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HOUSE BILL NO. 953

Offered January 26, 1998

A BILL to amend and reenact §§ 46.2-395 and 46.2-416 of the Code of Virginia, relating to suspension of certain driver's licenses.

Patrons—Armstrong and Day; Senator: Reynolds

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:**1. That §§ 46.2-395 and 46.2-416 of the Code of Virginia are 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 § 18.2-51.4 or § 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~~ *sixty* 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, 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.

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

§ 46.2-416. Notice of suspension or revocation of license.

Whenever it is provided in this title that a driver's license may or shall be suspended or revoked either by the Commissioner or by a court, notice of the suspension or revocation or any certified copy of the decision or order of the Commissioner may be sent by the Department by certified mail to the

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60 driver at the most recent address of the driver on file at the Department. If the driver has previously
61 been notified by mail or in person of the suspension or revocation or of an impending suspension for
62 failure to pay fines and costs pursuant to § 46.2-395, whether notice is given by the court or
63 law-enforcement officials as provided by law, and the Department has been notified by the court that
64 notice was so given and the fines and costs were not paid within ~~ten~~ sixty days, no notice of suspension
65 shall be sent by the Department to the driver. If the certificate of the Commissioner or someone
66 designated by him for that purpose shows that the notice or copy has been so sent or provided, it shall
67 be deemed prima facie evidence that the notice or copy has been sent and delivered or otherwise
68 provided to the driver for all purposes involving the application of the provisions of this title. In the
69 discretion of the Commissioner, service may be made as provided in § 8.01-296, which service on the
70 driver shall be made by delivery in writing to the driver in person in accordance with subdivision 1 of
71 § 8.01-296 by a sheriff or deputy sheriff in the county or city in which the address is located, who shall,
72 as directed by the Commissioner, take possession of any suspended or revoked license, registration card,
73 or set of license plates or decals and return them to the office of the Commissioner. No such service
74 shall be made if, prior to service, the driver has complied with the requirement which caused the
75 issuance of the decision or order. In any such case, return shall be made to the Commissioner.

76 In lieu of making a direct payment to sheriffs as a fee for delivery of the Department's processes, the
77 Commissioner shall effect a transfer of funds, on a monthly basis, to the Compensation Board to be
78 used to provide additional support to sheriffs' departments. The amount of funds so transferred shall be
79 as provided in the general appropriation act.