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HOUSE BILL NO. 1599

Offered January 11, 2017

Prefiled January 3, 2017

A *BILL to amend and reenact § 46.2-395 of the Code of Virginia, relating to suspension of driver's license for unpaid fines, etc.; written offer of employment.*

Patron—Fariss

Referred to Committee for Courts of Justice

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 and subject to the limitations on collection under §§ 19.2-340 and 19.2-341, 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~~ person, after having his license suspended, pays the reinstatement fee to the Department of Motor Vehicles and (i) 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 or (ii) presents to the Department of Motor Vehicles a written offer of employment that is contingent on the person's possessing a driver's license, the ~~defendant's~~ person's driver's license shall thereby be restored. In order for a person's license to be restored pursuant to clause (ii), the employer making the written offer of employment shall agree to withhold 10 percent of the person's disposable earnings as defined in § 34-29 or \$100, whichever is greater, per month for the payment of unpaid fines, costs, forfeitures, restitution, or penalties, and the person shall authorize the employer to make such withholding. Any person whose license is restored pursuant to clause (ii) shall, within six months from the date of restoration, petition each court that suspended his license for, and enter 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; if the person does not enter into an agreement with each court within the six-month period, the Commissioner shall suspend his license. 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 30 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,

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59 restitution, or penalty remains unpaid on the effective date of the suspension specified in the notice or
60 on the failure to make a scheduled payment.

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

71 D. If the person pays the amounts assessed against him subsequent to the time the suspended license
72 has been transmitted to the Department, and his license is not under suspension or revocation for any
73 other lawful reason, except pursuant to this section, then the Commissioner shall return the license to the
74 person on presentation of the official report of the court evidencing the payment of the fine, costs,
75 forfeiture, restitution, or penalty.

76 E. Any person otherwise eligible for a restricted license may petition each court that suspended his
77 license pursuant to this section for authorization for a restricted license. A court may, upon written
78 verification of employment and for good cause shown, authorize the Department of Motor Vehicles to
79 issue a restricted license to operate a motor vehicle for any of the purposes set forth in subsection E of
80 § 18.2-271.1. No restricted license may be issued unless each court which suspended the person's license
81 pursuant to this section provides authorization for a restricted license. Such restricted license shall not be
82 issued for more than a six-month period. No restricted license issued pursuant to this subsection shall
83 permit a person to operate a commercial motor vehicle as defined in the Commercial Driver's License
84 Act (§ 46.2-341.1 et seq.).

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