

2024 SESSION

LEGISLATION NOT PREPARED BY DLS
INTRODUCED

24105172D

HOUSE BILL NO. 1299

Offered January 10, 2024

Prefiled January 10, 2024

A BILL to amend and reenact section 18.2-270.1 of the Code of Virginia, 1950, as amended, to wit:

Patron—Williams

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-270.1 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-270.1. Ignition interlock systems; penalty.

A. For purposes of this section and § 18.2-270.2:

"Alcohol-related violations" means

1. Operating a motor vehicle not equipped with a functioning, certified ignition interlock system as required by the court or while such a restriction is in effect.

2. Attempting to start a vehicle equipped with an ignition interlock system for someone prohibited from operating a vehicle without such a system.

3. Tampering with or attempting to circumvent the operation of an ignition interlock system or a remote alcohol monitoring device.

4. Knowingly providing or furnishing a vehicle without a functioning ignition interlock system to a person prohibited from operating a vehicle without such a system.

5. Failing to provide required proof of installation of the ignition interlock system or use of a remote alcohol monitoring device.

"Commission" means the Commission on VASAP.

"Department" means the Department of Motor Vehicles.

"Ignition interlock system" means a device that (i) connects a motor vehicle ignition system to an analyzer that measures a driver's blood alcohol content; (ii) prevents a motor vehicle ignition from starting if a driver's blood alcohol content exceeds 0.02 percent; and (iii) is equipped with the ability to perform a rolling retest and to electronically log the blood alcohol content during ignition, attempted ignition, and rolling retest.

"Remote alcohol monitoring device" means an unsupervised mobile testing device with the ability to confirm the location and presence of alcohol in a person and that is capable of scheduled, random, and on-demand tests that provide immediate, or as-requested, results. A testing device may be worn or used by persons ordered by the court to provide measurements of the presence of alcohol in their blood.

"Rolling retest" means a test of the vehicle operator's blood alcohol content required at random intervals during operation of the vehicle, which triggers the sounding of the horn and flashing of lights if (i) the test indicates that the operator has a blood alcohol content which exceeds 0.02 percent or (ii) the operator fails to take the test.

B. In addition to any penalty provided by law for a conviction under § 18.2-51.4 or clauses (i), (ii), or (iv) of § 18.2-266 or a substantially similar ordinance of any county, city, or town, any court of proper jurisdiction shall, as a condition of a restricted license, prohibit an offender from operating a motor vehicle that is not equipped with a functioning, certified ignition interlock system for any period of time not to exceed the period of license suspension and restriction, not less than six consecutive months without alcohol-related violations of the interlock requirements. In addition to any penalty provided by law for a conviction under clauses (iii) or (v) of § 18.2-266 or a substantially similar ordinance of any county, city, or town, any court of proper jurisdiction may, for a first offense, as a condition of a restricted license, prohibit an offender from operating a motor vehicle that is not equipped with a functioning, certified ignition interlock system for any period of time not to exceed the period of license suspension and restriction, not less than six consecutive months without alcohol-related violations of the interlock requirements. The court shall, as a condition of a restricted license for a conviction under § 18.2-51.4, a second or subsequent offense of § 18.2-266 or a substantially similar ordinance of any county, city, or town, or as a condition of license restoration pursuant to subsection C of § 18.2-271.1 or § 46.2-391, require that such a system be installed on each motor vehicle, as defined in § 46.2-100, owned by or registered to the offender, in whole or in part, for any period of time not less than six consecutive months without alcohol-related violations of the interlock requirements. Such condition shall be in addition to any purposes for which a restricted license may be issued pursuant to § 18.2-271.1. Whenever an ignition interlock system is required, the court may order the installation of an ignition interlock system to commence immediately upon conviction. A fee of \$20 to cover court and

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administrative costs related to the ignition interlock system shall be paid by any such offender to the clerk of the court. The court shall require the offender to install an electronic log device with the ignition interlock system on a vehicle designated by the court to measure the blood alcohol content at each attempted ignition and random rolling retest during operation of the vehicle. The offender shall be enrolled in and supervised by an alcohol safety action program pursuant to § 18.2-271.1 and to conditions established by regulation under § 18.2-270.2 by the Commission during the period for which the court has ordered installation of the ignition interlock system. The offender shall be further required to provide to such program, at least quarterly during the period of court ordered ignition interlock installation, a printout from such electronic log indicating the offender's blood alcohol content during such ignitions, attempted ignitions, and rolling retests, and showing attempts to circumvent or tamper with the equipment. The period of time during which the offender (i) is prohibited from operating a motor vehicle that is not equipped with an ignition interlock system or (ii) is required to have an ignition interlock system installed on each motor vehicle owned by or registered to the offender, in whole or in part, shall be calculated from the date the offender is issued a restricted license by the court; however, such period of time shall be tolled upon the expiration of the restricted license issued by the court until such time as the person is issued a restricted license by the Department.

C. However, upon motion of an offender, if (i) a conviction was under § 18.2-266 or a substantially similar ordinance of any county, city, or town; (ii) the conviction was for a first offense; (iii) the offender was an adult at the time of the offense; and (iv) the offender's blood alcohol content was less than 0.15, the only restriction of a restricted license that the court shall impose is to prohibit the offender from operating a motor vehicle that is not equipped with a functioning, certified ignition interlock system for not less than 12 consecutive months without alcohol-related violations of the interlock requirements.

