

LD4884819

HOUSE BILL NO. 2318

Offered January 23, 1995

A *BILL to amend and reenact §§ 46.2-351.1, 46.2-489, 46.2-490, 46.2-491, 46.2-495, 46.2-498, 46.2-499, 46.2-500, 46.2-501, 46.2-502, 46.2-503, 46.2-505, and 436.2-506 of the Code of Virginia, to amend the Code of Virginia by adding a section numbered 46.2-490.2, and to repeal §§ 46.2-496 and 46.2-497 of the Code of Virginia, relating to driver improvement programs.*

Patron—Nelms

Referred to Committee on Roads and Internal Navigation

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-351.1, 46.2-489, 46.2-490, 46.2-491, 46.2-495, 46.2-498, 46.2-499, 46.2-500, 46.2-501, 46.2-502, 46.2-503, 46.2-505, and 436.2-506 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 46.2-490.2 as follows:

§ 46.2-351.1. Intervention required for certain offenders; fee; penalty; notice.

A. Upon receiving notification of any conviction entered on or after January 1, 1994, which will result in the offender's being subject to adjudication as an habitual offender if convicted of one additional offense, the Commissioner shall, if any offense which may be used for such adjudication is alcohol related or drug related, notify the person that he shall report to an alcohol safety action program a Virginia Alcohol Safety Action Program within sixty days of the date of such notice for intervention. Intervention shall be in accordance with § 18.2-271.1. The program shall provide the Commissioner with information of compliance.

B. Upon receiving notification of any conviction entered on or after January 1, 1994, which will result in the offender's being subject to adjudication as an habitual offender if convicted of one additional offense, the Commissioner shall, if none of the offenses which may be used for such adjudication is alcohol related or drug related, notify the person that he shall attend a driver intervention interview within sixty days of the date of the notice. The interview shall be conducted by a representative of the Department, to be designated by the Commissioner a Virginia Alcohol Safety Action Program. The representative shall review with the person attending the interview the habitual offender laws and explain the consequences of future offenses and may refer the person to any driver improvement program approved by the Commissioner clinic. A fee of thirty dollars shall be paid to the Virginia Alcohol Safety Action Program for attendance at a driver intervention interview. All fees collected by a Virginia Alcohol Safety Action Program shall be used to meet program expenses.

C. The Commissioner shall suspend the driving privilege of any person who fails to report complete and pay the required fee for an intervention interview within the sixty-day period. The suspension shall continue until such time as the person reports has completed and paid for the intervention interview.

D. Notice to report for intervention shall be sent by the Department by certified mail, return receipt requested, to the driver at the last known address supplied by the driver and on file with the Department.

E. Failure of the offender to attend as required or failure of the Department to notify the offender upon the second qualifying offense shall not be used to prohibit adjudication as an habitual offender upon receipt of the third qualifying offense.

§ 46.2-489. Regulations; appeals.

The Commissioner shall may, subject to the provisions of § 46.2-203, promulgate regulations which he deems necessary to carry out the provisions of this article.

Any person receiving an order of the Commissioner to suspend or revoke suspending or revoking his driver's license or licensing privilege or to require, requiring attendance at a driver improvement clinic, or placing him on probation may, within thirty days from the date of the order, file a petition of appeal in accordance with § 46.2-410.

§ 46.2-490. Responsibility for establishing driver improvement clinic program.

The Commissioner shall, in his discretion, designate persons to act for the Department as driver improvement analysts to examine and evaluate the driving records of the problem drivers and to conduct group interviews, personal interviews, and driver improvement clinics. The Virginia Community College System shall develop and implement a system of driver improvement clinics for the purpose of instructing persons identified by the Department and the court system as problem drivers in need of driver improvement education and training and for educating persons interested in improved driving safety. The clinics shall be composed of uniform education and training programs designed for the rehabilitation of problem drivers and for the purpose of creating a lasting and corrective influence on

