

26109196D

**SENATE BILL NO. 391****AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the House Committee on Appropriations  
on March 4, 2026)

(Patron Prior to Substitute—Senator Stuart)

*A BILL to amend and reenact §§ 9.1-101, as it is currently effective and as it shall become effective, 18.2-268.3, 18.2-270.1, 18.2-271.1, 18.2-271.5, and 46.2-507, as it shall become effective, of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 7 of Title 18.2 an article numbered 2.1, consisting of sections numbered 18.2-273.1 through 18.2-273.9; and to repeal §§ 18.2-270.2, 18.2-271.2, and 18.2-271.4 of the Code of Virginia, relating to Commission on the Virginia Alcohol Safety Action Program (VASAP).*

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 9.1-101, as it is currently effective and as it shall become effective, 18.2-268.3, 18.2-270.1, 18.2-271.1, 18.2-271.5, and 46.2-507, as it shall become effective, of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 7 of Title 18.2 an article numbered 2.1, consisting of sections numbered 18.2-273.1 through 18.2-273.9, as follows:**

**§ 9.1-101. (Effective until July 1, 2026) Definitions.**

As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context requires a different meaning:

"Administration of criminal justice" means performance of any activity directly involving the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection, storage, and dissemination of criminal history record information.

"Board" means the Criminal Justice Services Board.

"Conviction data" means information in the custody of any criminal justice agency relating to a judgment of conviction, and the consequences arising therefrom, in any court.

"Correctional status information" means records and data concerning each condition of a convicted person's custodial status, including probation, confinement, work release, study release, escape, or termination of custody through expiration of sentence, parole, pardon, or court decision.

"Criminal history record information" means records and data collected by criminal justice agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional status information.

"Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof which as its principal function performs the administration of criminal justice and any other agency or subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for the purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within the context of its criminal justice activities, employs special conservators of the peace appointed under Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires its officers or special conservators to meet compulsory training standards established by the Criminal Justice Services Board and submits reports of compliance with the training standards and (b) the private corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.), but only to the extent that the private corporation or agency so designated as a criminal justice agency performs criminal justice activities; and (iii) the Office of the Attorney General, for all criminal justice activities otherwise permitted under clause (i) and for the purpose of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.).

"Criminal justice agency" includes any program certified by the Commission on VASAP pursuant to ~~§ 18.2-271.2~~ **Article 2.1 (§ 18.2-273.1 et seq.) of Chapter 7 of Title 18.2.**

"Criminal justice agency" includes the Department of Criminal Justice Services.

"Criminal justice agency" includes the Virginia Criminal Sentencing Commission.

"Criminal justice agency" includes the Virginia State Crime Commission.

"Criminal justice information system" means a system including the equipment, facilities, procedures, agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of criminal history record information. The operations of the system may be performed manually or by using electronic computers or other automated data processing equipment.

"Department" means the Department of Criminal Justice Services.

"Dissemination" means any transfer of information, whether orally, in writing, or by electronic means. The term shall not include access to the information by officers or employees of a criminal justice agency

maintaining the information who have both a need and right to know the information.

"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office which is a part of or administered by the Commonwealth or any political subdivision thereof, or any full-time or part-time employee of a private police department, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, and shall include any (i) special agent of the Virginia Alcoholic Beverage Control Authority; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Wildlife Resources; (v) investigator who is a sworn member of the security division of the Virginia Lottery; (vi) conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217; (viii) animal protection police officer employed under § 15.2-632 or 15.2-836.1; (ix) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; (x) member of the investigations unit designated by the State Inspector General pursuant to § 2.2-311 to investigate allegations of criminal behavior affecting the operations of a state or nonstate agency; (xi) employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 or by the Department of Juvenile Justice pursuant to subdivision A 7 of § 66-3; (xii) private police officer employed by a private police department; or (xiii) person designated as a sworn unit investigator by the Attorney General pursuant to subsection A of § 32.1-320.1. Part-time employees are those compensated officers who are not full-time employees as defined by the employing police department, sheriff's office, or private police department.

