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SENATE BILL NO. 1280

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on January 25, 2017)

(Patron Prior to Substitute—Senator Ebbin)

A *BILL to amend and reenact §§ 46.2-395 and 46.2-416 of the Code of Virginia, relating to suspension of license for failure or refusal to pay fines or costs.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-395 and 46.2-416 of the Code of Virginia are 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 *within 90 days of the lawful assessment of such 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 30 90 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

60 has been transmitted to the Department, and his license is not under suspension or revocation for any
61 other lawful reason, except pursuant to this section, then the Commissioner shall return the license to the
62 person on presentation of the official report of the court evidencing the payment of the fine, costs,
63 forfeiture, restitution, or penalty.

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

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

81 **§ 46.2-416. Notice of suspension or revocation of license.**

82 A. Whenever it is provided in this title that a driver's license may or shall be suspended or revoked
83 either by the Commissioner or by a court, notice of the suspension or revocation or any certified copy
84 of the decision or order of the Commissioner may be sent by the Department by certified mail to the
85 driver at the most recent address of the driver on file at the Department. If the driver has previously
86 been notified by mail or in person of the suspension or revocation or of an impending suspension for
87 failure to pay fines and costs pursuant to § 46.2-395, whether notice is given by the court or
88 law-enforcement officials as provided by law, and the Department has been notified by the court that
89 notice was so given and the fines and costs were not paid within ~~30~~ 90 days, no notice of suspension
90 shall be sent by the Department to the driver. If the certificate of the Commissioner or someone
91 designated by him for that purpose shows that the notice or copy has been so sent or provided, it shall
92 be deemed prima facie evidence that the notice or copy has been sent and delivered or otherwise
93 provided to the driver for all purposes involving the application of the provisions of this title. In the
94 discretion of the Commissioner, service may be made as provided in § 8.01-296, which service on the
95 driver shall be made by delivery in writing to the driver in person in accordance with subdivision 1 of
96 § 8.01-296 by a sheriff or deputy sheriff in the county or city in which the address is located, who shall,
97 as directed by the Commissioner, take possession of any suspended or revoked license, registration card,
98 or set of license plates or decals and return them to the office of the Commissioner. No such service
99 shall be made if, prior to service, the driver has complied with the requirement which caused the
100 issuance of the decision or order. In any such case, return shall be made to the Commissioner.

101 B. In lieu of making a direct payment to sheriffs as a fee for delivery of the Department's processes,
102 the Commissioner shall effect a transfer of funds, on a monthly basis, to the Compensation Board to be
103 used to provide additional support to sheriffs' departments. The amount of funds so transferred shall be
104 as provided in the general appropriation act.

105 C. The Department may contract with the United States Postal Service or an authorized agent to use
106 the National Change of Address System for the purpose of obtaining current address information for a
107 person whose name appears in customer records maintained by the Department. If the Department
108 receives information from the National Change of Address System indicating that a person whose name
109 appears in a Department record has submitted a permanent change of address to the Postal Service, the
110 Department may then update its records with the mailing address obtained from the National Change of
111 Address System.