicles of a
311 restricted license, if the order provides for a restricted license for that time period. A copy of such order
312 and, after receipt thereof, the restricted license shall be carried at all times while operating a motor
313 vehicle. Any person who operates a motor vehicle in violation of any restrictions imposed pursuant to
314 this section shall be guilty of a violation of § 18.2-272. Such restricted license shall be conditioned upon
315 enrollment within 15 days in, and successful completion of, a program as described in subsection A. No
316 restricted license shall be issued during the first four months of a revocation imposed pursuant to
317 subsection B of § 18.2-271 or subsection A of § 46.2-391 for a second offense of the type described
318 therein committed within 10 years of a first such offense. No restricted license shall be issued during the
319 first year of a revocation imposed pursuant to subsection B of § 18.2-271 or subsection A of § 46.2-391
320 for a second offense of the type described therein committed within five years of a first such offense.
321 No restricted license shall be issued during any revocation period imposed pursuant to subsection C of
322 § 18.2-271 or subsection B of § 46.2-391. Notwithstanding the provisions of § 46.2-411, the fee charged
323 pursuant to § 46.2-411 for reinstatement of the driver's license of any person whose privilege or license
324 has been suspended or revoked as a result of a violation of § 18.2-266, subsection A of § 46.2-341.24 or
325 of any ordinance of a county, city or town, or of any federal law or the laws of any other state similar
326 to the provisions of § 18.2-266 or subsection A of § 46.2-341.24 shall be \$105. Forty dollars of such
327 reinstatement fee shall be retained by the Department of Motor Vehicles as provided in § 46.2-411, \$40
328 shall be transferred to the Commission on VASAP, and \$25 shall be transferred to the Commonwealth
329 Neurotrauma Initiative Trust Fund.

330 F. The court shall have jurisdiction over any person entering such program under any provision of
331 this section until such time as the case has been disposed of by either successful completion of the
332 program, or revocation due to ineligibility or violation of a condition or conditions imposed by the
333 court, whichever shall first occur. Revocation proceedings shall be commenced by notice to show cause
334 why the court should not revoke the privilege afforded by this section. Such notice shall be made by
335 first-class mail to the last known address of such person, and shall direct such person to appear before
336 the court in response thereto on a date contained in such notice, which shall not be less than 10 days
337 from the date of mailing of the notice. Failure to appear in response to such notice shall of itself be
338 grounds for revocation of such privilege. Notice of revocation under this subsection shall be sent
339 forthwith to the Commissioner of the Department of Motor Vehicles.

340 G. For the purposes of this section, any court which has convicted a person of a violation of
341 § 18.2-266, subsection A of § 46.2-341.24 or any ordinance of a county, city or town similar to the
342 provisions of § 18.2-266 shall have continuing jurisdiction over such person during any period of
343 license revocation related to that conviction, for the limited purposes of (i) referring such person to a
344 certified alcohol safety action program, (ii) providing for a restricted permit for such person in
345 accordance with the provisions of subsection E, and (iii) imposing terms, conditions and limitations for
346 actions taken pursuant to clauses (i) and (ii), whether or not it took either such action at the time of the
347 conviction. This continuing jurisdiction is subject to the limitations of subsection E that provide that no
348 restricted license shall be issued during a revocation imposed pursuant to subsection C of § 18.2-271 or
349 subsection B of § 46.2-391 or during the first four months or first year, whichever is applicable, of the
350 revocation imposed pursuant to subsection B of § 18.2-271 or subsection A of § 46.2-391. The
351 provisions of this subsection shall apply to a person convicted of a violation of § 18.2-266, subsection A
352 of § 46.2-341.24 or any ordinance of a county, city or town similar to the provisions of § 18.2-266 on,
353 after and at any time prior to July 1, 2003.

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

358 I. The Commission on VASAP, or any county, city, town, or any combination thereof may establish
359 and, if established, shall operate, in accordance with the standards and criteria required by this
360 subsection, alcohol safety action programs in connection with highway safety. Each such program shall
361 operate under the direction of a local independent policy board chosen in accordance with procedures
362 approved and promulgated by the Commission on VASAP. Local sitting or retired district court judges
363 who regularly hear or heard cases involving driving under the influence and are familiar with their local
364 alcohol safety action programs may serve on such boards. The Commission on VASAP shall establish
365 minimum standards and criteria for the implementation and operation of such programs and shall
366 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.).

§ 18.2-272. Driving after forfeiture of license.

A. Any person who drives or operates any motor vehicle, engine or train in the Commonwealth during the time for which he was deprived of the right to do so (i) upon conviction of a violation of § 18.2-268.3 or 46.2-341.26:3 or of an offense set forth in subsection E of § 18.2-270, (ii) by § 18.2-271 or 46.2-391.2, (iii) after his license has been revoked pursuant to § 46.2-389 or 46.2-391, or (iv) in violation of the terms of a restricted license issued pursuant to subsection E of § 18.2-271.1, is guilty of a Class 1 misdemeanor except as otherwise provided in § 46.2-391, and is subject to administrative revocation of his driver's license pursuant to §§ 46.2-389 and 46.2-391. Any person convicted of three violations of this section committed within a 10-year period is guilty of a Class 6 felony.

Nothing in this section or § 18.2-266, 18.2-270, or 18.2-271 shall be construed as conflicting with or repealing any ordinance or resolution of any city, town or county which restricts still further the right of such persons to drive or operate any such vehicle or conveyance.

B. Regardless of compliance with any other restrictions on his privilege to drive or operate a motor vehicle, it shall be a violation of this section for any person whose privilege to drive or operate a motor vehicle has been restricted, suspended or revoked because of a violation of § 18.2-36.1, 18.2-51.4, 18.2-266, 18.2-268.3, 46.2-341.24, or 46.2-341.26:3 or a similar ordinance or law of another state or the United States to drive or operate a motor vehicle while he has a blood alcohol content of 0.02 percent or more.

Any person suspected of a violation of this subsection shall be entitled to a preliminary breath test in accordance with the provisions of § 18.2-267, shall be deemed to have given his implied consent to have samples of his blood, breath or both taken for analysis pursuant to the provisions of § 18.2-268.2, and, when charged with a violation of this subsection, shall be subject to the provisions of §§ 18.2-268.1 through 18.2-268.12.

C. Any person who drives or operates a motor vehicle without a certified ignition interlock system as required by § 46.2-391.01 is guilty of a Class 1 misdemeanor and is subject to administrative revocation of his driver's license pursuant to §§ 46.2-389 and 46.2-391.

D. Any person who drives or operates a motor vehicle who has tampered with, or in any way attempted to circumvent the operation of, a secure transdermal alcohol monitoring device that an offender is ordered to wear under § 18.2-270.1 is not guilty of a violation of this section but is guilty of a violation of subsection G of § 18.2-270.1.