

# 2006 SESSION

LEGISLATION NOT PREPARED BY DLS  
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## HOUSE BILL NO. 1492

Offered January 20, 2006

A *BILL to amend and reenact § 46.2-341.28 of the Code of Virginia, relating to driving commercial motor vehicle while intoxicated; penalty.*

Patrons—Valentine, Melvin and Scott, J.M.

Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:**

**1. That § 46.2-341.28 of the Code of Virginia is amended and reenacted as follows:**

§ 46.2-341.28. Penalty for driving commercial motor vehicle while intoxicated; subsequent offense; prior conviction.

A. Any person violating any provision of subsection A of § 46.2-341.24 shall be guilty of a Class 1 misdemeanor and be punished, *matatis mutandis*, as provided in § 18.2-270, Chapter 7, Article 2 of Title 18.2.

Any person convicted of a second offense committed within less than five years after a first offense under subsection A of § 46.2-341.24 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. Five days of such confinement shall be a mandatory minimum sentence. Any person convicted of a second offense committed within a period of five to 10 years of a first offense under subsection A of § 46.2-341.24 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 within 10 years of an offense under subsection A of § 46.2-341.24 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. Thirty days of such confinement shall be a mandatory minimum sentence if the third or subsequent offense occurs within less than five years. Ten days of such confinement shall be a mandatory minimum sentence if the third or subsequent offense occurs within a period of five to 10 years of a first offense.

For the purposes of this section a conviction or finding of not innocent in the case of a juvenile under (i) § 18.2-51.4 or § 18.2-266, (ii) the ordinance of any county, city or town in this Commonwealth substantially similar to the provisions of § 18.2-51.4 or § 18.2-266, (iii) subsection A of § 46.2-341.24, or (iv) the laws of any other state substantially similar to the provisions of §§ 18.2-51.4, 18.2-266 or subsection A of § 46.2-341.24, shall be considered a prior conviction.

B. For the purpose of this section, an adult conviction of any person, or finding of guilty in the case of a juvenile, under the following shall be considered a conviction of § 18.2-266: (i) the provisions of § 18.2-36.1 or the substantially similar laws of any other state or of the United States, (ii) the provisions of §§ 18.2-51.4, 18.2-266, for § 18.1-54 (formerly § 18.2-75), the ordinance of any country, city or town in this Commonwealth or the laws of any other state or of the United States substantially similar to the provisions of § 18.2-54.1, or § 18.2-266, or (iii) the provisions of subsection A of § 46.2-341.24 or the substantial 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 or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$930,521 for periods of imprisonment in state adult correctional facilities and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.**

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