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HOUSE BILL NO. 2469

Offered January 23, 1995

A BILL 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.

Patrons—McDonnell, Albo, Cantor, Cox, Griffith, Hargrove, Harris, Howell, Ingram, Katzen, Kidd, Kilgore, Mims, O'Brien, Wagner, Wardrup and Wilkins; Senator: Stolle

Referred to Committee for Courts of Justice

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 one year; however, if the defendant has been convicted previously of a violation of this section or of § 18.2-266 or § 18.2-266.1, then the suspension shall be for a period of three years. If the defendant has been convicted previously of a violation of this section or of § 18.2-266 or § 18.2-266.1, of any combination thereof, on more than one occasion, then the suspension shall be for ten years. This suspension period is in addition to the suspension period provided under § 46.2-391.2. However, if the defendant pleads guilty to a violation of § 18.2-266 or § 18.2-266.1 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; however, the defendant's license shall not be returned during any period of suspension imposed under § 46.2-391.2.

INTRODUCED

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