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1 **HOUSE BILL NO. 561**

2 Offered January 14, 2026

3 Prefiled January 13, 2026

4 *A BILL to amend and reenact §§ 18.2-266.1, 18.2-268.3, 18.2-270.1, 18.2-271, 18.2-271.1, 46.2-391, and*  
5 *46.2-391.2 of the Code of Virginia, relating to driving while intoxicated; refusal of tests; repeat offenders;*  
6 *ignition interlocks.*

7 Patron—Hope

8 Committee Referral Pending

9 Be it enacted by the General Assembly of Virginia:

10 1. That §§ 18.2-266.1, 18.2-268.3, 18.2-270.1, 18.2-271, 18.2-271.1, 46.2-391, and 46.2-391.2 of the Code  
11 of Virginia are amended and reenacted as follows:12 **§ 18.2-266.1. Persons younger than 21 years of age driving after illegally consuming alcohol; penalty.**13 A. It shall be is unlawful for any person under the age of younger than 21 years of age to operate any  
14 motor vehicle after illegally consuming alcohol. Any such person with a blood alcohol concentration of 0.02  
15 percent or more by weight by volume or 0.02 grams or more per 210 liters of breath but less than 0.08 by  
16 weight by volume or less than 0.08 grams per 210 liters of breath as indicated by a chemical test administered  
17 as provided in this article shall be in violation of this section.18 B. A violation of this section is a Class 1 misdemeanor. Punishment shall include (i) forfeiture of such  
19 person's license to operate a motor vehicle for a period of one year from the date of conviction and (ii) a  
20 mandatory minimum fine of \$500 or performance of a mandatory minimum of 50 hours of community  
21 service. This suspension period shall be in addition to the suspension period provided under § 46.2-391.2.  
22 The penalties and license forfeiture provisions set forth in §§ 16.1-278.9, 18.2-270 and 18.2-271 shall not  
23 apply to a violation of this section. Any person convicted of a violation of this section shall be eligible to  
24 attend an Alcohol Safety Action Program under the provisions of § 18.2-271.1 and may, in the discretion of  
25 the court, be issued a restricted license during the term of license suspension, provided, however, that such  
26 person is required to install an ignition interlock system pursuant to § 18.2-270.1 for a period not to exceed  
27 one year.28 C. Notwithstanding §§ 16.1-278.8 and 16.1-278.9, upon adjudicating a juvenile delinquent based upon a  
29 violation of this section, the juvenile and domestic relations district court shall order disposition as provided  
30 in subsection B.31 **§ 18.2-268.3. Refusal of tests; penalties; procedures.**32 A. It is unlawful for a person who is arrested for a violation of § 18.2-266 or 18.2-266.1 or subsection B  
33 of § 18.2-272 or of a similar ordinance to unreasonably refuse to have samples of his breath taken for  
34 chemical tests to determine the alcohol content of his blood as required by § 18.2-268.2, and any person who  
35 so unreasonably refuses is guilty of a violation of this subsection, which is punishable as follows:36 1. A first violation is a civil offense. For a first offense, the court shall suspend the defendant's privilege to  
37 drive for a period of one year. This suspension period is in addition to the suspension period provided under  
38 § 46.2-391.2.39 2. If a person is found to have violated this subsection and within 10 years prior to the date of the refusal  
40 he was found guilty of any of the following: a violation of this section, a violation of § 18.2-266, or a  
41 violation of any offense listed in subsection E of § 18.2-270 arising out of separate occurrences or incidents,  
42 he is guilty of a Class 1 misdemeanor. A conviction under this subdivision shall of itself operate to deprive  
43 the person of the privilege to drive for a period of three years from the date of the judgment of conviction.  
44 This revocation period is in addition to the suspension period provided under § 46.2-391.2.45 B. It is unlawful for a person who is arrested for a violation of § 18.2-266 or 18.2-266.1 or subsection B of  
46 § 18.2-272 or of a similar ordinance to unreasonably refuse to have samples of his blood taken for chemical  
47 tests to determine the alcohol or drug content of his blood as required by § 18.2-268.2 and any person who so  
48 unreasonably refuses is guilty of a violation of this subsection, which is a civil offense and is punishable as  
49 follows:50 1. For a first offense, the court shall suspend the defendant's privilege to drive for a period of one year.  
51 This suspension period is in addition to the suspension period provided under § 46.2-391.2.52 2. If a person is found to have violated this subsection and within 10 years prior to the date of the refusal  
53 he was found guilty of any of the following: a violation of this section, a violation of § 18.2-266, or a  
54 violation of any offense listed in subsection E of § 18.2-270 arising out of separate occurrences or incidents,  
55 such violation shall of itself operate to deprive the person of the privilege to drive for a period of three years

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HB561

59 from the date of the judgment. This revocation period is in addition to the suspension period provided under  
60 § 46.2-391.2.

61 C. When a person is arrested for a violation of § 18.2-51.4, 18.2-266, or 18.2-266.1 or subsection B of  
62 § 18.2-272 or of a similar ordinance and such person refuses to permit blood or breath or both blood and  
63 breath samples to be taken for testing as required by § 18.2-268.2, the arresting officer shall advise the  
64 person, from a form provided by the Office of the Executive Secretary of the Supreme Court (i) that a person  
65 who operates a motor vehicle upon a highway in the Commonwealth is deemed thereby, as a condition of  
66 such operation, to have consented to have samples of his blood and breath taken for chemical tests to  
67 determine the alcohol or drug content of his blood, (ii) that a finding of unreasonable refusal to consent may  
68 be admitted as evidence at a criminal trial, (iii) that the unreasonable refusal to do so constitutes grounds for  
69 the revocation of the privilege of operating a motor vehicle upon the highways of the Commonwealth, (iv) of  
70 the civil penalties for unreasonable refusal to have blood or breath or both blood and breath samples taken,  
71 and (v) of the criminal penalty for unreasonable refusal to have breath samples taken within 10 years of a  
72 prior conviction for driving while intoxicated or unreasonable refusal, which is a Class 1 misdemeanor. The  
73 form from which the arresting officer shall advise the person arrested shall contain a brief statement of the  
74 law requiring the taking of blood or breath samples, a statement that a finding of unreasonable refusal to  
75 consent may be admitted as evidence at a criminal trial, and the penalties for refusal. The Office of the  
76 Executive Secretary of the Supreme Court shall make the form available on the ~~Internet~~ *internet* and the form  
77 shall be considered an official publication of the Commonwealth for the purposes of § 8.01-388.

78 D. The arresting officer shall, under oath before the magistrate, execute the form and certify (i) that the  
79 defendant has refused to permit blood or breath or both blood and breath samples to be taken for testing; (ii)  
80 that the officer has read the portion of the form described in subsection C to the arrested person; (iii) that the  
81 arrested person, after having had the portion of the form described in subsection C read to him, has refused to  
82 permit such sample or samples to be taken; and (iv) how many, if any, violations of this section, § 18.2-266,  
83 or any offense described in subsection E of § 18.2-270 the arrested person has been convicted of within the  
84 last 10 years. Such sworn certification shall constitute probable cause for the magistrate to issue a warrant or  
85 summons charging the person with unreasonable refusal. The magistrate shall attach the executed and sworn  
86 advisement form to the warrant or summons. The warrant or summons for a first offense under subsection A  
87 or any offense under subsection B shall be executed in the same manner as a criminal warrant or summons. If  
88 the person arrested has been taken to a medical facility for treatment or evaluation of his medical condition,  
89 the arresting officer may read the advisement form to the person at the medical facility, and issue, on the  
90 premises of the medical facility, a summons for a violation of this section in lieu of securing a warrant or  
91 summons from the magistrate. The magistrate or arresting officer, as the case may be, shall forward the  
92 executed advisement form and warrant or summons to the appropriate court.

