

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 46.2-393, 46.2-394, 46.2-398, 46.2-506, and 46.2-865 of the Code of Virginia and to amend the Code of Virginia by adding in Article 19 of Chapter 3 of Title 46.2 a section numbered 46.2-507, relating to Intelligent Speed Assistance Program established; penalty.

[H 2096]

Approved

Be it enacted by the General Assembly of Virginia:
1. That §§ 46.2-393, 46.2-394, 46.2-398, 46.2-506, and 46.2-865 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 19 of Chapter 3 of Title 46.2 a section numbered 46.2-507 as follows:

§ 46.2-393. Suspension of license on conviction of certain reckless offenses; restricted licenses.

A. When any person is convicted of reckless driving as provided in §§ 46.2-853 through 46.2-864, in addition to any penalties provided by law, the driver's license of the person may be suspended by the court for a period of not less than 60 days nor more than six months. In case of conviction the court shall order the surrender of the license to the court where it shall be disposed of in accordance with the provisions of § 46.2-398. If the person so convicted has not obtained a license required by this chapter or is a nonresident, the court shall direct in the judgment of conviction that the person shall not drive any motor vehicle in the Commonwealth for a period of not less than 60 days nor more than six months.

B. The court may, in its discretion and for good cause shown, provide that such person be issued a restricted permit to operate a motor vehicle during the period of suspension for any of the purposes set forth in subsection E of § 18.2-271.1. The court shall forward to the Commissioner a copy of its order entered pursuant to this section, which shall specifically enumerate the restrictions imposed and contain such information regarding the person to whom such a permit is issued as is reasonably necessary to identify such person. The court shall also provide a copy of its order to the person who may operate a motor vehicle on the order until receipt from the Commissioner of a restricted license. A copy of such order and, after receipt thereof, the restricted license shall be carried at all times while operating a motor vehicle. Any person who operates a motor vehicle in violation of any restrictions imposed pursuant to this section shall be punished as provided in subsection C of § 46.2-301. No restricted license issued pursuant to this section shall permit any person to operate a commercial motor vehicle as defined in the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.).

C. *Notwithstanding the provisions of subsection A, when any person is convicted of reckless driving pursuant to § 46.2-861 or 46.2-862, in addition to any penalties provided by law and as an alternative to suspending such person's driver's license, the court may, in its discretion and for good cause shown, require that such person enroll in the Intelligent Speed Assistance Program established pursuant to § 46.2-507 for a period of not less than 60 days nor more than six months. However, if such person was convicted of reckless driving pursuant to § 46.2-862 and was found to have been driving on the highways of the Commonwealth in excess of 100 miles per hour, the court shall order such enrollment for such period of time. No restricted license issued nor enrollment in the Intelligent Speed Assistance Program required pursuant to this section shall permit any person to operate a commercial motor vehicle, as that term is defined in § 46.2-341.4.*

§ 46.2-394. Revocation of license for fourth conviction of certain offenses.

If any person is convicted four times of a violation of §§ 46.2-865, 46.2-894, or § 46.2-895, or any substantially similar ordinance or law of any other jurisdiction, the court shall revoke his driver's license for five years. *However, if such person is convicted four times of a violation of § 46.2-865, or any substantially similar ordinance or law of any other jurisdiction, the court may alternatively, in its discretion and for good cause shown, require that such person enroll in the Intelligent Speed Assistance Program established pursuant to § 46.2-507 for five years. No restricted license issued nor enrollment in the Intelligent Speed Assistance Program required pursuant to this section shall permit any person to operate a commercial motor vehicle, as that term is defined in § 46.2-341.4.*

§ 46.2-398. Disposition of surrendered licenses on revocation or suspension.

In any case in which the accused is convicted of an offense, on the conviction of which the law requires or permits revocation or suspension of the driver's license of the person so convicted, the court shall order the surrender of such license, which shall remain in the custody of the court during the period of revocation or suspension if the period does not exceed 30 days.

If the revocation or suspension period exceeds 30 days, and the conviction was obtained in a court not of record, the license shall remain in the custody of that court (i) until the time allowed by law for an appeal to the circuit court has elapsed, when it shall be forwarded to the Commissioner, or (ii) until an appeal to the

circuit court is noted, at which time it shall be returned to the accused.

If the revocation or suspension period exceeds 30 days, and the conviction was obtained in the circuit court, the circuit court shall forward the license to the Commissioner forthwith upon the conviction.

