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HOUSE BILL NO. 561

House Amendments in [] - February 16, 2026

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 46.2-391.2 of the Code of Virginia, relating to driving while intoxicated; refusal of tests; repeat offenders; ignition interlocks.

Patron Prior to Engrossment—Delegate Hope

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

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 of Virginia are amended and reenacted as follows:

§ 18.2-266.1. Persons younger than 21 years of age driving after illegally consuming alcohol; penalty.

A. It shall be is unlawful for any person under the age of younger than 21 years of age to operate any motor vehicle after illegally consuming alcohol. Any such person with a blood alcohol concentration of 0.02 percent or more by weight by volume or 0.02 grams or more per 210 liters of breath but less than 0.08 by weight by volume or less than 0.08 grams per 210 liters of breath as indicated by a chemical test administered as provided in this article shall be in violation of this section.

B. A violation of this section is a Class 1 misdemeanor. Punishment shall include (i) forfeiture of such person's license to operate a motor vehicle for a period of one year from the date of conviction and (ii) a mandatory minimum fine of \$500 or performance of a mandatory minimum of 50 hours of community service. This suspension period shall be in addition to the suspension period provided under § 46.2-391.2. The penalties and license forfeiture provisions set forth in §§ 16.1-278.9, 18.2-270 and 18.2-271 shall not apply to a violation of this section. Any person convicted of a violation of this section shall be eligible to attend an Alcohol Safety Action Program under the provisions of § 18.2-271.1 and may, in the discretion of the court, be issued a restricted license during the term of license suspension, provided, however, that such person is required to install an ignition interlock system pursuant to § 18.2-270.1 for a period not to exceed one year.

C. Notwithstanding §§ 16.1-278.8 and 16.1-278.9, upon adjudicating a juvenile delinquent based upon a violation of this section, the juvenile and domestic relations district court shall order disposition as provided in subsection B.

§ 18.2-268.3. Refusal of tests; penalties; procedures.

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 of § 18.2-272 or of a similar ordinance to unreasonably refuse to have samples of his breath taken for chemical tests to determine the alcohol content of his blood as required by § 18.2-268.2, and any person who so unreasonably refuses is guilty of a violation of this subsection, which is punishable as follows:

1. A first violation is a civil offense. For a first offense, the court shall suspend the defendant's privilege to drive for a period of one year. This suspension period is in addition to the suspension period provided under § 46.2-391.2.

2. If a person is found to have violated this subsection and within 10 years prior to the date of the refusal he was found guilty of any of the following: a violation of this section, a violation of § 18.2-266, or a violation of any offense listed in subsection E of § 18.2-270 arising out of separate occurrences or incidents, he is guilty of a Class 1 misdemeanor. A conviction under this subdivision shall of itself operate to deprive the person of the privilege to drive for a period of three years from the date of the judgment of conviction. This revocation period is in addition to the suspension period provided under § 46.2-391.2.

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 § 18.2-272 or of a similar ordinance to unreasonably refuse to have samples of his blood taken for chemical tests to determine the alcohol or drug content of his blood as required by § 18.2-268.2 and any person who so unreasonably refuses is guilty of a violation of this subsection, which is a civil offense and is punishable as follows:

1. For a first offense, the court shall suspend the defendant's privilege to drive for a period of one year. This suspension period is in addition to the suspension period provided under § 46.2-391.2.

2. If a person is found to have violated this subsection and within 10 years prior to the date of the refusal he was found guilty of any of the following: a violation of this section, a violation of § 18.2-266, or a violation of any offense listed in subsection E of § 18.2-270 arising out of separate occurrences or incidents, such violation shall of itself operate to deprive the person of the privilege to drive for a period of three years from the date of the judgment. This revocation period is in addition to the suspension period provided under

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59 § 46.2-391.2.

60 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
61 § 18.2-272 or of a similar ordinance and such person refuses to permit blood or breath or both blood and
62 breath samples to be taken for testing as required by § 18.2-268.2, the arresting officer shall advise the
63 person, from a form provided by the Office of the Executive Secretary of the Supreme Court (i) that a person
64 who operates a motor vehicle upon a highway in the Commonwealth is deemed thereby, as a condition of
65 such operation, to have consented to have samples of his blood and breath taken for chemical tests to
66 determine the alcohol or drug content of his blood, (ii) that a finding of unreasonable refusal to consent may
67 be admitted as evidence at a criminal trial, (iii) that the unreasonable refusal to do so constitutes grounds for
68 the revocation of the privilege of operating a motor vehicle upon the highways of the Commonwealth, (iv) of
69 the civil penalties for unreasonable refusal to have blood or breath or both blood and breath samples taken,
70 and (v) of the criminal penalty for unreasonable refusal to have breath samples taken within 10 years of a
71 prior conviction for driving while intoxicated or unreasonable refusal, which is a Class 1 misdemeanor. The
72 form from which the arresting officer shall advise the person arrested shall contain a brief statement of the
73 law requiring the taking of blood or breath samples, a statement that a finding of unreasonable refusal to
74 consent may be admitted as evidence at a criminal trial, and the penalties for refusal. The Office of the
75 Executive Secretary of the Supreme Court shall make the form available on the ~~Internet~~ *internet* and the form
76 shall be considered an official publication of the Commonwealth for the purposes of § 8.01-388.