93 E. *Any person charged with a violation of this section, or any ordinance of a locality similar to the  
94 provisions thereof, may, at any time prior to trial, enter into an alcohol safety action program in the judicial  
95 district in which such charge is brought or in any other judicial district. Any person who enters into such  
96 program prior to trial may be issued a restricted license and pre-qualify with the program to have an ignition  
97 interlock system installed on any motor vehicle owned or operated by him and may have such ignition  
98 interlock system installed. Any installation period of time accrued by such person prior to trial for the  
99 pending charge shall count toward any (i) ignition interlock or restricted license period of time ordered by a  
100 court or (ii) restricted license, suspension, or revocation issued by the Department of Motor Vehicles  
101 pursuant to § 46.2-389.*

102 F. A defendant who is found guilty of a first offense and whose license is suspended pursuant to  
103 subdivision A 1 or B 1 may petition the court ~~30 days after the date of conviction~~ for a restricted license and  
104 the court may, for good cause shown, provide that the defendant is issued a restricted license during the  
105 remaining period of suspension, or any portion thereof, for any of the purposes set forth in subsection E of  
106 § 18.2-271.1. No restricted license issued pursuant to this subsection shall permit any person to operate a  
107 commercial motor vehicle as defined in the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.).  
108 If the court grants such petition and issues the defendant a restricted license, the court shall order (i) that  
109 reinstatement of the defendant's license to drive be conditioned upon (a) the installation of an ignition  
110 interlock system on each motor vehicle, as defined in § 46.2-100, owned by or registered to the person, in  
111 whole or in part, for a period of time not to exceed the period of license suspension and restriction, not less  
112 than six consecutive months without alcohol-related violations of the interlock requirements and (b) the  
113 requirement that such person not operate any motor vehicle that is not equipped with such a system for the  
114 period of time that the interlock restriction is in effect and (ii) that, as a condition of probation or otherwise,  
115 the defendant enter into and successfully complete an alcohol safety action program in the judicial district in  
116 which such charge is brought or in any other judicial district upon such terms and conditions as the court may  
117 set forth. However, upon motion of a person convicted of any such offense following an assessment of the  
118 person conducted by an alcohol safety action program, the court, for good cause, may decline to order  
119 participation in such a program if the assessment conducted by the alcohol safety action program indicates  
120 that intervention is not appropriate for such person. In no event shall such persons be permitted to enter any

such program that is not certified as meeting minimum standards and criteria established by the Commission on the Virginia Alcohol Safety Action Program (VASAP) pursuant to this section and to § 18.2-271.2. The court shall require the person entering such program under the provisions of this section to pay a fee of no less than \$250 but no more than \$300. A reasonable portion of such fee, as may be determined by the Commission on VASAP, but not to exceed 10 percent, shall be forwarded monthly to be deposited with the State Treasurer for expenditure by the Commission on VASAP, and the balance shall be held in a separate fund for local administration of driver alcohol rehabilitation programs. Upon a positive finding that the defendant is indigent, the court may reduce or waive the fee. In addition to the costs of the proceeding, fees as may reasonably be required of defendants referred for intervention under any such program may be charged.

If the court grants a restricted license to any person pursuant to this section, the court shall order such person to surrender his driver's license to be disposed of in accordance with the provisions of § 46.2-398 and shall forward to the Commissioner of the Department of Motor Vehicles a copy of its order entered pursuant to this subsection. This order 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 such person who may operate a motor vehicle on the order until receipt from the Commissioner of the Department of Motor Vehicles of a restricted license, but only if the order provides for a restricted license for that period. A copy of the order and, after receipt thereof, the restricted license shall be carried at all times by such person while operating a motor vehicle. The period of time during which the person is prohibited from operating a motor vehicle that is not equipped with an ignition interlock system shall be calculated from the date the person 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 of Motor Vehicles. Any person who operates a motor vehicle in violation of any restrictions imposed pursuant to this section ~~shall be~~ *is* guilty of a violation of § 18.2-272. The provisions of subsection F of § 18.2-271.1 shall apply to this subsection mutatis mutandis, except as herein provided.

~~F.~~ G. Notwithstanding any other provisions of this section or of § 18.2-271.1, nothing in this section shall permit the court to suspend, reduce, limit, or otherwise modify any disqualification from operating a commercial motor vehicle imposed under the provisions of the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.).

**§ 18.2-270.1. Ignition interlock systems; penalty.**

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

"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 § 18.2-266.1 or a substantially similar ordinance of any ~~county, city, or town~~ locality, 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 12 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~~ locality, 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 12 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~~ locality, 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 12 consecutive months without alcohol-related violations of the interlock requirements. Such condition shall be in addition to any purposes for which a

183 restricted license may be issued pursuant to § 18.2-271.1.

184 Whenever an ignition interlock system is required, the court may order the installation of an ignition  
185 interlock system to commence immediately upon conviction. A fee of \$20 to cover court and administrative  
186 costs related to the ignition interlock system shall be paid by any such offender to the clerk of the court. The  
187 court shall require the offender to install an electronic log device with the ignition interlock system on a  
188 vehicle designated by the court to measure the blood alcohol content at each attempted ignition and random  
189 rolling retest during operation of the vehicle. The offender shall be enrolled in and supervised by an alcohol  
190 safety action program pursuant to § 18.2-271.1 and to conditions established by regulation under § 18.2-270.2  
191 by the Commission during the period for which the court has ordered installation of the ignition interlock  
192 system. The offender shall be further required to provide to such program, at least quarterly during the period  
193 of court ordered ignition interlock installation, a printout from such electronic log indicating the offender's  
194 blood alcohol content during such ignitions, attempted ignitions, and rolling retests, and showing attempts to  
195 circumvent or tamper with the equipment. The period of time during which the offender (i) is prohibited from  
196 operating a motor vehicle that is not equipped with an ignition interlock system or (ii) is required to have an  
197 ignition interlock system installed on each motor vehicle owned by or registered to the offender, in whole or  
198 in part, shall be calculated from the date the offender is issued a restricted license by the court; however, such  
199 period of time shall be tolled upon the expiration of the restricted license issued by the court until such time  
200 as the person is issued a restricted license by the Department.

201 C. However, if (i) a conviction was under § 18.2-266 or a substantially similar ordinance of any ~~county, city, or town~~ locality; (ii) the conviction was for a first offense; and (iii) the offender was an adult at the time  
202 of the offense, the only restriction of a restricted license that the court shall impose is to prohibit the offender  
203 from operating a motor vehicle that is not equipped with a functioning, certified ignition interlock system for  
204 not less than 12 consecutive months without alcohol-related violations of the interlock requirements. Upon  
205 motion of an offender, a court may require a minimum of six consecutive months without alcohol-related  
206 violations of the interlock requirements if additional restrictions are ordered for the duration of the restricted  
207 license.

