

963018700

## HOUSE BILL NO. 324

Offered January 15, 1996

A *BILL to amend and reenact § 46.2-395 of the Code of Virginia, relating to issuance of a restricted license for failure to pay fines or costs; penalty.*

Patrons—Cox, Ingram, Nixon, Reid and Watkins; Senators: Marsh and Martin

Referred to Committee on Transportation

**Be it enacted by the General Assembly of Virginia:****1. That § 46.2-395 of the Code of Virginia is amended and reenacted as follows:**

§ 46.2-395. Suspension of license or issuance of a restricted license for failure or refusal to pay fines or costs.

A. Any person, whether licensed by Virginia or not, who drives a motor vehicle on the highways in the Commonwealth shall thereby, as a condition of such driving, consent to pay all lawful fines, court costs, forfeitures, restitution, and penalties assessed against him for violations of the laws of the Commonwealth; of any county, city, or town; or of the United States. For the purpose of this section, such fines and costs shall be deemed to include any fee assessed by the court under the provisions of § 18.2-271.1 for entry by a person convicted of a violation of § 18.2-266 into an alcohol safety action program.

B. In addition to any penalty provided by law, when any person is convicted of any violation of the law of the Commonwealth or of the United States or of any valid local ordinance and fails or refuses to provide for immediate payment in full of any fine, costs, forfeitures, restitution, or penalty lawfully assessed against him, or fails to make deferred payments or installment payments as ordered by the court, the court shall forthwith suspend the person's privilege to drive a motor vehicle on the highways in the Commonwealth. The driver's license of the person shall continue suspended until the fine, costs, forfeiture, restitution, or penalty has been paid in full. *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 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, upon proper written verification to the court that such person is enrolled in a continuing program of education; or (iv) such other medically necessary travel as the court deems necessary and proper upon written verification of need by a licensed health professional. The court shall order the surrender of such person's license to operate a motor vehicle to be disposed of in accordance with the provisions of § 46.2-398 and shall forward to the Commissioner of the Department of Motor Vehicles a copy of its order entered pursuant to this subsection, which shall specifically enumerate the restrictions imposed and contain such information regarding the person to whom such a permit is issued as is reasonably necessary to identify such person. The court shall also provide a copy of its order to the person who may operate a motor vehicle on the order until receipt from the Commissioner of the Department of Motor Vehicles of a restricted license. A copy of such order and, after receipt thereof, the restricted license shall be carried at all times while operating a motor vehicle. Any person who operates a motor vehicle in violation of any restrictions imposed pursuant to this section shall be guilty of a violation of § 18.2-272. If the person has not obtained a license as required by this chapter, or is a nonresident, the court may direct in the judgment of conviction that the person shall not drive any motor vehicle in Virginia for a period to coincide with the nonpayment of the amounts due.*

C. Before transmitting to the Commissioner a record of the person's failure or refusal to pay any fine, costs, forfeiture, restitution, or penalty or a failure to comply with an order issued pursuant to § 19.2-354, the clerk of the court that convicted the person shall send or provide the person written notice of the suspension of his license or privilege to drive a motor vehicle in Virginia, effective ten days from the date of conviction, if the fine and costs are not paid prior to the effective date of the suspension as stated on the notice. Notice shall be provided to the person at the time of trial or shall be mailed by first-class mail to the address certified on the summons or bail recognizance document as the person's current mailing address, or to such mailing address as the person has subsequently provided to the court as a change of address. If so mailed on the date of conviction or within two days thereof, or if delivered to the person at the time of trial, such notice shall be adequate notice of the license suspension and of the person's ability to avoid suspension by paying the fines and costs prior to the effective date. No other notice shall be required to make the suspension effective. A record of the person's failure or refusal and of the license suspension shall be sent to the Commissioner if the fine, costs, forfeiture,

INTRODUCED

HB324

60 restitution, or penalty remains unpaid on the effective date of the suspension specified in the notice or  
61 on the failure to make a scheduled payment.

62 D. If the person pays the amounts assessed against him subsequent to the time the license has been  
63 transmitted to the Department, and his license is not under suspension or revocation for any other lawful  
64 reason, except pursuant to this section, then the Commissioner shall return the license to the person on  
65 presentation of the official report of the court evidencing the payment of the fine, costs, forfeiture,  
66 restitution, or penalty.

67 E. If the court has suspended or revoked the driver's license for any lawful reason other than this  
68 section, or the conviction is one for which revocation or suspension is required under any provision of  
69 this title, except for this section, then the suspension permitted under this section shall be in addition to,  
70 and run consecutively with, the revocation or suspension. The period of suspension shall be calculated  
71 from the date of the assessment of the fine, costs, forfeiture, restitution, or penalty until the date it has  
72 been paid.