In any case in which a court ordered a person to enroll in the Intelligent Speed Assistance Program established pursuant to § 46.2-507, the court shall forward the license to the Department upon the conviction.

For any revocation or suspension of a privilege to drive in Virginia of a person who does not have a Virginia driver's license but who does have a valid driver's license from another jurisdiction, the court shall not order the physical surrender of such license.

§ 46.2-506. Formal hearings; suspension for excessive point accumulation.

A. Whenever the operating record of any person shows a continued disregard of the motor vehicle laws subsequent to being placed on probation, he may be charged as a reckless or negligent driver of a motor vehicle, and cited for a formal hearing in accordance with the provisions of §§ 46.2-402 through 46.2-408. If the hearing results in the suspension of a person's driving privilege, the person shall be placed on probation at the end of the suspension period in accordance with the provisions of § 46.2-499.

B. Whenever the operating record of any person shows an accumulation of at least ~~eighteen~~ 18 demerit points based on convictions, or findings of not innocent in the case of a juvenile, for traffic violations committed within any ~~twelve~~ 12 consecutive months, or at least ~~twenty-four~~ 24 demerit points based on convictions, or findings of not innocent in the case of a juvenile, for traffic violations committed within any ~~twenty-four~~ 24 consecutive months, respectively, the Commissioner shall (i) suspend the person's license or licenses for a period of ~~ninety~~ 90 days and thereafter until he attends and satisfactorily completes a driver improvement clinic or (ii) require such person to enroll in the Intelligent Speed Assistance Program established pursuant to § 46.2-507 for a period of nine months and satisfactorily complete a driver improvement clinic. The Department shall provide such driver subject to the provision of this subsection with the option, in a written notice, either to have his license suspended or to enroll in the Intelligent Speed Assistance Program. Such driver shall indicate his choice to the Department within 30 days of the receipt of such written notice. The Department shall, pursuant to clause (i), suspend the license of any driver who fails to respond to such written notice within such 30 days. At the end of ~~this~~ a suspension period pursuant to clause (i), the person shall be placed on probation in accordance with the provisions of § 46.2-499. No restricted license issued nor enrollment in the Intelligent Speed Assistance Program required pursuant to this section shall permit any person to operate a commercial motor vehicle, as that term is defined in § 46.2-341.4.

§ 46.2-507. Establishment of Intelligent Speed Assistance Program; penalty.

A. As used in this section:

"Commission" means the Commission on the Virginia Alcohol Safety Action Program (VASAP) as established pursuant to § 18.2-271.2.

"Intelligent speed assistance system" means a system that limits the speed at which a motor vehicle is capable of traveling based on the applicable speed limit where such motor vehicle is being operated.

"Program" means the Intelligent Speed Assistance Program established pursuant to this section.

B. The Executive Director of the Commission or his designee shall, pursuant to approval by the Commission, establish the Intelligent Speed Assistance Program for the administration of the provisions of this section and supervise the installation and compliance of intelligent speed assistance systems.

C. Upon receipt of notice from a court that a person is required to enroll in the Program, the Department shall:

1. Require such person's enrollment in the Program as a condition for obtaining and maintaining a restricted driver's license;

2. Suspend such person's driver's license and issue such person a restricted driver's license that indicates his participation in the Program; and

3. Not issue such person any other driver's license until such person successfully completes a period of enrollment as provided in subsection E.

D. The Department shall provide notice to any person required to enroll in the Program of the requirements of this section. Such notice shall be deemed to have been delivered if it is (i) hand-delivered to such person or (ii) sent by mail to the address on such person's driver's license.

E. A person's driver's license shall remain suspended pursuant to subdivision C 3, and a person's enrollment in the Program shall remain a condition for obtaining and maintaining a restricted driver's license pursuant to subdivision C 1, for the duration of time ordered by the court or, if such enrollment is pursuant to § 46.2-506, for a period of nine months and after satisfactory completion of a driver improvement clinic.

F. A person enrolled in the Program pursuant to this section shall enter into and successfully complete the Program and (i) shall install a certified intelligent speed assistance system on each motor vehicle owned by or registered to such person and (ii) shall not operate any motor vehicle that is not equipped with a functioning, certified intelligent speed assistance system.

G. A person enrolled in the Program shall pay all costs associated with enrollment and participation in the Program, unless such person is found by the court or the Commission to be indigent.