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

216 E. The court may, upon motion of an offender who is ineligible to receive a restricted license in  
217 accordance with subsection C, order that the offender (i) use a remote alcohol monitoring device for a period  
218 of time coextensive with the period of time of the prohibition imposed under subsection B and (ii) refrain  
219 from alcohol consumption during such period of time. Additionally, upon such motion and pursuant to  
220 § 18.2-271.1, the court may issue a restricted license to operate a motor vehicle for any purpose to a person  
221 who is prohibited from operating a motor vehicle that is not equipped with a functioning, certified ignition  
222 interlock system when such person is ordered to use a remote alcohol monitoring device pursuant to this  
223 subsection and has a functioning, certified ignition interlock system installed on each motor vehicle, as  
224 defined in § 46.2-100, owned by or registered to the offender, in whole or in part.

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

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

245 device properly monitored and calibrated.

246 G. No person shall start or attempt to start a motor vehicle equipped with an ignition interlock system for  
 247 the purpose of providing an operable motor vehicle to a person who is prohibited under this section from  
 248 operating a motor vehicle that is not equipped with an ignition interlock system. No person shall tamper with,  
 249 or in any way attempt to circumvent the operation of, an ignition interlock system that has been installed in  
 250 the motor vehicle of a person under this section. Except as authorized in subsection I, no person shall  
 251 knowingly furnish a motor vehicle not equipped with a functioning ignition interlock system to any person  
 252 prohibited under subsection B from operating any motor vehicle that is not equipped with such system. A  
 253 violation of this subsection is punishable as a Class 1 misdemeanor. The venue for the prosecution of a  
 254 violation of this subsection shall be where the offense occurred or the jurisdiction in which the order entered  
 255 pursuant to subsection B was entered.

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

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

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

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

**§ 18.2-271. Forfeiture of driver's license for driving while intoxicated.**

273 A. Except as provided in § 18.2-271.1, the judgment of conviction if for a first offense under § 18.2-266  
 274 or for a similar offense under any county, city, or town local ordinance, or for a first offense under subsection  
 275 A of § 46.2-341.24, shall of itself operate to deprive the person so convicted of the privilege to drive or  
 276 operate any motor vehicle, engine, or train in the Commonwealth for a period of one year from the date of  
 277 such judgment. This suspension period shall be in addition to the suspension period provided under  
 278 § 46.2-391.2.

279 B. If a person (i) is tried on a process alleging a second offense of violating § 18.2-266 or subsection A of  
 280 § 46.2-341.24, or any substantially similar local ordinance, or law of any other jurisdiction, within ten 10  
 281 years of a first offense for which the person was convicted, or found guilty in the case of a juvenile, under  
 282 § 18.2-266 or subsection A of § 46.2-341.24 or any valid local ordinance or any law of any other jurisdiction  
 283 substantially similar to § 18.2-266 or subsection A of § 46.2-341.24 and (ii) is convicted thereof, such  
 284 conviction shall of itself operate to deprive the person so convicted of the privilege to drive or operate any  
 285 motor vehicle, engine, or train in the Commonwealth for a period of three years from the date of the judgment  
 286 of conviction and such person shall have his license revoked as provided in subsection A of § 46.2-391. The  
 287 court trying such case shall order the surrender of the person's driver's license, to be disposed of in  
 288 accordance with § 46.2-398, and shall notify such person that his license has been revoked for a period of  
 289 three years and that the penalty for violating that revocation is as set out in § 46.2-391. This suspension  
 290 period shall be in addition to the suspension period provided under § 46.2-391.2. Any period of license  
 291 suspension or revocation imposed pursuant to this section, in any case, shall run consecutively with any  
 292 period of suspension for failure to permit a blood or breath sample to be taken as required by §§ 18.2-268.1  
 293 through 18.2-268.12 or §§ 46.2-341.26:1 through 46.2-341.26:11 or any period of suspension for a previous  
 294 violation of § 18.2-266, 18.2-266.1, or 46.2-341.24.

295 C. If a person (i) is tried on a process alleging (a) a felony conviction of § 18.2-266 or (b) a third or  
 296 subsequent offense of violating § 18.2-266 or subsection A of § 46.2-341.24, or any substantially similar  
 297 local ordinance, or law of any other jurisdiction, within 10 years of two other offenses for which the person  
 298 was convicted, or found not innocent in the case of a juvenile, under § 18.2-266 or subsection A of  
 299 § 46.2-341.24 or any valid local ordinance or any law of any other jurisdiction substantially similar to  
 300 § 18.2-266 or subsection A of § 46.2-341.24 and (ii) is convicted thereof, such conviction shall of itself  
 301 operate to deprive the person so convicted of the privilege to drive or operate any motor vehicle, engine, or  
 302 train in the Commonwealth and such. Such person shall not may, upon good cause shown, be eligible for  
 303 participation in a program pursuant to § 18.2-271.1 and shall, upon such conviction, have his license revoked  
 304 as provided in subsection B of § 46.2-391. The court trying such case shall order the surrender of the person's  
 305 driver's license, to be disposed of in accordance with § 46.2-398, and shall notify such person that his license

307 has been revoked indefinitely and that the penalty for violating that revocation is as set out in § 46.2-391.

308 D. Notwithstanding any other provision of this section, the period of license revocation or suspension  
309 shall not begin to expire until the person convicted has surrendered his license to the court or to the  
310 Department of Motor Vehicles.

311 E. The provisions of this section shall not apply to, and shall have no effect upon, any disqualification  
312 from operating a commercial motor vehicle imposed under the provisions of the Commercial Driver's License  
313 Act (§ 46.2-341.1 et seq.).

314 **§ 18.2-271.1. Probation, education, and rehabilitation of person charged or convicted; person  
315 convicted under law of another state or federal law.**

316 A. Any person convicted of a ~~first or second offense~~ violation of § 18.2-266, or any ordinance of a ~~county, city, or town~~ locality similar to the provisions thereof, or provisions of subsection A of § 46.2-341.24, shall  
317 be required by court order, as a condition of probation or otherwise, to enter into and successfully complete  
318 an alcohol safety action program in the judicial district in which such charge is brought or in any other  
319 judicial district upon such terms and conditions as the court may set forth. However, upon motion of a person  
320 convicted of any such offense following an assessment of the person conducted by an alcohol safety action  
321 program, the court, for good cause, may decline to order participation in such a program if the assessment by  
322 the alcohol safety action program indicates that intervention is not appropriate for such person. In no event  
323 shall such persons be permitted to enter any such program which is not certified as meeting minimum  
324 standards and criteria established by the Commission on the Virginia Alcohol Safety Action Program  
325 (VASAP) pursuant to this section and to § 18.2-271.2. However, any person charged with a violation of a  
326 ~~first or second offense of~~ § 18.2-266, or any ordinance of a ~~county, city, or town~~ locality similar to the  
327 provisions thereof, or provisions of subsection A of § 46.2-341.24, may, at any time prior to trial, enter into  
328 an alcohol safety action program in the judicial district in which such charge is brought or in any other  
329 judicial district. Any person who enters into such program prior to trial may pre-qualify with the program to  
330 have an ignition interlock system installed on any motor vehicle owned or operated by him and may have  
331 such ignition interlock system installed. Any installation period of time accrued by such person prior to trial  
332 for the pending charge shall count toward any (i) ignition interlock or restricted license period of time ordered  
333 by a court or (ii) restricted license, suspension, or revocation issued by the Department of Motor Vehicles  
334 pursuant to § 46.2-389.