D. In any case in which the court requires the installation of an ignition interlock system, the court shall order the offender not to operate any motor vehicle that is not equipped with such a system for the period of time that the interlock restriction is in effect. The clerk of the court shall file with the Department of Motor Vehicles a copy of the order, which shall become a part of the offender's operator's license record maintained by the Department. The Department shall issue to the offender for the period during which the interlock restriction is imposed a restricted license which shall appropriately set forth the restrictions required by the court under this subsection and any other restrictions imposed upon the offender's driving privilege, and shall also set forth any exception granted by the court under subsection I.

E. The court may, upon motion of an offender who is ineligible to receive a restricted license in accordance with subsection C, order that the offender (i) use a remote alcohol monitoring device for a period of time coextensive with the period of time of the prohibition imposed under subsection B and (ii) refrain from alcohol consumption during such period of time. Additionally, upon such motion and pursuant to § 18.2-271.1, the court may issue a restricted license to operate a motor vehicle for any purpose to a person who is prohibited from operating a motor vehicle that is not equipped with a functioning, certified ignition interlock system when such person is ordered to use a remote alcohol monitoring device pursuant to this subsection and has a functioning, certified ignition interlock system installed on each motor vehicle, as defined in § 46.2-100, owned by or registered to the offender, in whole or in part.

A fee of \$20 to cover court and administrative costs related to the remote alcohol monitoring device shall be paid by any such offender to the clerk of the court. The offender shall be enrolled in and supervised by an alcohol safety action program pursuant to § 18.2-271.1 and shall comply with all conditions established by regulation under § 18.2-270.2 by the Commission during the period for which the court has ordered the use of a remote alcohol monitoring device. The offender shall be further required to provide to such program, at least quarterly during the period of time the offender is ordered to use a remote alcohol monitoring device, a copy of the data from such device indicating the offender's blood alcohol content and showing attempts to circumvent or tamper with the device. The period of time during which the offender is required to use a remote alcohol monitoring device shall be calculated from the date the offender is issued a restricted license by the court; however, such period of time shall be tolled upon the expiration of the restricted license issued by the court until such time as the person is issued a restricted license by the Department.

F. The offender shall be ordered to provide the appropriate ASAP program, within 30 days of the effective date of the order of court, proof of the installation of the ignition interlock system, and, if applicable, proof that the offender is using a remote alcohol monitoring device. The Program shall require the offender to have the system and device monitored and calibrated for proper operation at least every 30 days by an entity approved by the Commission under the provisions of § 18.2-270.2 and to demonstrate proof thereof. The offender shall pay the cost of leasing or buying and monitoring and maintaining the ignition interlock system and the remote alcohol monitoring device. Absent good cause shown, the court may revoke the offender's driving privilege for failing to (i) timely install such system

121 or use such device or (ii) have the system or device properly monitored and calibrated.

122 G. No person shall start or attempt to start a motor vehicle equipped with an ignition interlock
123 system for the purpose of providing an operable motor vehicle to a person who is prohibited under this
124 section from operating a motor vehicle that is not equipped with an ignition interlock system. No person
125 shall tamper with, or in any way attempt to circumvent the operation of, an ignition interlock system
126 that has been installed in the motor vehicle of a person under this section. Except as authorized in
127 subsection I, no person shall knowingly furnish a motor vehicle not equipped with a functioning ignition
128 interlock system to any person prohibited under subsection B from operating any motor vehicle that is
129 not equipped with such system. A violation of this subsection is punishable as a Class 1 misdemeanor.
130 The venue for the prosecution of a violation of this subsection shall be where the offense occurred or
131 the jurisdiction in which the order entered pursuant to subsection B was entered.

132 H. No person shall tamper with, or in any way attempt to circumvent the operation of, a remote
133 alcohol monitoring device that an offender is ordered to use under this section. A violation of this
134 subsection is punishable as a Class 1 misdemeanor.

135 Any person who violates this subsection shall have his restricted license issued pursuant to subsection
136 E, as it shall become effective on July 1, 2021, revoked. The court may, in its discretion and for good
137 cause shown, provide that such person be issued a restricted permit to operate a motor vehicle in
138 accordance with the terms of a restricted license issued pursuant to subsection E of § 18.2-271.1.

139 I. Any person prohibited from operating a motor vehicle under subsection B may, solely in the
140 course of his employment, operate a motor vehicle that is owned or provided by his employer without
141 installation of an ignition interlock system, if the court expressly permits such operation as a condition
142 of a restricted license at the request of the employer; such person shall not be permitted to operate any
143 other vehicle without a functioning ignition interlock system and, in no event, shall such person be
144 permitted to operate a school bus, school vehicle, or a commercial motor vehicle as defined in
145 § 46.2-341.4. This subsection shall not apply if such employer is an entity wholly or partially owned or
146 controlled by the person otherwise prohibited from operating a vehicle without an ignition interlock
147 system.

148 J. The Commission shall promulgate such regulations and forms as are necessary to implement the
149 procedures outlined in this section.