H. The Executive Director of the Commission or his designee shall, pursuant to approval by the Commission, certify intelligent speed assistance systems for use in the Commonwealth and adopt regulations and forms for the installation, maintenance, and certification of such intelligent speed assistance systems. Such regulations shall include requirements that such intelligent speed assistance systems:

1. Do not impede the safe operation of the motor vehicle;
2. Minimize opportunities to be bypassed, circumvented, or tampered with, and provide evidence that such system has not been bypassed, circumvented, or tampered with;
3. Work accurately and reliably in an unsupervised environment;
4. Have the capability to provide an accurate measure of speed and record each attempt to bypass, circumvent, or tamper with such intelligent speed assistance systems;
5. Minimize inconvenience to other users of the motor vehicle;
6. Be manufactured or distributed by an entity that is responsible for the installation, user training, service, and maintenance of such intelligent speed assistance systems;
7. Operate reliably over the range of motor vehicle environments or motor vehicle manufacturing standards;

8. Be manufactured by an entity that is adequately insured against liability, in an amount established by the Commission, including product liability and liability against installation and maintenance errors; and

9. Provide for an electronic log of the driver's experience with such intelligent speed assistance system with an information management system capable of electronically delivering information to the Commission within 24 hours of the collection of such information from the data logger.

I. The regulations adopted pursuant to subsection H shall also provide for the establishment of a Fund, administered by the Commission, using a percentage of fees received by the manufacturer or distributor providing the intelligent speed assistance systems from a person enrolled in the Program, to assist any person found by the court or the Commission to be indigent with all or part of the costs of an intelligent speed assistance system.

J. The Commission shall publish a list of certified intelligent speed assistance systems and shall ensure that such intelligent speed assistance systems are available throughout the Commonwealth. The Commission shall make the list available to eligible offenders, who shall have the responsibility and authority to choose which certified intelligent speed assistance system manufacturer or distributor will supply such offender's certified intelligent speed assistance system. A manufacturer or distributor of intelligent speed assistance systems that seeks to sell or lease the intelligent speed assistance systems to persons subject to the provisions of this section shall pay the reasonable costs of obtaining the required certification, as established by the Commission.

K. A person may not sell or lease or offer to sell or lease an intelligent speed assistance system to any person unless:

1. The intelligent speed assistance system has been certified by the Commission; and
2. The warning label adopted by the Commission pursuant to subsection N is affixed to the intelligent speed assistance system.

L. A manufacturer or distributor of an intelligent speed assistance system shall provide such support services as may be required at no cost to the Commonwealth. Such services shall include a toll free, 24-hour telephone number for the users of intelligent speed assistance systems.

M. No person shall tamper with, or in any way attempt to circumvent, bypass, or tamper with the operation of, an intelligent speed assistance system that has been installed in a motor vehicle pursuant to this section. A violation of this subsection is punishable as a Class 1 misdemeanor. The venue for the prosecution of a violation of this subsection shall be where the offense occurred.

N. The Commission shall design and adopt a warning label to be affixed to an intelligent speed assistance system upon installation in a motor vehicle. The warning label shall state that a person tampering with or attempting to bypass or circumvent the intelligent speed assistance system is guilty of a Class 1 misdemeanor and, upon conviction, is subject to a fine or incarceration or both.

O. Any person who enters into the Program prior to trial may pre-qualify with the Program to have an intelligent speed assistance system installed on any motor vehicle owned or operated by him and the court may consider such pre-qualification and installation.

P. The Commission shall promulgate such regulations and forms as are necessary to implement the Program established by this section.

§ 46.2-865. Racing; penalty.

Any person who engages in a race between two or more motor vehicles on the highways in the Commonwealth or on any driveway or premises of a church, school, recreational facility, or business property open to the public in the Commonwealth shall be guilty of reckless driving, unless authorized by the owner of the property or his agent. When any person is convicted of reckless driving under this section, in addition to any other penalties provided by law the driver's license of such person shall be suspended by the

181 court for a period of not less than six months nor more than two years *or the court may, in its discretion and*
182 *for good cause shown, require that such person enroll in the Intelligent Speed Assistance Program*
183 *established pursuant to § 46.2-507 for a period of not less than six months nor more than two years.* In case
184 of conviction the court shall order the surrender of the license to the court where it shall be disposed of in
185 accordance with the provisions of § 46.2-398. *No restricted license issued nor enrollment in the Intelligent*
186 *Speed Assistance Program required pursuant to this section shall permit any person to operate a commercial*
187 *motor vehicle, as that term is defined in § 46.2-341.4.*
188 **2. That the provisions of this act shall become effective on July 1, 2026.**