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HB2318

60 *their driving performance. The Virginia Community College System may solicit businesses,*
61 *organizations, or persons knowledgeable in highway safety driving standards to participate in the*
62 *development of the driver improvement clinic program and in conducting the driver improvement clinic*
63 *classes. The Virginia Community College System also may employ the services of qualified professional*
64 *instructors for the purpose of conducting driver improvement clinic classes.*

65 *§ 46.2-490.2. Transition schedule.*

66 *The Department shall continue to provide group interviews and personal interviews through April 30,*
67 *1996, in order to accommodate persons required, prior to January 1, 1996, to complete such interviews.*

68 *The group interview order shall be terminated on May 1, 1996, for those persons who fail to*
69 *complete a required group interview by April 30, 1996. Any associated group interview and*
70 *reinstatement fees shall be waived. The Department shall mail notices to these persons informing them*
71 *of the termination.*

72 *The personal interview order shall be terminated on May 1, 1996, for those persons who fail to*
73 *complete a required personal interview by April 30, 1996. Any associated personal interview and*
74 *reinstatement fees shall be waived. The Department shall mail notices to these persons informing them*
75 *of this termination, requiring them to complete a driver improvement clinic and placing them on a*
76 *six-month probation period in accordance with §§ 46.2-498 and 46.2-499.*

77 *Persons required to complete a driver improvement clinic as a result of an order issued prior to*
78 *January 1, 1996, shall continue to be required to satisfy such order.*

79 *§ 46.2-491. Persons included within scope of article.*

80 *This chapter article shall apply to (i) every resident of the Commonwealth, regardless of whether he*
81 *possesses a driver's license issued by the Department and (ii) every nonresident to whom the Department*
82 *has issued a driver's license.*

83 *§ 46.2-495. Advisory letters.*

84 *Whenever the driving record of any person shows an accumulation of at least ~~six~~ eight demerit*
85 *points based on convictions, or findings of not innocent in the case of a juvenile, for traffic offenses*
86 *committed within a period of twelve consecutive months, or at least ~~nine~~ twelve demerit points based on*
87 *convictions, or findings of not innocent in the case of a juvenile, for traffic offenses committed within a*
88 *period of twenty-four consecutive months, respectively, the Commissioner may mail, by first-class mail,*
89 *to the last known address of the person an advisory letter listing his convictions, or findings of not*
90 *innocent in the case of a juvenile, and the demerit points assigned thereto, including his safe driving*
91 *points, if any, and furnish any other information deemed appropriate and applicable to the rehabilitation*
92 *of the person, for the purpose of preventing subsequent traffic offenses.*

93 *The Department's failure to mail, or the citizen's nonreceipt of the advisory letter, shall not be*
94 *grounds for waiving any other provision of this article.*

95 *§ 46.2-498. Driver improvement clinics.*

96 *The Commissioner shall implement a system of driver improvement clinics for the purpose of*
97 *dealing with those persons identified as problem drivers in need of driver improvement education and*
98 *training. The clinics shall be composed of uniform education and training programs designed for the*
99 *rehabilitation of the problem drivers, and for the purpose of creating a lasting and corrective influence*
100 *on their driving performances.*

101 *The clinic classes shall be scheduled to begin at a reasonable hour during the evenings and shall be*
102 *conducted for a two-hour period, one night each week for four consecutive weeks. The Commissioner*
103 *may, when he deems it necessary because of unusual conditions or circumstances, schedule and conduct*
104 *clinic classes between the hours of 8:30 a.m. and 5:00 p.m.*

105 *A. Whenever the driving record of any person shows an accumulation of at least twelve demerit*
106 *points based on convictions, or findings of not innocent in the case of a juvenile, for traffic offenses*
107 *committed within a period of twelve consecutive months, or at least eighteen demerit points based on*
108 *convictions, or findings of not innocent in the case of a juvenile, for traffic offenses committed within a*
109 *period of twenty-four consecutive months, respectively, the Commissioner shall direct the person to*
110 *attend a driver improvement clinic.*