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

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

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

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

129 If the court grants a restricted license to any person pursuant to this section, the court shall order such
 130 person to surrender his driver's license to be disposed of in accordance with the provisions of § 46.2-398 and
 131 shall forward to the Commissioner of the Department of Motor Vehicles a copy of its order entered pursuant
 132 to this subsection. This order shall specifically enumerate the restrictions imposed and contain such
 133 information regarding the person to whom such a permit is issued as is reasonably necessary to identify such
 134 person. The court shall also provide a copy of its order to such person who may operate a motor vehicle on
 135 the order until receipt from the Commissioner of the Department of Motor Vehicles of a restricted license,
 136 but only if the order provides for a restricted license for that period. A copy of the order and, after receipt
 137 thereof, the restricted license shall be carried at all times by such person while operating a motor vehicle. The
 138 period of time during which the person is prohibited from operating a motor vehicle that is not equipped with
 139 an ignition interlock system shall be calculated from the date the person is issued a restricted license by the
 140 court; however, such period of time shall be tolled upon the expiration of the restricted license issued by the
 141 court until such time as the person is issued a restricted license by the Department of Motor Vehicles. Any
 142 person who operates a motor vehicle in violation of any restrictions imposed pursuant to this section shall be
 143 *is* guilty of a violation of § 18.2-272. The provisions of subsection F of § 18.2-271.1 shall apply to this
 144 subsection mutatis mutandis, except as herein provided.

145 F. G. Notwithstanding any other provisions of this section or of § 18.2-271.1, nothing in this section shall
 146 permit the court to suspend, reduce, limit, or otherwise modify any disqualification from operating a
 147 commercial motor vehicle imposed under the provisions of the Virginia Commercial Driver's License Act
 148 (§ 46.2-341.1 et seq.).

149 **§ 18.2-270.1. Ignition interlock systems; penalty.**

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

151 "Commission" means the Commission on VASAP.

152 "Department" means the Department of Motor Vehicles.

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

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

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

165 B. In addition to any penalty provided by law for a conviction under § 18.2-51.4 or clauses (i), (ii), or (iv)
 166 of § 18.2-266 *or § 18.2-266.1* or a substantially similar ordinance of any ~~county, city, or town~~ *locality*, any
 167 court of proper jurisdiction shall, as a condition of a restricted license, prohibit an offender from operating a
 168 motor vehicle that is not equipped with a functioning, certified ignition interlock system for any period of
 169 time not to exceed the period of license suspension and restriction, not less than 12 consecutive months
 170 without alcohol-related violations of the interlock requirements. In addition to any penalty provided by law
 171 for a conviction under clauses (iii) or (v) of § 18.2-266 or a substantially similar ordinance of any ~~county,~~
 172 ~~city, or town~~ *locality*, any court of proper jurisdiction may, for a first offense, as a condition of a restricted
 173 license, prohibit an offender from operating a motor vehicle that is not equipped with a functioning, certified
 174 ignition interlock system for any period of time not to exceed the period of license suspension and restriction,
 175 not less than 12 consecutive months without alcohol-related violations of the interlock requirements. The
 176 court shall, as a condition of a restricted license for a conviction under § 18.2-51.4, a second or subsequent
 177 offense of § 18.2-266 or a substantially similar ordinance of any ~~county, city, or town~~ *locality*, or as a
 178 condition of license restoration pursuant to subsection C of § 18.2-271.1 or § 46.2-391, require that such a
 179 system be installed on each motor vehicle, as defined in § 46.2-100, owned by or registered to the offender, in
 180 whole or in part, for any period of time not less than 12 consecutive months without alcohol-related
 181 violations of the interlock requirements. Such condition shall be in addition to any purposes for which a
 182 restricted license may be issued pursuant to § 18.2-271.1.

