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HOUSE BILL NO. 1987

Offered January 14, 2009

Prefiled January 13, 2009

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—Miller, P.J.

Referred to Committee on Transportation

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, and any fees assessed by a sheriff or jail superintendent to defray the costs associated with a prisoner's keep under § 53.1-131.3.

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, or the sheriff or jail superintendent, as the case may be, 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, or release from jail, as the case may be, 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 admission to jail, 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, sheriff, or jail superintendent, as a change of address. If so mailed on the date of conviction or admission to jail or within five business days thereof, or if delivered to the person at the time of trial or admission to jail, 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, or the sheriff or jail superintendent, 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

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59 the address provided by the person to the court *or the jail* pursuant to subsection C or § 19.2-354. Upon
60 such a failure of payment and notice, the fine, costs, forfeiture, restitution or penalty due shall be paid
61 only in cash, cashier's check or certified check, unless otherwise ordered by the court, *or allowed by the*
62 *sheriff or jail superintendent*, for good cause shown.

63 D. If the person pays the amounts assessed against him subsequent to the time the suspended license
64 has been transmitted to the Department, and his license is not under suspension or revocation for any
65 other lawful reason, except pursuant to this section, then the Commissioner shall return the license to the
66 person on presentation of the official report of the court *or of a receipt from the sheriff or jail*
67 *superintendent*, evidencing the payment of the fine, costs, forfeiture, restitution, or penalty.

68 E. Any person otherwise eligible for a restricted license may petition each court that suspended his
69 license pursuant to this section for authorization for a restricted license. A court may, upon written
70 verification of employment and for good cause shown, authorize the Department of Motor Vehicles to
71 issue a restricted license to operate a motor vehicle for any of the purposes set forth in subsection E of
72 § 18.2-271.1. No restricted license may be issued unless each court which suspended the person's
73 license pursuant to this section provides authorization for a restricted license. Such restricted license
74 shall not be issued for more than a six-month period. No restricted license issued pursuant to this
75 subsection shall permit a person to operate a commercial motor vehicle as defined in the Commercial
76 Driver's License Act (§ 46.2-341.1 et seq.).

77 The court shall forward to the Commissioner a copy of its authorization entered pursuant to this
78 section, which shall specifically enumerate the restrictions imposed and contain such information
79 regarding the person to whom such a license is issued as is reasonably necessary to identify the person.
80 The court shall also provide a copy of its authorization to the person, who may not operate a motor
81 vehicle until receipt from the Commissioner of a restricted license. A copy of the restricted license
82 issued by the Commissioner shall be carried at all times while operating a motor vehicle. Any person
83 who operates a motor vehicle in violation of any restrictions imposed pursuant to this section shall be
84 punished as provided in subsection C of § 46.2-301.