111 *Every B. Except as provided in § 46.2-505, every person who attends a driver improvement clinic*
112 *conducted or sanctioned by the Virginia Community College System and who satisfactorily completes the*
113 *clinic shall have five demerit points subtracted from his total accumulation of demerit points, except in*
114 *those instances where a person has not accumulated five demerit points, in which case a reduction in*
115 *demerit points and/or the award of safe driving points will be made. No person shall be allowed to*
116 *accumulate more than five safe driving points.*

117 *No person Safe driving points shall be rescheduled to attend a driver improvement clinic for awarded*
118 *for the completion of a driver improvement clinic only once within a period of two years from the date*
119 *he a person satisfactorily completes the clinic; however, the provisions of this section shall not apply to*
120 *any person who is required to attend a driver improvement clinic in accordance with the provisions of*
121 *§ 46.2-505.*

The Commissioner may solicit organizations or persons, knowledgeable in highway safety driving standards, to participate in conjunction with the Department of Motor Vehicles in the development of the local driver improvement clinic program and in conducting the driver improvement clinic classes. The Commissioner may employ the services of qualified professional instructors for the purpose of conducting driver improvement clinic classes in those areas of the Commonwealth where it is not economically practicable to maintain the full-time services of a driver improvement analyst.

Any resident or nonresident person holding a valid license to drive a motor vehicle in Virginia, whether or not he has accumulated demerit points, may apply to the Department in writing *Virginia Community College System* for permission to attend a driver improvement clinic on a voluntary basis. The Commissioner *Virginia Community College System* may, when seating space is available, schedule the person to attend a driver improvement clinic.

§ 46.2-499. Driver's license probation.

A. The Commissioner ~~may~~ shall place any person on probation for a period of ~~not more than one year~~ *six months* when probation is used in conjunction with the provisions of §§ 46.2-497 and 46.2-498. In addition, the Commissioner shall place any person on probation for a period of six months on receiving a record of a conviction of such person of any offense for which demerit points are assessed and the offense was committed within any driver control period imposed pursuant to § 46.2-500. Whenever a person who has been placed on probation is convicted, or found not innocent in the case of a juvenile, of any offense for which demerit points are assessed, and the offense was committed during the probation period, the Commissioner shall suspend the person's license ~~or licenses~~ for a period of ~~one-half of the probation period~~ *ninety days* when six demerit points are assigned, for a period of ~~one-third of the probation period~~ *sixty days* when four demerit points are assigned, and for a period of ~~one-fourth of the probation period~~ *forty-five days* when three demerit points are assigned. In addition, the Commissioner shall again place the person on probation for a period ~~equal to the probationary period originally prescribed for the person pursuant to § 46.2-497 or this section,~~ *of six months*, effective on termination of the suspension imposed pursuant to this section.

B. ~~The~~ Upon request, the Commissioner ~~may~~ shall grant a restricted license during the *first* period of suspension imposed pursuant to subsection A of this section, *provided the person is otherwise eligible to be licensed*. Any person whose driver's license is suspended *for a second or subsequent time* under subsection A of this section ~~may request a hearing to be conducted by a driver improvement analyst, for the purpose of securing~~ *shall only be eligible to receive* a restricted driver's license *if the violation occurred within a probation period that was immediately preceded by a control period*. The analyst ~~may, in his discretion, for good cause shown, provide that such person be issued a~~ A restricted license to operate a motor vehicle *may be issued* for any or all of the following purposes: (i) travel to and from his place of employment; (ii) travel during the hours of such person's employment if the operation of a motor vehicle is a necessary incident of such employment; (iii) travel to and from school if such person is a student; or (iv) such other medically necessary travel as the analyst deems necessary. Written verifications of the person's *employment*, continuing education or medically necessary travel shall also be required and made available to the Commissioner. Whenever a person who has been granted a restricted license pursuant to this subsection is convicted, or found not innocent in the case of a juvenile, of any offense for which demerit points are assessed, and the offense was committed during the restricted license period, the Commissioner shall suspend the person's license ~~or licenses for the period of time the person's license was to be originally suspended~~ *using the same demerit point criteria and suspension periods set forth in subsection A of this section*. 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.).