335 B. The court shall require the person entering such program under the provisions of this section to pay a  
336 fee of no less than \$250 but no more than \$300. A reasonable portion of such fee, as may be determined by  
337 the Commission on VASAP, but not to exceed 10 percent, shall be forwarded monthly to be deposited with  
338 the State Treasurer for expenditure by the Commission on VASAP, and the balance shall be held in a separate  
339 fund for local administration of driver alcohol rehabilitation programs. Upon a positive finding that the  
340 defendant is indigent, the court may reduce or waive the fee. In addition to the costs of the proceeding, fees as  
341 may reasonably be required of defendants referred for intervention under any such program may be charged.

342 C. Upon conviction of a violation of § 18.2-266 or any ordinance of a ~~county, city or town~~ locality similar  
343 to the provisions thereof, or subsection A of § 46.2-341.24, the court shall impose the sentence authorized by  
344 § 18.2-270 or 46.2-341.28 and the license revocation as authorized by § 18.2-271. In addition, ~~if the  
345 conviction was for a second offense committed within less than 10 years after a first such offense,~~ the court  
346 shall order that restoration of the person's license to drive be conditioned upon the installation of an ignition  
347 interlock system on each motor vehicle, as defined in § 46.2-100, owned by or registered to the person, in  
348 whole or in part, for a period of 12 consecutive months without alcohol-related violations of the interlock  
349 requirements ~~beginning at the end of the three-year license revocation, unless such a system has already been  
350 installed for 12 consecutive months without alcohol-related violations of the interlock requirements prior to  
351 that time pursuant to a restricted license order under subsection E.~~ Upon a finding that a person so convicted  
352 is required to participate in the program described herein, the court shall enter the conviction on the warrant,  
353 and shall note that the person so convicted has been referred to such program. The court may then proceed to  
354 issue an order in accordance with subsection E, if the court finds that the person so convicted is eligible for a  
355 restricted license. If the court finds good cause for a person not to participate in such program or subsequently  
356 that such person has violated, without good cause, any of the conditions set forth by the court in entering the  
357 program, the court shall dispose of the case as if no program had been entered, in which event the revocation  
358 provisions of § 46.2-389 and subsection A of § 46.2-391 shall be applicable to the conviction. The court  
359 shall, upon final disposition of the case, send a copy of its order to the Commissioner of the Department of  
360 Motor Vehicles. If such order provides for the issuance of a restricted license, the Commissioner of the  
361 Department of Motor Vehicles, upon receipt thereof, shall issue a restricted license. The period of time during  
362 which the person (i) is prohibited from operating a motor vehicle that is not equipped with an ignition  
363 interlock system, (ii) is required to have an ignition interlock system installed on each motor vehicle owned  
364 by or registered to the person, in whole or in part, or (iii) is required to use a remote alcohol monitoring  
365 device shall be calculated from the date the person is issued a restricted license by the court; however, such  
366 period of time shall be tolled upon the expiration of the restricted license issued by the court until such time  
367 as the person is issued a restricted license by the Department of Motor Vehicles. Appeals from any such  
368

369 disposition shall be allowed as provided by law. The time within which an appeal may be taken shall be  
 370 calculated from the date of the final disposition of the case or any motion for rehearing, whichever is later.

371 D. Any person who has been convicted under the law of another state or the United States of an offense  
 372 substantially similar to the provisions of § 18.2-266 or subsection A of § 46.2-341.24, and whose privilege to  
 373 operate a motor vehicle in this Commonwealth is subject to revocation under the provisions of § 46.2-389  
 374 and subsection A of § 46.2-391, may petition the general district court of the ~~county or city~~ locality in which  
 375 he resides that he be given probation and assigned to a program as provided in subsection A and that, upon  
 376 entry into such program, he be issued an order in accordance with subsection E. If the court finds that such  
 377 person would have qualified therefor if he had been convicted in this Commonwealth of a violation of  
 378 § 18.2-266 or subsection A of § 46.2-341.24, the court may grant the petition and may issue an order in  
 379 accordance with subsection E as to the period of license suspension or revocation imposed pursuant to  
 380 § 46.2-389 or subsection A of § 46.2-391. The court (i) shall, as a condition of a restricted license, prohibit  
 381 such person from operating a motor vehicle that is not equipped with a functioning, certified ignition  
 382 interlock system for a period of time not to exceed the period of license suspension and restriction, not less  
 383 than 12 consecutive months without alcohol-related violations of interlock requirements, and (ii) may, upon  
 384 request of such person and as a condition of a restricted license, require such person to use a remote alcohol  
 385 monitoring device in accordance with the provisions of subsection E of § 18.2-270.1. Such order shall be  
 386 conditioned upon the successful completion of a program by the petitioner. If the court subsequently finds  
 387 that such person has violated any of the conditions set forth by the court, the court shall dispose of the case as  
 388 if no program had been entered and shall notify the Commissioner, who shall revoke the person's license in  
 389 accordance with the provisions of § 46.2-389 or subsection A of § 46.2-391. A copy of the order granting the  
 390 petition or subsequently revoking or suspending such person's license to operate a motor vehicle shall be  
 391 forthwith sent to the Commissioner of the Department of Motor Vehicles. The period of time during which  
 392 the person (a) is prohibited from operating a motor vehicle that is not equipped with an ignition interlock  
 393 system or (b) is required to use a remote alcohol monitoring device shall be calculated from the date the  
 394 person is issued a restricted license by the court; however, such period of time shall be tolled upon the  
 395 expiration of the restricted license issued by the court until such time as the person is issued a restricted  
 396 license by the Department of Motor Vehicles.

397 No period of license suspension or revocation shall be imposed pursuant to this subsection which, when  
 398 considered together with any period of license suspension or revocation previously imposed for the same  
 399 offense under the law of another state or the United States, results in such person's license being suspended  
 400 for a period in excess of the maximum periods specified in this subsection.