"Private police department" means any police department, other than a department that employs police agents under the provisions of § 56-353, that employs private police officers operated by an entity authorized by statute or an act of assembly to establish a private police department or such entity's successor in interest, provided it complies with the requirements set forth herein. No entity is authorized to operate a private police department or represent that it is a private police department unless such entity has been authorized by statute or an act of assembly or such entity is the successor in interest of an entity that has been authorized pursuant to this section, provided it complies with the requirements set forth herein. The authority of a private police department shall be limited to real property owned, leased, or controlled by the entity and, if approved by the local chief of police or sheriff, any contiguous property; such authority shall not supersede the authority, duties, or jurisdiction vested by law with the local police department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The chief of police or sheriff who is the chief local law-enforcement officer shall enter into a memorandum of understanding with the private police department that addresses the duties and responsibilities of the private police department and the chief law-enforcement officer in the conduct of criminal investigations. Private police departments and private police officers shall be subject to and comply with the Constitution of the United States; the Constitution of Virginia; the laws governing municipal police departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721, 15.2-1721.1, and 15.2-1722; and any regulations adopted by the Board that the Department designates as applicable to private police departments. An authorized private police department may use the word "police" to describe its sworn officers and may join a regional criminal justice academy created pursuant to Article 5 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2. Any private police department in existence on January 1, 2013, that was not otherwise established by statute or an act of assembly and whose status as a private police department was recognized by the Department at that time is hereby validated and may continue to operate as a private police department as may such entity's successor in interest, provided it complies with the requirements set forth herein.

"Private police officer" means a law-enforcement officer who is employed by a private police department that has entered into a memorandum of understanding with a police department or sheriff's office and who may exercise the power and duties conferred by law upon such police officers on real property owned, leased, or controlled by the employing entity and, if approved by the local chief of police or sheriff, any contiguous property. Any person employed as a private police officer pursuant to this section shall meet all requirements, including the minimum compulsory training requirements, for law-enforcement officers pursuant to this chapter. A private police officer is not entitled to benefits under the Virginia Retirement System, is not a "qualified law enforcement officer" or "qualified retired law enforcement officer" within the meaning of the federal Law Enforcement Officers Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an employee of the Commonwealth or any locality.

"School resource officer" means a certified law-enforcement officer hired by the local law-enforcement agency to provide law-enforcement and security services to Virginia public elementary and secondary schools.

"School security officer" means an individual who is employed by the local school board or a private or religious school for the singular purpose of maintaining order and discipline, preventing crime, investigating violations of the policies of the school board or the private or religious school, and detaining students violating the law or the policies of the school board or the private or religious school on school property,

school buses, or at school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned school.

"Unapplied criminal history record information" means information pertaining to criminal offenses submitted to the Central Criminal Records Exchange that cannot be applied to the criminal history record of an arrested or convicted person (i) because such information is not supported by fingerprints or other accepted means of positive identification or (ii) due to an inconsistency, error, or omission within the content of the submitted information.

**§ 9.1-101. (Effective July 1, 2026) Definitions.**

As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context requires a different meaning:

"Administration of criminal justice" means performance of any activity directly involving the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection, storage, and dissemination of criminal history record information.

"Board" means the Criminal Justice Services Board.

"Conviction data" means information in the custody of any criminal justice agency relating to a judgment of conviction, and the consequences arising therefrom, in any court.

"Correctional status information" means records and data concerning each condition of a convicted person's custodial status, including probation, confinement, work release, study release, escape, or termination of custody through expiration of sentence, parole, pardon, or court decision.

"Criminal history record information" means records and data collected by criminal justice agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional status information.

"Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof which as its principal function performs the administration of criminal justice and any other agency or subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for the purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within the context of its criminal justice activities, employs special conservators of the peace appointed under Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires its officers or special conservators to meet compulsory training standards established by the Criminal Justice Services Board and submits reports of compliance with the training standards and (b) the private corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.), but only to the extent that the private corporation or agency so designated as a criminal justice agency performs criminal justice activities; and (iii) the Office of the Attorney General, for all criminal justice activities otherwise permitted under clause (i) and for the purpose of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.).

"Criminal justice agency" includes any program certified by the Commission on VASAP pursuant to ~~§ 18.2-271.2~~ *Article 2.1 (§ 18.2-273.1 et seq.) of Chapter 7 of Title 18.2.*

"Criminal justice agency" includes the Department of Criminal Justice Services.

"Criminal justice agency" includes the Virginia Criminal Sentencing Commission.

"Criminal justice agency" includes the Virginia State Crime Commission.

"Criminal justice information system" means a system including the equipment, facilities, procedures, agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of criminal history record information. The operations of the system may be performed manually or by using electronic computers or other automated data processing equipment.

"Department" means the Department of Criminal Justice Services.

"Dissemination" means any transfer of information, whether orally, in writing, or by electronic means. The term shall not include access to the information by officers or employees of a criminal justice agency maintaining the information who have both a need and right to know the information.