C. *Whenever the Department receives notice from the court that restricted license privileges have been granted to a person who has an existing restricted license issued pursuant to subsection B of this section, the existing restricted license shall be cancelled and the Commissioner shall suspend the person's license for the period of time remaining on the original order of suspension. No court-granted restricted license shall be issued until the end of the suspension period imposed by the Commissioner.*

§ 46.2-500. Driver control period.

Whenever an individual is placed on probation pursuant to §§ 46.2-497, 46.2-498, ~~or~~ § 46.2-499, *or* 46.2-506, the Commissioner shall also place the person on driver control status for a period of eighteen months following the termination of the probationary period. If the individual commits any violation during the driver control period for which points are assessed, the Commissioner shall again place the individual on probation for a period of six months and on driver control status for an additional period of eighteen months following the probationary period.

§ 46.2-501. Notice to attend driver improvement clinic.

A. Any notice to attend a group interview or a personal interview shall contain:

1. A specific statement of the offense or offenses which the person has been convicted of, or found

183 not innocent of in the case of a juvenile.

184 2. The date, time, and location of the group interview or the personal interview.

185 3. The purpose of the group interview or personal interview.

186 B. Any notice to attend a driver improvement clinic must contain:

187 1. The date, time, and location of the *Information on how to schedule a* driver improvement clinic.

188 2. The purpose of the driver improvement clinic, including the consequences of not attending the
189 clinic program *and failing to pay the clinic fee.*

190 3. An explanation of the terms of the probationary licensing period; if ~~any~~.

191 4. A requirement that the clinic must be satisfactorily completed within ninety days from the date of
192 the notice.

193 C. B. The notice directing any person to attend a group interview, personal interview or driver
194 improvement clinic shall provide the addressee with a minimum of ten days' notice, and shall be
195 forwarded by certified mail to the last known address of the person, as shown on the records of the
196 Department.

197 § 46.2-502. Virginia Community College to designate place for conducting clinics; fees.

198 A. The ~~Commissioner~~ *Virginia Community College System* shall designate the localities in which the
199 group interviews, personal interviews and driver improvement clinics are to be conducted. These
200 localities shall be designated on the basis of their geographical location so as to be reasonably accessible
201 to any person required to attend these interviews or clinics.

202 B. The ~~Commissioner~~ *Virginia Community College System* shall charge fees *a fee* to participants in
203 the driver improvement program; attending group interviews, personal interviews or driver improvement
204 clinics according to the fee schedule in subsection C of this section. No person shall be permitted to
205 attend a group interview, personal interview or driver improvement clinic unless ~~he~~ *the person* first pays
206 to the Commissioner the required attendance fee. All fees collected under the provisions of this section
207 shall be paid by the Commissioner into the state treasury and shall be set aside as a special fund to be
208 used to meet the expenses of the Department.

209 C. A fee of twenty-five dollars shall be paid for attendance of a group interview. A fee of thirty
210 dollars shall be paid for attendance of a personal interview. A fee of fifty *seventy-five* dollars shall be
211 paid for attendance of a driver improvement clinic.

212 § 46.2-503. Suspension of privilege to operate a motor vehicle for failure to attend clinics.

213 A. The Commissioner shall suspend the driver's license or other privilege to operate a motor vehicle
214 of any person who fails to attend a scheduled group interview, personal interview or *satisfactorily*
215 *complete a* driver improvement clinic *and pay the clinic fee*. This suspension shall remain in effect until
216 such person applies to the Department in writing for permission to attend a scheduled group interview,
217 personal interview or driver improvement clinic, whichever is applicable, and thereafter until he is
218 rescheduled and satisfactorily completes the assignment, except as hereinafter provided *driver*
219 *improvement clinic and pays the clinic fee. This section shall not apply to persons attending clinics on*
220 *a voluntary basis.*

221 B. The Commissioner may, for good cause shown, cancel or terminate the suspension or
222 reinstatement requirement, provided the person applies to the Department in writing for permission to
223 attend a scheduled group interview, personal interview or driver improvement clinic, whichever is
224 applicable. In the event he does not satisfactorily complete the assignment, the Commissioner shall
225 forthwith suspend the person's driver's license or other privilege to operate a motor vehicle as required
226 by subsection A of this section.

