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HOUSE BILL NO. 2397

Offered January 20, 1997

A *BILL to amend and reenact § 46.2-395 of the Code of Virginia, relating to suspension of license for failure or refusal to pay fines or costs.*

Patron—Davies

Referred to Committee for Courts of Justice

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 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. 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. *In any case involving nonpayment of any fee assessed under the provisions of § 18.2-271.1, such written notice shall be mailed by the appropriate Virginia Alcohol Safety Action Program (VASAP) director or his designee to the offender upon determination by such director that payment of the offender's VASAP fee is delinquent. In such case, the ten-day period after which the offender's license is to be suspended shall expire ten days from the date of the written 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 *or to the Virginia Alcohol Safety Action Program director 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, *or if mailed as provided in any case involving nonpayment of any fee assessed under § 18.2-271.1,* 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, restitution, or penalty remains unpaid on the effective date of the suspension specified in the notice or on the failure to make a scheduled payment. *This record shall be sent to the Commissioner by the appropriate VASAP director or his designee, unless otherwise directed by the court or unless the fee is waived by the court due to indigency, if the fee assessed under the provisions of § 18.2-271.1 remains unpaid on the effective date of the suspension specified in the notice.*

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

E. If the court has suspended or revoked the driver's license for any lawful reason other than this

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60 section, or the conviction is one for which revocation or suspension is required under any provision of
61 this title, except for this section, then the suspension permitted under this section shall be in addition to,
62 and run consecutively with, the revocation or suspension. The period of suspension shall be calculated
63 from the date of the assessment of the fine, costs, forfeiture, restitution, or penalty until the date it has
64 been paid.