"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office which is a part of or administered by the Commonwealth or any political subdivision thereof, or any full-time or part-time employee of a private police department, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, and shall include any (i) special agent of the Virginia Alcoholic Beverage Control Authority; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Wildlife Resources; (v) investigator who is a sworn member of the security division of the Virginia Lottery; (vi) conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217; (viii) animal protection police officer employed under § 15.2-632 or

184 15.2-836.1; (ix) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title  
185 23.1; (x) member of the investigations unit designated by the State Inspector General pursuant to § 2.2-311 to  
186 investigate allegations of criminal behavior affecting the operations of a state or nonstate agency; (xi)  
187 employee with internal investigations authority designated by the Department of Corrections pursuant to  
188 subdivision 11 of § 53.1-10 or by the Department of Juvenile Justice pursuant to subdivision A 7 of § 66-3;  
189 (xii) private police officer employed by a private police department; or (xiii) person designated as a sworn  
190 unit investigator by the Attorney General pursuant to subsection A of § 32.1-320.1. Part-time employees are  
191 those compensated officers who are not full-time employees as defined by the employing police department,  
192 sheriff's office, or private police department.

193 "Private police department" means any police department, other than a department that employs police  
194 agents under the provisions of § 56-353, that employs private police officers operated by an entity authorized  
195 by statute or an act of assembly to establish a private police department or such entity's successor in interest,  
196 provided it complies with the requirements set forth herein. No entity is authorized to operate a private police  
197 department or represent that it is a private police department unless such entity has been authorized by statute  
198 or an act of assembly or such entity is the successor in interest of an entity that has been authorized pursuant  
199 to this section, provided it complies with the requirements set forth herein. The authority of a private police  
200 department shall be limited to real property owned, leased, or controlled by the entity and, if approved by the  
201 local chief of police or sheriff, any contiguous property; such authority shall not supersede the authority,  
202 duties, or jurisdiction vested by law with the local police department or sheriff's office including as provided  
203 in §§ 15.2-1609 and 15.2-1704. The chief of police or sheriff who is the chief local law-enforcement officer  
204 shall enter into a memorandum of understanding with the private police department that addresses the duties  
205 and responsibilities of the private police department and the chief law-enforcement officer in the conduct of  
206 criminal investigations. Private police departments and private police officers shall be subject to and comply  
207 with the Constitution of the United States; the Constitution of Virginia; the laws governing municipal police  
208 departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721,  
209 15.2-1721.1, and 15.2-1722; and any regulations adopted by the Board that the Department designates as  
210 applicable to private police departments. An authorized private police department may use the word "police"  
211 to describe its sworn officers and may join a regional criminal justice academy created pursuant to Article 5  
212 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2. Any private police department in existence on January 1,  
213 2013, that was not otherwise established by statute or an act of assembly and whose status as a private police  
214 department was recognized by the Department at that time is hereby validated and may continue to operate as  
215 a private police department as may such entity's successor in interest, provided it complies with the  
216 requirements set forth herein.

217 "Private police officer" means a law-enforcement officer who is employed by a private police department  
218 that has entered into a memorandum of understanding with a police department or sheriff's office and who  
219 may exercise the power and duties conferred by law upon such police officers on real property owned, leased,  
220 or controlled by the employing entity and, if approved by the local chief of police or sheriff, any contiguous  
221 property. Any person employed as a private police officer pursuant to this section shall meet all requirements,  
222 including the minimum compulsory training requirements, for law-enforcement officers pursuant to this  
223 chapter. A private police officer is not entitled to benefits under the Virginia Retirement System, is not a  
224 "qualified law enforcement officer" or "qualified retired law enforcement officer" within the meaning of the  
225 federal Law Enforcement Officers Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an  
226 employee of the Commonwealth or any locality.

227 "School resource officer" means a certified law-enforcement officer hired by the local law-enforcement  
228 agency to provide law-enforcement and security services to Virginia public elementary and secondary  
229 schools.

230 "School security officer" means an individual who is employed by the local school board or a private or  
231 religious school for the singular purpose of maintaining order and discipline, preventing crime, investigating  
232 violations of the policies of the school board or the private or religious school, and detaining students  
233 violating the law or the policies of the school board or the private or religious school on school property,  
234 school buses, or at school-sponsored events and who is responsible solely for ensuring the safety, security,  
235 and welfare of all students, faculty, staff, and visitors in the assigned school.

236 "Sealing" means to prohibit public access to records relating to an arrest, charge, or conviction, including  
237 any ancillary matter ordered to be sealed, in the possession of (i) the Central Criminal Records Exchange; (ii)  
238 any court; (iii) any police department, sheriff's office, or campus police department; or (iv) the Department of  
239 Motor Vehicles unless dissemination is authorized for one or more of the purposes set forth in § 19.2-392.13  
240 and pursuant to the rules and regulations adopted pursuant to § 9.1-128 and the procedures adopted pursuant  
241 to § 9.1-134.