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

200 C. However, if (i) a conviction was under § 18.2-266 or a substantially similar ordinance of any ~~county,~~
201 ~~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
244 device properly monitored and calibrated.

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

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

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

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

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

272 **§ 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
 306 has been revoked indefinitely and that the penalty for violating that revocation is as set out in § 46.2-391.

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

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

313 **§ 18.2-271.1. Probation, education, and rehabilitation of person charged or convicted; person**
314 **convicted under law of another state or federal law.**

315 A. Any person convicted of a ~~first or second offense~~ *violation* of § 18.2-266, or any ordinance of a ~~county,~~
316 ~~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 disposition shall be allowed as provided by law. The time within which an appeal may be taken shall be

369 calculated from the date of the final disposition of the case or any motion for rehearing, whichever is later.

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

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

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

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

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

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

489 H. The State Treasurer, the Commission on VASAP, or any city or county is authorized to accept any
490 gifts or bequests of money or property, and any grant, loan, service, payment, or property from any source,
491 including the federal government, for the purpose of driver alcohol education. Any such gifts, bequests,
492 grants, loans, or payments shall be deposited in the separate fund provided in subsection B.

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

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

516 **§ 46.2-391. Revocation of license for multiple convictions of driving while intoxicated; exception;**
 517 **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~~] B may
 542 petition 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*
 554 *of a motor vehicle. However, prior to acting on the petition, the court shall order that an evaluation of the*

555 *person, to include an assessment of his degree of alcohol abuse and the appropriate treatment therefor, if*
556 *any, be conducted by a Virginia Alcohol Safety Action Program and recommendations therefrom be*
557 *submitted to the court, and the court shall give the recommendations such weight as the court deems*
558 *appropriate.*

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

579 ~~2.~~ 3. For a restricted license to authorize such person to drive a motor vehicle in the Commonwealth in the
580 course of his employment and to drive a motor vehicle to and from his home to the place of his employment
581 after the expiration of three years from the date of his last conviction unless such person's last conviction
582 resulted from a final order being entered by a court after the successful completion of a Veterans Treatment
583 Court Program, behavioral health docket, or other specialty docket established pursuant to § 18.2-254.2 or
584 18.2-254.3 or Rule 1:25 of the Rules of Supreme Court of Virginia. If such person's last conviction resulted
585 from a final order being entered by a court after the successful completion of a Veterans Treatment Court
586 Program, behavioral health docket, or other specialty docket established pursuant to § 18.2-254.2 or
587 18.2-254.3 or Rule 1:25 of the Rules of Supreme Court of Virginia, such person may file a petition for a
588 restricted license to be issued in accordance with the provisions of this subdivision without having to wait for
589 the expiration of three years from the date of his last conviction, regardless of the date of such conviction.
590 The court may order that a restricted license for such purposes be issued in accordance with the procedures of
591 subsection E of § 18.2-271.1 if the court is satisfied from the evidence presented that (i) at the time of the
592 previous convictions, the petitioner was addicted to or psychologically dependent on the use of alcohol or
593 other drugs; (ii) at the time of the hearing on the petition, he is no longer addicted to or psychologically
594 dependent on the use of alcohol or such other drugs; and (iii) the defendant does not constitute a threat to the
595 safety and welfare of himself and others with regard to the driving of a motor vehicle. The court shall prohibit
596 the person to whom a restricted license is issued from operating a motor vehicle that is not equipped with a
597 functioning, certified ignition interlock system during all or any part of the term for which the restricted
598 license is issued, in accordance with the provisions set forth in § 18.2-270.1. However, prior to acting on the
599 petition, the court shall order that an evaluation of the person, to include an assessment of his degree of
600 alcohol abuse and the appropriate treatment therefor, if any, be conducted by a Virginia Alcohol Safety
601 Action Program and recommendations therefrom be submitted to the court, and the court shall give the
602 recommendations such weight as the court deems appropriate. The Virginia Alcohol Safety Action Program
603 shall, during the term of the restricted license, monitor the person's compliance with the terms of the
604 restrictions imposed by the court. Any violation of the restrictions shall be reported to the court, and the court
605 may ~~then~~ modify the restrictions or revoke the license.