227 § 46.2-505. Court may direct defendant to attend driver improvement clinic.

228 Any circuit or general district court of the Commonwealth, or any federal court, charged with the
229 duty of hearing traffic cases for offenses committed in violation of any law of the Commonwealth, or
230 any valid local ordinance, or any federal law regulating the movement or operation of a motor vehicle,
231 may require any person found guilty of a violation of any state law, local ordinance, or federal law, to
232 attend a driver improvement clinic. The attendance requirement may be in lieu of or in addition to the
233 penalties prescribed by § 46.2-113, the ordinance, or federal law. *The court shall notify the Department*
234 *if a person is to receive safe driving points upon satisfactory completion of a driver improvement clinic.*
235 *In the absence of such notification, no safe driving points shall be awarded by the Department.*

236 Whenever any court stipulates in its judgment of conviction, or finding of not innocent in the case of
237 a juvenile, that a person attend a driver improvement clinic, the court shall so indicate in the space
238 provided on the abstract of conviction filed with the Department in accordance with the provisions of
239 § 46.2-383, or any federal law, rule or regulation. On receipt of the abstract of record, the Department
240 shall forthwith schedule the person to attend a driver improvement clinic.

241 *Persons required by the court to attend a driver improvement clinic shall notify the court if the*
242 *driver improvement clinic has or has not been attended and satisfactorily completed in compliance with*
243 *the court order. Evidence of satisfactory completion shall be provided to such persons by the driver*
244 *improvement clinic.* Failure of the person to attend and satisfactorily complete a driver improvement

245 clinic, in compliance with the court order, may be punished as contempt of such court. In every such
246 case, the Commissioner shall notify the court of the defendant's failure to comply with the court order.

247 § 46.2-506. Formal hearings; suspension for excessive point accumulation.

248 A. Whenever the operating record of any person, *subsequent to his being placed on probation*, shows
249 an accumulation of six demerit points based on convictions, or findings of not innocent in the case of a
250 juvenile, for traffic violations committed within any twelve consecutive months, or twelve demerit points
251 based on convictions, or findings of not innocent in the case of a juvenile, for traffic violations
252 committed within any twenty-four consecutive months, respectively, and subsequent to his assignment to
253 attend a personal interview, *a continued disregard for the motor vehicle laws* he may be charged as an
254 habitually reckless or negligent driver of a motor vehicle, and cited for a formal hearing in accordance
255 with the provisions of §§ 46.2-402 through 46.2-408. *If the hearing results in the suspension of a*
256 *person's driving privilege, the person shall be placed on probation at the end of the suspension period*
257 *in accordance with the provisions of § 46.2-499.*

258 B. Whenever the operating record of any person shows an accumulation of at least eighteen demerit
259 points based on convictions, or findings of not innocent in the case of a juvenile, for traffic violations
260 committed within any twelve consecutive months, or at least twenty-four demerit points based on
261 convictions, or findings of not innocent in the case of a juvenile, for traffic violations committed within
262 any twenty-four consecutive months, respectively, the Commissioner shall suspend the person's license
263 or licenses for a period of ninety days and thereafter until he attends a personal interview and
264 satisfactorily completes a driver improvement clinic. *At the end of this suspension period, the person*
265 *shall be placed on probation in accordance with the provisions of § 46.2-499.*

266 2. That §§ 46.2-496 and 46.2-497 of the Code of Virginia are repealed.

267 3. That the provisions of this act shall become effective on January 1, 1996.