242 "Unapplied criminal history record information" means information pertaining to criminal offenses  
243 submitted to the Central Criminal Records Exchange that cannot be applied to the criminal history record of  
244 an arrested or convicted person (i) because such information is not supported by fingerprints or other  
245 accepted means of positive identification or (ii) due to an inconsistency, error, or omission within the content

of the submitted information.

**§ 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 § 46.2-391.2.

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

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

E. A defendant who is found guilty of a first offense and whose license is suspended pursuant to subdivision A 1 or B 1 may petition the court 30 days after the date of conviction for a restricted license and

the court may, for good cause shown, provide that the defendant is issued a restricted license during the remaining period of suspension, or any portion thereof, for any of the purposes set forth in subsection E of § 18.2-271.1. No restricted license issued pursuant to this subsection shall permit any person to operate a commercial motor vehicle as defined in the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.). If the court grants such petition and issues the defendant a restricted license, the court shall order (i) that reinstatement of the defendant's license to drive be conditioned upon (a) the installation of an ignition interlock system on each motor vehicle, as defined in § 46.2-100, owned by or registered to the person, in whole or in part, for a period of time not to exceed the period of license suspension and restriction, not less than six consecutive months without alcohol-related violations of the interlock requirements and (b) the requirement that such person not operate any motor vehicle that is not equipped with such a system for the period of time that the interlock restriction is in effect and (ii) that, as a condition of probation or otherwise, the defendant enter into and successfully complete an alcohol safety action program in the judicial district in which such charge is brought or in any other judicial district upon such terms and conditions as the court may set forth. However, upon motion of a person convicted of any such offense following an assessment of the person conducted by an alcohol safety action program, the court, for good cause, may decline to order participation in such a program if the assessment conducted by the alcohol safety action program indicates 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 Article 2.1~~ (§ 18.2-273.1 et seq.). 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 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. 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 a substantially similar ordinance of any county, city, or town, any court of proper jurisdiction shall, as a condition of a restricted license, prohibit an offender from operating a motor vehicle that is not equipped with a functioning, certified ignition interlock system for any period of time not to exceed the period of license suspension and restriction, not less than 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, 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, 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 restricted license may be issued pursuant to § 18.2-271.1. Whenever an ignition interlock system is required, the court may order the installation of an ignition interlock system to commence immediately upon conviction. A fee of \$20 to cover court and administrative costs related to the ignition interlock system shall be paid by any such offender to the clerk of the court. The court shall require the offender to install an electronic log device with the ignition interlock system on a vehicle designated by the court to measure the blood alcohol content at each attempted ignition and random rolling retest during operation of the vehicle. The offender shall be enrolled in and supervised by an alcohol safety action program pursuant to § 18.2-271.1 and Article 2.1 (§ 18.2-273.1 *et seq.*) and to conditions established by regulation under ~~§ 18.2-270.2~~ such article by the Commission during the period for which the court has ordered installation of the ignition interlock system. The offender shall be further required to provide to such program, at least quarterly during the period of court ordered ignition interlock installation, a printout from such electronic log indicating the offender's blood alcohol content during such ignitions, attempted ignitions, and rolling retests, and showing attempts to circumvent or tamper with the equipment. The period of time during which the offender (i) is prohibited from operating a motor vehicle that is not equipped with an ignition interlock system or (ii) is required to have an ignition interlock system installed on each motor vehicle owned by or registered to the offender, in whole or in part, shall be calculated from the date the offender is issued a restricted license by the court; however, such period of time shall be tolled upon the expiration of the restricted license issued by the court until such time as the person is issued a restricted license by the Department.

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

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

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

A fee of \$20 to cover court and administrative costs related to the remote alcohol monitoring device shall

be paid by any such offender to the clerk of the court. The offender shall be enrolled in and supervised by an alcohol safety action program pursuant to § 18.2-271.1 and Article 2.1 (§ 18.2-273.1 et seq.) and shall comply with all conditions established by regulation under ~~§ 18.2-270.2~~ such article by the Commission during the period for which the court has ordered the use of a remote alcohol monitoring device. The offender shall be further required to provide to such program, at least quarterly during the period of time the offender is ordered to use a remote alcohol monitoring device, a copy of the data from such device indicating the offender's blood alcohol content and showing attempts to circumvent or tamper with the device. The period of time during which the offender is required to use a remote alcohol monitoring device shall be calculated from the date the offender is issued a restricted license by the court; however, such period of time shall be tolled upon the expiration of the restricted license issued by the court until such time as the person is issued a restricted license by the Department.