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

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

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

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

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

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

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

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

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

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

644 **§ 46.2-391.2. Administrative suspension of license or privilege to operate a motor vehicle.**

645 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
 646 results show a blood alcohol content of 0.08 percent or more by weight by volume or 0.08 grams or more per
 647 210 liters of breath, or (ii) the results, for persons ~~under~~ *younger than* 21 years of age, show a blood alcohol
 648 concentration of 0.02 percent or more by weight by volume or 0.02 grams or more per 210 liters of breath or
 649 (iii) the person refuses to submit to the breath or blood test in violation of § 18.2-268.3 or any similar
 650 ordinance or § 46.2-341.26:3, and upon issuance of a petition or summons, or upon issuance of a warrant by
 651 the magistrate, for a violation of § 18.2-51.4, 18.2-266, or 18.2-266.1, or any similar ordinance, or
 652 § 46.2-341.24 or upon the issuance of a warrant or summons by the magistrate or by the arresting officer at a
 653 medical facility for a violation of § 18.2-268.3, or any similar ordinance, or § 46.2-341.26:3, the person's
 654 license shall be suspended immediately or in the case of (a) an unlicensed person, (b) a person whose license
 655 is otherwise suspended or revoked, or (c) a person whose driver's license is from a jurisdiction other than the
 656 Commonwealth, such person's privilege to operate a motor vehicle in the Commonwealth shall be suspended
 657 immediately. The period of suspension of the person's license or privilege to drive shall be seven days, unless
 658 the petition, summons or warrant issued charges the person with a second or subsequent offense. If the person
 659 is charged with a second offense the suspension shall be for 60 days. If not already expired, the period of
 660 suspension shall expire on the day and time of trial of the offense charged on the petition, summons, or
 661 warrant, except that it shall not so expire during the first seven days of the suspension. If the person is
 662 charged with a third or subsequent offense, the suspension shall be until the day and time of trial of the
 663 offense charged on the petition, summons, or warrant. *Any person whose license is suspended under this*
 664 *section after being charged with a second offense may petition the [~~circuit~~ general district] court [of his*
 665 *residence where the charge occurred] , or, if a nonresident of the Commonwealth, [~~any circuit~~ the general*
 666 *district] court [where the charge occurred] for a restricted license and installation of an ignition interlock*
 667 *system pursuant to § 18.2-270.1. [Any person granted a restricted license pursuant to this subsection shall*
 668 *be required, by court order, to enter into an alcohol safety action program to pre-qualify with the program to*
 669 *have an ignition interlock system installed on any motor vehicle owned or operated by him and may have*
 670 *such ignition interlock system installed. Any installation period of time accrued by such person prior to trial*
 671 *for the pending charge shall count toward any (i) ignition interlock or restricted license period of time*
 672 *ordered by a court or (ii) restricted license, suspension, or revocation issued by the Department of Motor*
 673 *Vehicles pursuant to § 46.2-389.]*

674 A law-enforcement officer, acting on behalf of the Commonwealth, shall serve a notice of suspension
 675 personally on the arrested person. When notice is served, the arresting officer shall promptly take possession
 676 of any driver's license held by the person and issued by the Commonwealth and shall promptly deliver it to
 677 the magistrate. Any driver's license taken into possession under this section shall be forwarded promptly by
 678 the magistrate to the clerk of the general district court or, as appropriate, the court with jurisdiction over

679 juveniles of the jurisdiction in which the arrest was made together with any petition, summons, or warrant,
680 the results of the breath test, if any, and the report required by subsection B. A copy of the notice of
681 suspension shall be forwarded forthwith to both (1) the general district court or, as appropriate, the court with
682 jurisdiction over juveniles of the jurisdiction in which the arrest was made and (2) the Commissioner.
683 Transmission of this information may be made by electronic means.

684 The clerk shall promptly return the suspended license to the person at the expiration of the suspension.
685 Whenever a suspended license is to be returned under this section or § 46.2-391.4, the person may elect to
686 have the license returned in person at the clerk's office or by mail to the address on the person's license or to
687 such other address as he may request.

688 B. Promptly after arrest and service of the notice of suspension, the arresting officer shall forward to the
689 magistrate a sworn report of the arrest that shall include (i) information which adequately identifies the
690 person arrested and (ii) a statement setting forth the arresting officer's grounds for belief that the person
691 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
692 a breath or blood test in violation of § 18.2-268.3 or a similar ordinance or § 46.2-341.26:3. The report
693 required by this subsection shall be submitted on forms supplied by the Supreme Court.

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

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

712 D. If a person whose license or privilege to operate a motor vehicle is suspended under subsection A is
713 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
714 any similar ordinance, or § 46.2-341.24 during the suspension imposed by subsection A, and if the court
715 decides to issue the person a restricted permit under subsection E of § 18.2-271.1 or subsection ~~E~~ F of
716 § 18.2-268.3, such restricted permit shall not be issued to the person before the expiration of the first seven
717 days of the suspension imposed under subsection A.

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