401 E. Except as otherwise provided herein, if a person enters a certified program pursuant to this section, and  
 402 such person's license to operate a motor vehicle, engine, or train in the Commonwealth has been suspended or  
 403 revoked, or a person's license to operate a motor vehicle, engine, or train in the Commonwealth has been  
 404 suspended or revoked pursuant to former § 18.2-259.1 or 46.2-390.1, the court may, ~~in its discretion and~~ for  
 405 good cause shown, provide that such person be issued a restricted permit to operate a motor vehicle for any of  
 406 the following purposes: (i) travel to and from his place of employment; (ii) travel to and from an alcohol  
 407 rehabilitation or safety action program; (iii) travel during the hours of such person's employment if the  
 408 operation of a motor vehicle is a necessary incident of such employment; (iv) travel to and from school if  
 409 such person is a student, upon proper written verification to the court that such person is enrolled in a  
 410 continuing program of education; (v) travel for health care services, including medically necessary  
 411 transportation of an elderly parent or, as designated by the court, any person residing in the person's  
 412 household with a serious medical problem upon written verification of need by a licensed health professional;  
 413 (vi) travel necessary to transport a minor child under the care of such person to and from school, day care,  
 414 and facilities housing medical service providers; (vii) travel to and from court-ordered visitation with a child  
 415 of such person; (viii) travel to a screening, evaluation, and education program entered pursuant to § 18.2-251  
 416 or subsection H of § 18.2-258.1; (ix) travel to and from court appearances in which he is a subpoenaed  
 417 witness or a party and appointments with his probation officer and to and from any programs required by the  
 418 court or as a condition of probation; (x) travel to and from a place of religious worship one day per week at a  
 419 specified time and place; (xi) travel to and from appointments approved by the Division of Child Support  
 420 Enforcement of the Department of Social Services as a requirement of participation in an administrative or  
 421 court-ordered intensive case monitoring program for child support for which the participant maintains written  
 422 proof of the appointment, including written proof of the date and time of the appointment, on his person; (xii)  
 423 travel to and from jail to serve a sentence when such person has been convicted and sentenced to confinement  
 424 in jail and pursuant to § 53.1-131.1 the time to be served is on weekends or nonconsecutive days; (xiii) travel  
 425 to and from the facility that installed or monitors the ignition interlock in the person's vehicle; (xiv) travel to  
 426 and from a job interview for which he maintains on his person written proof from the prospective employer  
 427 of the date, time, and location of the job interview; or (xv) travel to and from the offices of the Virginia  
 428 Employment Commission for the purpose of seeking employment. However, (a) any such person who is  
 429 eligible to receive a restricted license as provided in subsection C of § 18.2-270.1 or (b) any such person  
 430 ordered to use a remote alcohol monitoring device pursuant to subsection E of § 18.2-270.1 who has a

431 functioning, certified ignition interlock system as required by law may be issued a restricted permit to operate  
432 a motor vehicle for any lawful purpose. No restricted license issued pursuant to this subsection shall permit  
433 any person to operate a commercial motor vehicle as defined in the Virginia Commercial Driver's License  
434 Act (§ 46.2-341.1 et seq.). The court shall order the surrender of such person's license to operate a motor  
435 vehicle to be disposed of in accordance with the provisions of § 46.2-398 and shall forward to the  
436 Commissioner of the Department of Motor Vehicles a copy of its order entered pursuant to this subsection,  
437 which shall specifically enumerate the restrictions imposed and contain such information regarding the  
438 person to whom such a permit is issued as is reasonably necessary to identify such person. The court shall  
439 also provide a copy of its order to the person so convicted who may operate a motor vehicle on the order until  
440 receipt from the Commissioner of the Department of Motor Vehicles of a restricted license, if the order  
441 provides for a restricted license for that time period. A copy of such order and, after receipt thereof, the  
442 restricted license shall be carried at all times while operating a motor vehicle. Any person who operates a  
443 motor vehicle in violation of any restrictions imposed pursuant to this section is guilty of a violation of  
444 § 18.2-272. Such restricted license shall be conditioned upon enrollment within 15 days in, and successful  
445 completion of, a program as described in subsection A *and the installation of an ignition interlock system*  
446 *pursuant to § 18.2-270.1. No restricted license shall be issued during the first four months of a revocation*  
447 *imposed pursuant to subsection B of § 18.2-271 or subsection A of § 46.2-391 for a second offense of the*  
448 *type described therein committed within 10 years of a first such offense. No restricted license shall be issued*  
449 *during the first year of a revocation imposed pursuant to subsection B of § 18.2-271 or subsection A of*  
450 *§ 46.2-391 for a second offense of the type described therein committed within five years of a first such*  
451 *offense. No restricted license shall be issued during any revocation period imposed pursuant to subsection C*  
452 *of § 18.2-271 or subsection B of § 46.2-391.* Notwithstanding the provisions of § 46.2-411, the fee charged  
453 pursuant to § 46.2-411 for reinstatement of the driver's license of any person whose privilege or license has  
454 been suspended or revoked as a result of a violation of § 18.2-266, subsection A of § 46.2-341.24 or of any  
455 ordinance of a ~~county, city, or town~~ locality, or of any federal law or the laws of any other state similar to the  
456 provisions of § 18.2-266 or subsection A of § 46.2-341.24 shall be \$105. ~~Forty dollars of~~ Of such  
457 reinstatement fee, \$40 shall be retained by the Department of Motor Vehicles as provided in § 46.2-411, \$40  
458 shall be transferred to the Commission on VASAP, and \$25 shall be transferred to the Commonwealth  
459 Neurotrauma Initiative Trust Fund. Any person who is otherwise eligible to receive a restricted license issued  
460 in accordance with this subsection or as otherwise provided by law shall not be required to pay in full his  
461 fines and costs, as defined in § 19.2-354.1, before being issued such restricted license.

462 F. The court shall have jurisdiction over any person entering such program under any provision of this  
463 section, or under any provision of § 46.2-392, until such time as the case has been disposed of by either  
464 successful completion of the program, or revocation due to ineligibility or violation of a condition or  
465 conditions imposed by the court, whichever shall first occur. Revocation proceedings shall be commenced by  
466 notice to show cause why the court should not revoke the privilege afforded by this section. Such notice shall  
467 be made by first-class mail to the last known address of such person, and shall direct such person to appear  
468 before the court in response thereto on a date contained in such notice, which shall not be less than 10 days  
469 from the date of mailing of the notice. Failure to appear in response to such notice shall of itself be grounds  
470 for revocation of such privilege. Notice of revocation under this subsection shall be sent forthwith to the  
471 Commissioner of the Department of Motor Vehicles.

472 G. For the purposes of this section, any court that has convicted a person of a violation of § 18.2-266,  
473 subsection A of § 46.2-341.24, any ordinance of a ~~county, city, or town~~ locality similar to the provisions of  
474 § 18.2-266, or any reckless driving violation under Article 7 (§ 46.2-852 et seq.) of Chapter 8 of Title 46.2  
475 and such person was initially charged with a violation of § 18.2-266, subsection A of § 46.2-341.24, or any  
476 ordinance of a ~~county, city, or town~~ locality similar to the provisions of § 18.2-266 shall have continuing  
477 jurisdiction over such person during any period of license revocation related to that conviction, for the limited  
478 purposes of (i) referring such person to a certified alcohol safety action program, (ii) providing for a restricted  
479 permit for such person in accordance with the provisions of subsection E, and (iii) imposing terms,  
480 conditions, and limitations for actions taken pursuant to clauses (i) and (ii), whether or not it took either such  
481 action at the time of the conviction. ~~This continuing jurisdiction is subject to the limitations of subsection E~~  
482 ~~that provide that no restricted license shall be issued during a revocation imposed pursuant to subsection C of~~  
483 ~~§ 18.2-271 or subsection B of § 46.2-391 or during the first four months or first year, whichever is applicable,~~  
484 ~~of the revocation imposed pursuant to subsection B of § 18.2-271 or subsection A of § 46.2-391.~~ The  
485 provisions of this subsection shall apply to a person convicted of a violation of § 18.2-266, subsection A of  
486 § 46.2-341.24, any ordinance of a ~~county, city, or town~~ locality similar to the provisions of § 18.2-266, or any  
487 reckless driving violation under Article 7 (§ 46.2-852 et seq.) of Chapter 8 of Title 46.2 and such person was  
488 initially charged with a violation of § 18.2-266, subsection A of § 46.2-341.24, or any ordinance of a ~~county,~~  
489 ~~city, or town~~ locality similar to the provisions of § 18.2-266 on, after, and at any time prior to July 1, 2003.