F. The offender shall be ordered to provide the appropriate ASAP program, within 30 days of the effective date of the order of court, proof of the installation of the ignition interlock system, and, if applicable, proof that the offender is using a remote alcohol monitoring device. The Program shall require the offender to have the system and device monitored and calibrated for proper operation at least every 30 days by an entity approved by the Commission under the provisions of ~~§ 18.2-270.2~~ 18.2-273.9 and to demonstrate proof thereof. The offender shall pay the cost of leasing or buying and monitoring and maintaining the ignition interlock system and the remote alcohol monitoring device. Absent good cause shown, the court may revoke the offender's driving privilege for failing to (i) timely install such system or use such device or (ii) have the system or device properly monitored and calibrated.

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

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

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

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

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

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

A. Any person convicted of a first or second offense of § 18.2-266, or any ordinance of a county, city, or town similar to the provisions thereof, or provisions of subsection A of § 46.2-341.24, shall be required by court order, as a condition of probation or otherwise, to enter into and successfully complete an alcohol safety action program in the judicial district in which such charge is brought or in any other judicial district upon such terms and conditions as the court may set forth. However, upon motion of a person convicted of any such offense following an assessment of the person conducted by an alcohol safety action program, the court, for good cause, may decline to order participation in such a program if the assessment by the alcohol safety action program indicates that intervention is not appropriate for such person. In no event shall such persons be permitted to enter any such program which 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~~ Article 2.1 (§ 18.2-273.1 et seq.). However, any person charged with a violation of a first or second offense of § 18.2-266, or any ordinance of a county, city, or town similar to the provisions thereof, or provisions of subsection A of § 46.2-341.24, may, at any time prior to trial, enter into an alcohol



safety action program in the judicial district in which such charge is brought or in any other judicial district. Any person who enters into such program prior to trial may pre-qualify with the program to have an ignition interlock system installed on any motor vehicle owned or operated by him and may have such ignition interlock system installed. Any installation period of time accrued by such person prior to trial for the pending charge shall count toward any (i) ignition interlock or restricted license period of time ordered by a court or (ii) restricted license, suspension, or revocation issued by the Department of Motor Vehicles pursuant to § 46.2-389.

B. 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.

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

D. Any person who has been convicted under the law of another state or the United States of an offense substantially similar to the provisions of § 18.2-266 or subsection A of § 46.2-341.24, and whose privilege to operate a motor vehicle in this Commonwealth is subject to revocation under the provisions of § 46.2-389 and subsection A of § 46.2-391, may petition the general district court of the county or city in which he resides that he be given probation and assigned to a program as provided in subsection A and that, upon entry into such program, he be issued an order in accordance with subsection E. If the court finds that such person would have qualified therefor if he had been convicted in this Commonwealth of a violation of § 18.2-266 or subsection A of § 46.2-341.24, the court may grant the petition and may issue an order in accordance with subsection E as to the period of license suspension or revocation imposed pursuant to § 46.2-389 or subsection A of § 46.2-391. The court (i) shall, as a condition of a restricted license, prohibit such person from operating a motor vehicle that is not equipped with a functioning, certified ignition interlock system for a period of time not to exceed the period of license suspension and restriction, not less than 12 consecutive months without alcohol-related violations of interlock requirements, and (ii) may, upon request of such person and as a condition of a restricted license, require such person to use a remote alcohol monitoring device in accordance with the provisions of subsection E of § 18.2-270.1. Such order shall be conditioned upon the successful completion of a program by the petitioner. If the court subsequently finds that such person has violated any of the conditions set forth by the court, the court shall dispose of the case as if no program had been entered and shall notify the Commissioner, who shall revoke the person's license in accordance with the provisions of § 46.2-389 or subsection A of § 46.2-391. A copy of the order granting the petition or subsequently revoking or suspending such person's license to operate a motor vehicle shall be

556 forthwith sent to the Commissioner of the Department of Motor Vehicles. The period of time during which  
557 the person (a) is prohibited from operating a motor vehicle that is not equipped with an ignition interlock  
558 system or (b) is required to use a remote alcohol monitoring device shall be calculated from the date the  
559 person is issued a restricted license by the court; however, such period of time shall be tolled upon the  
560 expiration of the restricted license issued by the court until such time as the person is issued a restricted  
561 license by the Department of Motor Vehicles.

