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HOUSE BILL NO. 1407

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on February 8, 2008)

(Patrons Prior to Substitute—Delegates Dance and Morrissey [HB 1374])

*A BILL to amend and reenact § 46.2-395 of the Code of Virginia, relating to suspended license; unpaid fines.***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 § 18.2-51.4 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. However, if the defendant, after having his license suspended, pays the reinstatement fee to the Department of Motor Vehicles and enters into an agreement under § 19.2-354 that is acceptable to the court to make deferred payments or installment payments of unpaid fines, costs, forfeitures, restitution, or penalties as ordered by the court, the defendant's driver's license shall thereby be restored. If the person has not obtained a license as provided in 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 all or part of 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 provide or cause to be sent to the person written notice of the suspension of his license or privilege to drive a motor vehicle in Virginia, effective 15 days from the date of conviction, if the fine, costs, forfeiture, restitution, or penalty is 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 five business 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 fine, costs, forfeiture, restitution, or penalty 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.

C1. Whenever a person provides for payment of a fine, costs, forfeiture, restitution or penalty other than by cash and such provision for payment fails, the clerk of the court that convicted the person shall cause to be sent to the person written notice of the failure and of the suspension of his license or privilege to drive in Virginia. The license suspension shall be effective 10 days from the date of the notice. The notice shall be effective notice of the suspension and of the person's ability to avoid the suspension by paying the full amount owed by cash, cashier's check or certified check prior to the effective date of the suspension if the notice is mailed by first class mail to the address provided by the person to the court pursuant to subsection C or § 19.2-354. Upon such a failure of payment and notice, the fine, costs, forfeiture, restitution or penalty due shall be paid only in cash, cashier's check or certified check, unless otherwise ordered by the court, for good cause shown.

D. If the person pays the amounts assessed against him subsequent to the time the suspended 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

60 person on presentation of the official report of the court evidencing the payment of the fine, costs,
61 forfeiture, restitution, or penalty.

62 *E. Any person otherwise eligible for a restricted license may petition the general district court in the*
63 *jurisdiction where he resides for a restricted license when a license is suspended pursuant to this*
64 *section. The court may, upon written verification of employment and for good cause shown, issue a*
65 *restricted license to operate a motor vehicle for any of the purposes set forth in subsection E of*
66 *§ 18.2.-271.1. Such restricted license shall not be issued for more than a six-month period. No restricted*
67 *license issued pursuant to this subsection shall permit a person to operate a commercial motor vehicle*
68 *as defined in the Commercial Driver's License Act (§ 46.2-341.1 et seq.).*

69 *The court shall forward to the Commissioner a copy of its order entered pursuant to this section,*
70 *which shall specifically enumerate the restrictions imposed and contain such information regarding the*
71 *person to whom such a license is issued as is reasonably necessary to identify the person. The court*
72 *shall also provide a copy of its order to the person, who may operate a motor vehicle on the order until*
73 *receipt from the Commissioner of a restricted license. A copy of such order and, after receipt thereof,*
74 *the restricted license shall be carried at all times while operating a motor vehicle. Any person who*
75 *operates a motor vehicle in violation of any restrictions imposed pursuant to this section shall be*
76 *punished as provided in subsection C of § 46.2-301.*