

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 46.2-357 of the Code of Virginia, relating to operation of a motor*  
3 *vehicle after adjudication as an habitual offender; penalty.*

4 [H 319]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 46.2-357 of the Code of Virginia is amended and reenacted as follows:**8 § 46.2-357. Operation of motor vehicle or self-propelled machinery or equipment by habitual  
9 offender prohibited; penalty; enforcement of section.

10 A. It shall be unlawful for any person to drive any motor vehicle or self-propelled machinery or  
11 equipment on the highways of the Commonwealth while the order of the court prohibiting such  
12 operation remains in effect. However, an order shall not prohibit the person from operating any farm  
13 tractor on the highways when it is necessary to move the tractor from one tract of land used for  
14 agricultural purposes to another tract of land used for agricultural purposes, provided that the distance  
15 between the said tracts of land is no more than five miles.

16 B. Any person found to be an habitual offender under this article, who is thereafter convicted of  
17 driving a motor vehicle or self-propelled machinery or equipment in the Commonwealth while the order  
18 of the court prohibiting such driving is in effect, shall be punished as follows:

19 1. If such driving does not, of itself, endanger the life, limb, or property of another, such person  
20 shall be guilty of a misdemeanor punishable by confinement in jail for no more than ninety days and a  
21 fine of not more than \$2,500, either or both. However, ten days of any such confinement shall not be  
22 suspended except in cases designated in subdivision 2 (ii) of this section.

23 2. If such driving, of itself, does endanger the life, limb, or property of another, such person shall be  
24 guilty of a felony punishable by confinement in the state correctional facility for not less than one year  
25 nor more than five years or, in the discretion of the jury or the court trying the case without a jury, by  
26 confinement in jail for twelve months and no portion of such sentence shall be suspended except that (i)  
27 if the sentence is more than one year in the state correctional facility, any portion of such sentence in  
28 excess of one year may be suspended or (ii) in cases wherein such operation is necessitated in situations  
29 of apparent extreme emergency which require such operation to save life or limb, said sentence, or any  
30 part thereof may be suspended.

31 3. If the offense of driving while an order of adjudication as an habitual offender is in effect is a  
32 second or subsequent such offense, such person shall be punished as provided in subdivision 2 of this  
33 section, irrespective of whether the offense, of itself, endangers the life, limb, or property of another.

34 C. For the purpose of enforcing this section, in any case in which the accused is charged with  
35 driving a motor vehicle or self-propelled machinery or equipment while his license, permit, or privilege  
36 to drive is suspended or revoked or is charged with driving without a license, the court before hearing  
37 the charge shall determine whether the person has been held an habitual offender and, by reason of this  
38 holding, is barred from driving a motor vehicle or self-propelled machinery or equipment on the  
39 highways in the Commonwealth. If the court determines the accused has been held to be an habitual  
40 offender *and finds there is probable cause that the alleged offense under this section is a felony*, it shall  
41 certify the case to the circuit court of record of its jurisdiction for trial.

ENROLLED

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