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

566 E. Except as otherwise provided herein, if a person enters a certified program pursuant to this section, and  
567 such person's license to operate a motor vehicle, engine, or train in the Commonwealth has been suspended or  
568 revoked, or a person's license to operate a motor vehicle, engine, or train in the Commonwealth has been  
569 suspended or revoked pursuant to former § 18.2-259.1 or 46.2-390.1, the court may, in its discretion and for  
570 good cause shown, provide that such person be issued a restricted permit to operate a motor vehicle for any of  
571 the following purposes: (i) travel to and from his place of employment; (ii) travel to and from an alcohol  
572 rehabilitation or safety action program; (iii) travel during the hours of such person's employment if the  
573 operation of a motor vehicle is a necessary incident of such employment; (iv) travel to and from school if  
574 such person is a student, upon proper written verification to the court that such person is enrolled in a  
575 continuing program of education; (v) travel for health care services, including medically necessary  
576 transportation of an elderly parent or, as designated by the court, any person residing in the person's  
577 household with a serious medical problem upon written verification of need by a licensed health professional;  
578 (vi) travel necessary to transport a minor child under the care of such person to and from school, day care,  
579 and facilities housing medical service providers; (vii) travel to and from court-ordered visitation with a child  
580 of such person; (viii) travel to a screening, evaluation, and education program entered pursuant to § 18.2-251  
581 or subsection H of § 18.2-258.1; (ix) travel to and from court appearances in which he is a subpoenaed  
582 witness or a party and appointments with his probation officer and to and from any programs required by the  
583 court or as a condition of probation; (x) travel to and from a place of religious worship one day per week at a  
584 specified time and place; (xi) travel to and from appointments approved by the Division of Child Support  
585 Enforcement of the Department of Social Services as a requirement of participation in an administrative or  
586 court-ordered intensive case monitoring program for child support for which the participant maintains written  
587 proof of the appointment, including written proof of the date and time of the appointment, on his person; (xii)  
588 travel to and from jail to serve a sentence when such person has been convicted and sentenced to confinement  
589 in jail and pursuant to § 53.1-131.1 the time to be served is on weekends or nonconsecutive days; (xiii) travel  
590 to and from the facility that installed or monitors the ignition interlock in the person's vehicle; (xiv) travel to  
591 and from a job interview for which he maintains on his person written proof from the prospective employer  
592 of the date, time, and location of the job interview; or (xv) travel to and from the offices of the Virginia  
593 Employment Commission for the purpose of seeking employment. However, (a) any such person who is  
594 eligible to receive a restricted license as provided in subsection C of § 18.2-270.1 or (b) any such person  
595 ordered to use a remote alcohol monitoring device pursuant to subsection E of § 18.2-270.1 who has a  
596 functioning, certified ignition interlock system as required by law may be issued a restricted permit to operate  
597 a motor vehicle for any lawful purpose. No restricted license issued pursuant to this subsection shall permit  
598 any person to operate a commercial motor vehicle as defined in the Virginia Commercial Driver's License  
599 Act (§ 46.2-341.1 et seq.). The court shall order the surrender of such person's license to operate a motor  
600 vehicle to be disposed of in accordance with the provisions of § 46.2-398 and shall forward to the  
601 Commissioner of the Department of Motor Vehicles a copy of its order entered pursuant to this subsection,  
602 which shall specifically enumerate the restrictions imposed and contain such information regarding the  
603 person to whom such a permit is issued as is reasonably necessary to identify such person. The court shall  
604 also provide a copy of its order to the person so convicted who may operate a motor vehicle on the order until  
605 receipt from the Commissioner of the Department of Motor Vehicles of a restricted license, if the order  
606 provides for a restricted license for that time period. A copy of such order and, after receipt thereof, the  
607 restricted license shall be carried at all times while operating a motor vehicle. Any person who operates a  
608 motor vehicle in violation of any restrictions imposed pursuant to this section is guilty of a violation of  
609 § 18.2-272. Such restricted license shall be conditioned upon enrollment within 15 days in, and successful  
610 completion of, a program as described in subsection A. No restricted license shall be issued during the first  
611 four months of a revocation imposed pursuant to subsection B of § 18.2-271 or subsection A of § 46.2-391  
612 for a second offense of the type described therein committed within 10 years of a first such offense. No  
613 restricted license shall be issued during the first year of a revocation imposed pursuant to subsection B of  
614 § 18.2-271 or subsection A of § 46.2-391 for a second offense of the type described therein committed within  
615 five years of a first such offense. No restricted license shall be issued during any revocation period imposed  
616 pursuant to subsection C of § 18.2-271 or subsection B of § 46.2-391. Notwithstanding the provisions of  
617 § 46.2-411, the fee charged pursuant to § 46.2-411 for reinstatement of the driver's license of any person