490 H. The State Treasurer, the Commission on VASAP, or any city or county is authorized to accept any  
491 gifts or bequests of money or property, and any grant, loan, service, payment, or property from any source,  
492 including the federal government, for the purpose of driver alcohol education. Any such gifts, bequests,

493 grants, loans, or payments shall be deposited in the separate fund provided in subsection B.

494 I. The Commission on VASAP, or any county, city, or town locality, or any combination thereof, may  
 495 establish and, if established, shall operate, in accordance with the standards and criteria required by this  
 496 subsection, alcohol safety action programs in connection with highway safety. Each such program shall  
 497 operate under the direction of a local independent policy board. Such local independent policy board shall be  
 498 chosen in accordance with procedures approved and promulgated by the Commission on VASAP. Such  
 499 procedures shall provide that the board shall endeavor to select one criminal defense attorney who has  
 500 specialized knowledge in representing persons charged with driving while intoxicated offenses and one local  
 501 attorney for the Commonwealth to sit on such local independent policy board. Local sitting or retired district  
 502 court judges who regularly hear or heard cases involving driving under the influence and are familiar with  
 503 their local alcohol safety action programs may serve on such boards. The Commission on VASAP shall  
 504 establish minimum standards and criteria for the implementation and operation of such programs and shall  
 505 establish procedures to certify all such programs to ensure that they meet the minimum standards and criteria  
 506 stipulated by the Commission. The Commission shall also establish criteria for the administration of such  
 507 programs for public information activities, for accounting procedures, for the auditing requirements of such  
 508 programs, and for the allocation of funds. Funds paid to the Commonwealth hereunder shall be utilized in the  
 509 discretion of the Commission on VASAP to offset the costs of state programs and local programs run in  
 510 conjunction with any county, city or town locality and costs incurred by the Commission. The Commission  
 511 shall submit an annual report as to actions taken at the close of each calendar year to the Governor and the  
 512 General Assembly.

513 J. Notwithstanding any other provisions of this section or of § 18.2-271, nothing in this section shall  
 514 permit the court to suspend, reduce, limit, or otherwise modify any disqualification from operating a  
 515 commercial motor vehicle imposed under the provisions of the Virginia Commercial Driver's License Act  
 516 (§ 46.2-341.1 et seq.).

517 **§ 46.2-391. Revocation of license for multiple convictions of driving while intoxicated; exception; petition for restoration of privilege.**

518 A. The Commissioner shall forthwith revoke and not thereafter reissue for three years the driver's license  
 519 of any person on receiving a record of the conviction of any person who (i) is adjudged to be a second  
 520 offender in violation of the provisions of subsection A of § 46.2-341.24 (driving a commercial motor vehicle  
 521 under the influence of drugs or intoxicants), or § 18.2-266 (driving under the influence of drugs or  
 522 intoxicants), if the subsequent violation occurred within 10 years of the prior violation, or (ii) is convicted of  
 523 any two or more offenses of § 18.2-272 (driving while the driver's license has been forfeited for a conviction  
 524 under § 18.2-266) if the second or subsequent violation occurred within 10 years of the prior offense.  
 525 However, if the Commissioner has received a copy of a court order authorizing issuance of a restricted  
 526 license as provided in subsection E of § 18.2-271.1, he shall proceed as provided in the order of the court. For  
 527 the purposes of this subsection, an offense in violation of a valid local ordinance, or law of any other  
 528 jurisdiction, which ordinance or law is substantially similar to any provision of Virginia law herein shall be  
 529 considered an offense in violation of such provision of Virginia law. Additionally, in no event shall the  
 530 Commissioner reinstate the driver's license of any person convicted of a violation of § 18.2-266, or of a  
 531 substantially similar valid local ordinance or law of another jurisdiction, until receipt of notification that such  
 532 person has successfully completed an alcohol safety action program if such person was required by court  
 533 order to do so unless the requirement for completion of the program has been waived by the court for good  
 534 cause shown. A conviction includes a finding of not innocent in the case of a juvenile.

535 B. The Commissioner shall forthwith revoke and not thereafter reissue the driver's license of any person  
 536 after receiving a record of the conviction of any person (i) convicted of a violation of § 18.2-36.1 or 18.2-51.4  
 537 or a felony violation of § 18.2-266 or (ii) convicted of three offenses arising out of separate incidents or  
 538 occurrences within a period of 10 years in violation of the provisions of subsection A of § 46.2-341.24,  
 539 § 18.2-266, or a substantially similar ordinance or law of any other jurisdiction, or any combination of three  
 540 such offenses. A conviction includes a finding of not innocent in the case of a juvenile.

541 C. Any person who has had his driver's license revoked in accordance with subsection A or B may petition  
 542 the circuit court of his residence, or, if a nonresident of Virginia, any circuit court:

543 1. *For restoration of his privilege to drive a motor vehicle in the Commonwealth before the expiration of  
 544 five years from the date of his last conviction. On such petition, and for good cause shown, the court may  
 545 authorize the issuance of a restricted license on the condition that such person install an ignition interlock  
 546 system in accordance with § 18.2-270.1 on all motor vehicles, as defined in § 46.2-100, owned by or  
 547 registered to him, in whole or in part, for the duration of the suspension period in accordance with the  
 548 provisions of § 18.2-270.1, subsection E of § 18.2-271.1, and upon whatever other conditions the court may  
 549 prescribe, subject to the provisions of law relating to issuance of driver's licenses, if the court is satisfied  
 550 from the evidence presented that (i) at the time of his previous convictions, the petitioner was addicted to or  
 551 psychologically dependent on the use of alcohol or other drugs; (ii) at the time of the hearing on the petition,  
 552 he is no longer addicted to or psychologically dependent on the use of alcohol or other drugs; and (iii) the  
 553 defendant does not constitute a threat to the safety and welfare of himself or others with regard to the driving*

555 of a motor vehicle. However, prior to acting on the petition, the court shall order that an evaluation of the  
556 person, to include an assessment of his degree of alcohol abuse and the appropriate treatment therefor, if  
557 any, be conducted by a Virginia Alcohol Safety Action Program and recommendations therefrom be  
558 submitted to the court, and the court shall give the recommendations such weight as the court deems  
559 appropriate.

