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HOUSE BILL NO. 389

Offered January 15, 1998

A BILL to amend and reenact § 18.2-270 of the Code of Virginia, relating to third offense DUI; penalty.

Patrons—Moran, Albo, Behm, Brink, Bryant, Christian, Clement, Crittenden, Croshaw, Darner, Davies, Day, Deeds, Howell, Hull, Keating, McEachin, Plum, Puller, Scott, Stump, Van Landingham, Van Yahres and Watts

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-270 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-270. Penalty for driving while intoxicated; subsequent offense; prior conviction.

Any person violating any provision of § 18.2-266 shall be guilty of a Class 1 misdemeanor, *except as otherwise provided in this section.*

Any person convicted of a second offense committed within less than five years after a first offense under § 18.2-266 shall be punishable by a fine of not less than \$200 nor more than \$2,500 and by confinement in jail for not less than one month nor more than one year. Forty-eight hours of such confinement shall be a mandatory, minimum sentence not subject to suspension by the court. Any person convicted of a second offense committed within a period of five to ten years of a first offense under § 18.2-266 shall be punishable by a fine of not less than \$200 nor more than \$2,500 and by confinement in jail for not less than one month nor more than one year. Any person convicted of a third offense or subsequent offense committed (i) within a period of five to ten years of an offense under § 18.2-266 shall be punishable by a fine of not less than \$500 nor more than \$2,500 and by confinement in jail for not less than two months nor more than one year or (ii) within five years of an offense under § 18.2-266 shall be guilty of a Class 6 felony punishable by a fine of not less than \$1,000 and by confinement in jail for not less than six months. ~~Thirty days of such confinement shall be a mandatory, minimum sentence not subject to suspension by the court if the third or subsequent offense occurs within less than five years. Ten days of such confinement shall be a mandatory, minimum sentence not subject to suspension by the court if the third or subsequent offense occurs within a period of five to ten years of a first offense. Thirty days of such confinement shall be a mandatory, minimum sentence not subject to suspension by the court if the third or subsequent offense occurs within less than five years.~~

In addition to the penalty otherwise authorized by this section or § 16.1-278.9, any person convicted of a violation of § 18.2-266 committed while transporting a person seventeen years of age or younger shall be (i) fined an additional minimum of \$100 and not more than \$500 and (ii) sentenced to perform forty hours of community service in a program ~~benefitting~~ benefiting children or, for a subsequent offense, eighty hours of community service in such a program.

For the purpose of this section a conviction or finding of guilty in the case of a juvenile under the following shall be considered a prior conviction: (i) the provisions of § 18.2-51.4, § 18.2-266, former § 18.1-54 (formerly § 18-75), the ordinance of any county, city or town in this Commonwealth or the laws of any other state or of the United States substantially similar to the provisions of § 18.2-51.4, and §§ 18.2-266 through 18.2-269, or (ii) the provisions of subsection A of § 46.2-341.24 or the substantially similar laws of any other state or of the United States.

2. That the provisions of this act may result in a net increase in periods of imprisonment in state correctional facilities. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$375,000.

INTRODUCED

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