whose privilege or license has been suspended or revoked as a result of a violation of § 18.2-266, subsection A of § 46.2-341.24 or of any ordinance of a county, city, or town, or of any federal law or the laws of any other state similar to the provisions of § 18.2-266 or subsection A of § 46.2-341.24 shall be \$105. Forty dollars of such reinstatement fee shall be retained by the Department of Motor Vehicles as provided in § 46.2-411, \$40 shall be transferred to the Commission on VASAP, and \$25 shall be transferred to the Commonwealth Neurotrauma Initiative Trust Fund. Any person who is otherwise eligible to receive a restricted license issued in accordance with this subsection or as otherwise provided by law shall not be required to pay in full his fines and costs, as defined in § 19.2-354.1, before being issued such restricted license.

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

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

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

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

J. Notwithstanding any other provisions of this section or of § 18.2-271, 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

680 (§ 46.2-341.1 et seq.).

681 **§ 18.2-271.5. Restricted permits to operate a motor vehicle; ignition interlock systems.**

682 Notwithstanding any other provision of law, in any criminal case for any violation of Article 7 (  
683 § 46.2-852 et seq.) of Chapter 8 of Title 46.2 where a defendant's license to operate a motor vehicle, engine,  
684 or train in the Commonwealth is subject to revocation or suspension and the court orders a defendant, as a  
685 condition of probation or otherwise, to enter into and successfully complete an alcohol safety action program  
686 in the judicial district in which such charge is brought or in any other judicial district upon such terms and  
687 conditions as the court may set forth, the court may, in its discretion and for good cause shown, issue the  
688 defendant a restricted license to operate a motor vehicle in accordance with the provisions of subsection E of  
689 § 18.2-271.1 where the only restriction of such restricted license that the court shall impose is to prohibit the  
690 defendant from operating a motor vehicle that is not equipped with a functioning, certified ignition interlock  
691 system for a period of not less than six consecutive months without alcohol-related violations of the interlock  
692 requirements.

693 In no event shall a defendant be permitted to enter any such alcohol safety action program that is not  
694 certified as meeting minimum standards and criteria established by the Commission on the Virginia Alcohol  
695 Safety Action Program (VASAP) pursuant to ~~§ 18.2-271.2~~ Article 2.1 (§ 18.2-273.1 et seq.).

696 No restricted license issued pursuant to this section shall permit any person to operate a commercial motor  
697 vehicle as defined in the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.).

698 The provisions of subsections E and F of § 18.2-271.1 shall apply to this section mutatis mutandis, except  
699 as herein provided.

700 *Article 2.1.*

701 *Commission on the Virginia Alcohol Safety Action Program (VASAP).*

702 **§ 18.2-273.1. Definitions.**

703 *As used in this article, unless the context requires a different meaning:*

704 *"Commission" means the Commission on VASAP.*

705 *"Department" means the Department of Motor Vehicles.*

706 *"Executive finance committee" means the advisory subcommittee of the Commission, composed of the*  
707 *Executive Director and such members as the Commission may designate, that is authorized to take action on*  
708 *behalf of the Commission for a period not to exceed 90 days in matters of program certification, suspension,*  
709 *or related fiscal oversight.*

710 *"Fiscal agent locality" means the county, city, or town designated pursuant to § 18.2-273.6 to serve as the*  
711 *financial and human resources administrator for a local alcohol safety action program.*

712 *"Ignition interlock system," "remote alcohol monitoring device," and "rolling retest" mean the same as*  
713 *those terms are defined in § 18.2-270.1.*

714 *"Local alcohol safety action program" or "local ASAP" means a program established pursuant to*  
715 *§ 18.2-273.4 that provides probation, education, and rehabilitation services for persons referred by a court,*  
716 *the Department, or any other source approved by the Commission.*

717 *"Policy board" means the local independent ASAP board established pursuant to § 18.2-273.5 to provide*  
718 *local governance, budget review, and initial approval and work in consultation with the fiscal agent of the*  
719 *local ASAP regarding employee matters of a certified alcohol safety action program.*

720 *"Supplemental or emergency funding" means funds allocated by the Commission pursuant to subsection D*  
721 *of § 18.2-273.4 to ensure the continued operation or reestablishment of a local alcohol safety action program*  
722 *experiencing financial hardship or other circumstances that threaten service continuity.*

723 **§ 18.2-273.2. Commission on VASAP; purpose; membership; terms; meetings; staffing; compensation**  
724 **and expenses; chair's executive summary.**