560 2. For restoration of his privilege to drive a motor vehicle in the Commonwealth after the expiration of  
561 five years from the date of his last conviction. On such petition, and for good cause shown, the court may, in  
562 its discretion, restore to the person the privilege to drive a motor vehicle in the Commonwealth on condition  
563 that such person install an ignition interlock system in accordance with § 18.2-270.1 on all motor vehicles, as  
564 defined in § 46.2-100, owned by or registered to him, in whole or in part, for a period of at least six months,  
565 and upon whatever other conditions the court may prescribe, subject to the provisions of law relating to  
566 issuance of driver's licenses, if the court is satisfied from the evidence presented that (i) at the time of his  
567 previous convictions, the petitioner was addicted to or psychologically dependent on the use of alcohol or  
568 other drugs; (ii) at the time of the hearing on the petition, he is no longer addicted to or psychologically  
569 dependent on the use of alcohol or other drugs; and (iii) the defendant does not constitute a threat to the  
570 safety and welfare of himself or others with regard to the driving of a motor vehicle. However, prior to acting  
571 on the petition, the court shall order that an evaluation of the person, to include an assessment of his degree of  
572 alcohol abuse and the appropriate treatment therefor, if any, be conducted by a Virginia Alcohol Safety  
573 Action Program and recommendations therefrom be submitted to the court, and the court shall give the  
574 recommendations such weight as the court deems appropriate. The court may, in lieu of restoring the person's  
575 privilege to drive, authorize the issuance of a restricted license for a period not to exceed five years in  
576 accordance with the provisions of § 18.2-270.1 and subsection E of § 18.2-271.1. The court shall notify the  
577 Virginia Alcohol Safety Action Program that during the term of the restricted license it shall monitor the  
578 person's compliance with the terms of the restrictions imposed by the court. Any violation of the restrictions  
579 shall be reported to the court, and the court may then modify the restrictions or revoke the license.

580 2. 3. For a restricted license to authorize such person to drive a motor vehicle in the Commonwealth in the  
581 course of his employment and to drive a motor vehicle to and from his home to the place of his employment  
582 after the expiration of three years from the date of his last conviction unless such person's last conviction  
583 resulted from a final order being entered by a court after the successful completion of a Veterans Treatment  
584 Court Program, behavioral health docket, or other specialty docket established pursuant to § 18.2-254.2 or  
585 18.2-254.3 or Rule 1:25 of the Rules of Supreme Court of Virginia. If such person's last conviction resulted  
586 from a final order being entered by a court after the successful completion of a Veterans Treatment Court  
587 Program, behavioral health docket, or other specialty docket established pursuant to § 18.2-254.2 or  
588 18.2-254.3 or Rule 1:25 of the Rules of Supreme Court of Virginia, such person may file a petition for a  
589 restricted license to be issued in accordance with the provisions of this subdivision without having to wait for  
590 the expiration of three years from the date of his last conviction, regardless of the date of such conviction.  
591 The court may order that a restricted license for such purposes be issued in accordance with the procedures of  
592 subsection E of § 18.2-271.1 if the court is satisfied from the evidence presented that (i) at the time of the  
593 previous convictions, the petitioner was addicted to or psychologically dependent on the use of alcohol or  
594 other drugs; (ii) at the time of the hearing on the petition, he is no longer addicted to or psychologically  
595 dependent on the use of alcohol or such other drugs; and (iii) the defendant does not constitute a threat to the  
596 safety and welfare of himself and others with regard to the driving of a motor vehicle. The court shall prohibit  
597 the person to whom a restricted license is issued from operating a motor vehicle that is not equipped with a  
598 functioning, certified ignition interlock system during all or any part of the term for which the restricted  
599 license is issued, in accordance with the provisions set forth in § 18.2-270.1. However, prior to acting on the  
600 petition, the court shall order that an evaluation of the person, to include an assessment of his degree of  
601 alcohol abuse and the appropriate treatment therefor, if any, be conducted by a Virginia Alcohol Safety  
602 Action Program and recommendations therefrom be submitted to the court, and the court shall give the  
603 recommendations such weight as the court deems appropriate. The Virginia Alcohol Safety Action Program  
604 shall, during the term of the restricted license, monitor the person's compliance with the terms of the  
605 restrictions imposed by the court. Any violation of the restrictions shall be reported to the court, and the court  
606 may then modify the restrictions or revoke the license.

607 The ignition interlock system installation requirement under subdivisions 1 and 2, and 3 need only be  
608 satisfied once as to any single revocation under subsection B for any person seeking restoration under  
609 subdivision 1, 2, or 3 following the granting of a restricted license under any such subdivision 4 or 2.

610 D. Any person convicted of driving a motor vehicle or any self-propelled machinery or equipment (i)  
611 while his license is revoked pursuant to subsection A or B or (ii) in violation of the terms of a restricted  
612 license issued pursuant to subsection C shall, provided such revocation was based on at least one conviction  
613 for an offense committed after July 1, 1999, be punished as follows:

614 1. If such driving does not of itself endanger the life, limb, or property of another, such person is guilty of  
615 a Class 1 misdemeanor punishable by a mandatory minimum term of confinement in jail of 10 days except in  
616 cases wherein such operation is necessitated in situations of apparent extreme emergency that require such

617 operation to save life or limb, the sentence, or any part thereof, may be suspended.

618 2. a. If such driving (i) of itself endangers the life, limb, or property of another or (ii) takes place while  
 619 such person is in violation of § 18.2-36.1, 18.2-51.4, or 18.2-266, subsection A of § 46.2-341.24, or a  
 620 substantially similar law or ordinance of another jurisdiction, irrespective of whether the driving of itself  
 621 endangers the life, limb, or property of another and the person has been previously convicted of a violation of  
 622 § 18.2-36.1, 18.2-51.4, or 18.2-266, subsection A of § 46.2-341.24, or a substantially similar local ordinance,  
 623 or law of another jurisdiction, such person is guilty of a felony punishable by confinement in a state  
 624 correctional facility for not less than one year nor more than five years, one year of which shall be a  
 625 mandatory minimum term of confinement or, in the discretion of the jury or the court trying the case without  
 626 a jury, by mandatory minimum confinement in jail for a period of 12 months and no portion of such sentence  
 627 shall be suspended or run concurrently with any other sentence.

628 b. However, in cases wherein such operation is necessitated in situations of apparent extreme emergency  
 629 that require such operation to save life or limb, the sentence, or any part thereof, may be suspended.

630 3. If any such offense of driving is a second or subsequent violation, such person shall be punished as  
 631 provided in subdivision 2, irrespective of whether the offense, of itself, endangers the life, limb, or property  
 632 of another.

633 E. Notwithstanding the provisions of subdivisions D 2 and 3, following conviction and prior to imposition  
 634 of sentence with the consent of the defendant, the court may order the defendant to be evaluated for and to  
 635 participate in the community corrections alternative program pursuant to § 19.2-316.4.

636 F. Any period of driver's license revocation imposed pursuant to this section shall not begin to expire until  
 637 the person convicted has surrendered his license to the court or to the Department of Motor Vehicles.

638 G. Nothing in this section shall prohibit a person from operating any farm tractor on the highways when it  
 639 is necessary to move the tractor from one tract of land used for agricultural purposes to another such tract of  
 640 land when the distance between the tracts is no more than five miles.

641 H. Any person who operates a motor vehicle or any self-propelled machinery or equipment (i) while his  
 642 license is revoked pursuant to subsection A or B or (ii) in violation of the terms of a restricted license issued  
 643 pursuant to subsection C, where the provisions of subsection D do not apply, is guilty of a violation of  
 644 § 18.2-272.

