

# VIRGINIA ACTS OF ASSEMBLY -- 1994 SESSION

## CHAPTER 151

*An Act to amend and reenact § 18.2-268.4 of the Code of Virginia, relating to sanctions for refusal to take a blood or breath test; penalty.*

[H 226]

Approved April 1, 1994

**Be it enacted by the General Assembly of Virginia:**

**1. That § 18.2-268.4 of the Code of Virginia is amended and reenacted as follows:**

§ 18.2-268.4. Appeal and trial; sanctions for refusal.

The procedure for appeal and trial shall be the same as provided by law for misdemeanors; if requested by either party on appeal to the circuit court, trial by jury shall be as provided in Article 4 (§ 19.2-260 et seq.) of Chapter 15 of Title 19.2, and the Commonwealth shall be required to prove its case beyond a reasonable doubt.

If the court or jury finds the defendant guilty as charged in the warrant or summons issued pursuant to § 18.2-268.3, the court shall suspend the defendant's privilege to drive for a period of ~~six months for a first offense and for one year for a second or subsequent offense of refusal within one year of the first or other such refusal. The time shall be computed from the date of the first offense to the date of the second or subsequent offense.~~ However, if the defendant pleads guilty to a violation of § 18.2-266 or of a similar ordinance, the court may dismiss the warrant or summons.

The court shall forward the defendant's license to the Commissioner of the Department of Motor Vehicles of Virginia as in other cases of similar nature for suspension of license. However, if the defendant appeals his conviction, the court shall return the license to him upon his appeal being perfected.