**645 § 46.2-391.2. Administrative suspension of license or privilege to operate a motor vehicle.**

646 A. If a breath test is taken pursuant to § 18.2-268.2 or any similar ordinance or § 46.2-341.26:2 and (i) the  
 647 results show a blood alcohol content of 0.08 percent or more by weight by volume or 0.08 grams or more per  
 648 210 liters of breath, or (ii) the results, for persons ~~under~~ younger than 21 years of age, show a blood alcohol  
 649 concentration of 0.02 percent or more by weight by volume or 0.02 grams or more per 210 liters of breath or  
 650 (iii) the person refuses to submit to the breath or blood test in violation of § 18.2-268.3 or any similar  
 651 ordinance or § 46.2-341.26:3, and upon issuance of a petition or summons, or upon issuance of a warrant by  
 652 the magistrate, for a violation of § 18.2-51.4, 18.2-266, or 18.2-266.1, or any similar ordinance, or  
 653 § 46.2-341.24 or upon the issuance of a warrant or summons by the magistrate or by the arresting officer at a  
 654 medical facility for a violation of § 18.2-268.3, or any similar ordinance, or § 46.2-341.26:3, the person's  
 655 license shall be suspended immediately or in the case of (a) an unlicensed person, (b) a person whose license  
 656 is otherwise suspended or revoked, or (c) a person whose driver's license is from a jurisdiction other than the  
 657 Commonwealth, such person's privilege to operate a motor vehicle in the Commonwealth shall be suspended  
 658 immediately. The period of suspension of the person's license or privilege to drive shall be seven days, unless  
 659 the petition, summons or warrant issued charges the person with a second or subsequent offense. If the person  
 660 is charged with a second offense the suspension shall be for 60 days. If not already expired, the period of  
 661 suspension shall expire on the day and time of trial of the offense charged on the petition, summons, or  
 662 warrant, except that it shall not so expire during the first seven days of the suspension. If the person is  
 663 charged with a third or subsequent offense, the suspension shall be until the day and time of trial of the  
 664 offense charged on the petition, summons, or warrant. *Any person whose license is suspended under this*  
 665 *section after being charged with a second offense may petition the circuit court of his residence, or, if a*  
 666 *nonresident of the Commonwealth, any circuit court for a restricted license and installation of an ignition*  
 667 *interlock system pursuant to § 18.2-270.1.*

668 A law-enforcement officer, acting on behalf of the Commonwealth, shall serve a notice of suspension  
 669 personally on the arrested person. When notice is served, the arresting officer shall promptly take possession  
 670 of any driver's license held by the person and issued by the Commonwealth and shall promptly deliver it to  
 671 the magistrate. Any driver's license taken into possession under this section shall be forwarded promptly by  
 672 the magistrate to the clerk of the general district court or, as appropriate, the court with jurisdiction over  
 673 juveniles of the jurisdiction in which the arrest was made together with any petition, summons, or warrant,  
 674 the results of the breath test, if any, and the report required by subsection B. A copy of the notice of  
 675 suspension shall be forwarded forthwith to both (1) the general district court or, as appropriate, the court with  
 676 jurisdiction over juveniles of the jurisdiction in which the arrest was made and (2) the Commissioner.  
 677 Transmission of this information may be made by electronic means.

678 The clerk shall promptly return the suspended license to the person at the expiration of the suspension.

679 Whenever a suspended license is to be returned under this section or § 46.2-391.4, the person may elect to  
680 have the license returned in person at the clerk's office or by mail to the address on the person's license or to  
681 such other address as he may request.

682 B. Promptly after arrest and service of the notice of suspension, the arresting officer shall forward to the  
683 magistrate a sworn report of the arrest that shall include (i) information which adequately identifies the  
684 person arrested and (ii) a statement setting forth the arresting officer's grounds for belief that the person  
685 violated § 18.2-51.4, 18.2-266, or 18.2-266.1, or a similar ordinance, or § 46.2-341.24 or refused to submit to  
686 a breath or blood test in violation of § 18.2-268.3 or a similar ordinance or § 46.2-341.26:3. The report  
687 required by this subsection shall be submitted on forms supplied by the Supreme Court.

688 C. Any person whose license or privilege to operate a motor vehicle has been suspended under subsection  
689 A may, during the period of the suspension, request the general district court or, as appropriate, the court with  
690 jurisdiction over juveniles of the jurisdiction in which the arrest was made to review that suspension. The  
691 court shall review the suspension within the same time period as the court hears an appeal from an order  
692 denying bail or fixing terms of bail or terms of recognizance, giving this matter precedence over all other  
693 matters on its docket. If the person proves to the court by a preponderance of the evidence that the arresting  
694 officer did not have probable cause for the arrest, that the magistrate did not have probable cause to issue the  
695 warrant, or that there was not probable cause for issuance of the petition, the court shall rescind the  
696 suspension, or that portion of it that exceeds seven days if there was not probable cause to charge a second  
697 offense or 60 days if there was not probable cause to charge a third or subsequent offense, and the clerk of the  
698 court shall forthwith, or at the expiration of the reduced suspension time, (i) return the suspended license, if  
699 any, to the person unless the license has been otherwise suspended or revoked, (ii) deliver to the person a  
700 notice that the suspension under § 46.2-391.2 has been rescinded or reduced, and (iii) forward to the  
701 Commissioner a copy of the notice that the suspension under § 46.2-391.2 has been rescinded or reduced.  
702 Otherwise, the court shall affirm the suspension. If the person requesting the review fails to appear without  
703 just cause, his right to review shall be waived.

704 The court's findings are without prejudice to the person contesting the suspension or to any other potential  
705 party as to any proceedings, civil or criminal, and shall not be evidence in any proceedings, civil or criminal.

706 D. If a person whose license or privilege to operate a motor vehicle is suspended under subsection A is  
707 convicted under § 18.2-36.1, 18.2-51.4, 18.2-266, or 18.2-266.1 or subdivision A 1 or B 1 of § 18.2-268.3, or  
708 any similar ordinance, or § 46.2-341.24 during the suspension imposed by subsection A, and if the court  
709 decides to issue the person a restricted permit under subsection E of § 18.2-271.1 or subsection E F of  
710 § 18.2-268.3, such restricted permit shall not be issued to the person before the expiration of the first seven  
711 days of the suspension imposed under subsection A.

712 **2. That the Commission on the Virginia Alcohol Safety Action Program (VASAP) shall convene a work  
713 group to evaluate the provisions governing driving or operating a motor vehicle under the influence of  
714 alcohol (DUI), including Virginia's alcohol safety programs and the installation of an ignition interlock  
715 system to determine (i) the extent to which such provisions protect public safety and reflect a  
716 prevention-oriented approach; (ii) other state approaches to judicial and administrative license  
717 suspensions as a result of a charge or conviction associated with DUI; (iii) penalties related to a  
718 conviction of a reckless driving offense that the court has reason to believe is alcohol-related or drug-  
719 related; (iv) the alignment of such provisions with national highway safety standards including  
720 standards from the National Highway Traffic Safety Administration; and (v) any other topics deemed  
721 relevant by the Commission on VASAP. The work group shall include representatives from the  
722 Department of Motor Vehicles, the Virginia State Police, the Virginia Association of Commonwealth's  
723 Attorneys, the Office of the Attorney General, the State Highway Safety Office, the judiciary, the  
724 traffic safety industry, and any other relevant stakeholders as determined by the Commission on  
725 VASAP. The Commission on VASAP shall solicit feedback from stakeholders and create  
726 recommendations and a draft report to be delivered to the Chairs of the House and Senate Committees  
727 for Courts of Justice by November 1, 2026.**