725 *A. There is hereby established in the legislative branch of state government the Commission on the*  
726 *Virginia Alcohol Safety Action Program (VASAP), which shall be deemed an agency of the Commonwealth*  
727 *for the purposes of administration, regulation, and receipt or disbursement of funds pursuant to the*  
728 *provisions of this article. The Commission shall administer and supervise the system of local alcohol safety*  
729 *action programs throughout the Commonwealth, develop and maintain operation and performance standards*  
730 *for such programs, and administer the allocation of supplemental or emergency funding to such programs*  
731 *pursuant to subsection D of § 18.2-273.4.*

732 *B. The Commission shall have a total membership of 15 members that shall include six legislative*  
733 *members and nine nonlegislative citizen members. Members shall be appointed as follows: four current or*  
734 *former members of the House Committee for Courts of Justice, to be appointed by the Speaker of the House*  
735 *of Delegates; two members of the Senate Committee for Courts of Justice, to be appointed by the Senate*  
736 *Committee on Rules; three sitting or retired judges, one each from the circuit, general district, and juvenile*  
737 *and domestic relations district courts, who regularly hear or heard cases involving driving under the*  
738 *influence and are familiar with their local alcohol safety action programs, to be appointed by the chair of the*  
739 *Committee on District Courts; one director of a local alcohol safety action program to be appointed by the*  
740 *Speaker of the House of Delegates upon consideration of the recommendations of the legislative members of*  
741 *the Commission; one director of a local alcohol safety action program to be appointed by the Senate*

Committee on Rules upon consideration of the recommendations of the legislative members of the Commission; one representative from the law-enforcement profession, to be appointed by the Speaker of the House; one nonlegislative citizen at large, to be appointed by the Senate Committee on Rules; one representative from the Department whose duties are substantially related to matters to be addressed by the Commission to be appointed by the Commissioner of the Department of Motor Vehicles; and one representative from the Department of Behavioral Health and Developmental Services whose duties also substantially involve such matters, to be appointed by the Commissioner of Behavioral Health and Developmental Services. Legislative members shall serve terms coincident with their terms of office. In accordance with the staggered terms previously established, nonlegislative citizen members shall serve two-year terms. All members may be reappointed. Appointments to fill vacancies, other than by expiration of a term, shall be made for the unexpired terms. Any appointment to fill a vacancy shall be made in the same manner as the original appointment.

C. The Commission shall meet at least four times each year at such places as it may designate. A majority of the members shall constitute a quorum. The Commission shall elect a chair and vice-chair from among its membership, who shall be members of the General Assembly.

D. The Commission shall establish and ensure the maintenance of minimum standards and criteria for program operations and performance, accounting, auditing, public information, and administrative procedures for the various local alcohol safety action programs, including certification, decertification, regionalization, reorganization, or mergers of such local programs and finances and personnel at such local programs, and shall be responsible for overseeing the administration of the statewide VASAP system. Such programs shall be certified by the Commission in accordance with procedures set forth in the VASAP Certification Manual pursuant to § 18.2-273.3. The Commission shall also oversee program plans, operations, and performance and create a system for allocating funds to cover deficits that may occur in the budgets of local programs. The Commission may enter into cooperative agreements or memoranda of understanding with courts, law-enforcement agencies, the Department of Motor Vehicles, the Department of Behavioral Health and Developmental Services, or other public or private entities to improve coordination, data sharing, and service delivery within the statewide VASAP system. The Commission is authorized to accept any gifts or bequest of money or property and any grant, loan, service, payment, or property from any source, including the federal government, for the purpose of driver alcohol education, and any such gifts, bequests, grants, loans, or payments shall be deposited in the separate fund described in subsection B of § 18.2-271.1.

E. The Commission shall appoint and employ and, at its pleasure, remove an executive director and such other persons as it may deem necessary and shall determine their duties and fix their salaries or compensation.

F. The Commission shall appoint a Virginia Alcohol Safety Action Program Advisory Board (the Board) to make recommendations to the Commission regarding its duties and administrative functions. The membership of the Board shall be appointed in the discretion of the Commission and include personnel from (i) local alcohol safety action programs; (ii) the State Board of Behavioral Health and Developmental Services, community services boards, or behavioral health authorities; and (iii) other community mental health services organizations. An assistant Attorney General who provides counsel in matters relating to driving under the influence shall also be appointed to the Board.

G. Legislative members of the Commission shall receive compensation as provided in § 30-19.12. Funding for the costs of compensation of legislative members shall be provided by the Commission. All members shall be reimbursed for all reasonable and necessary expenses as provided in §§ 2.2-2813 and 2.2-2825 to be paid out of that portion of moneys paid in VASAP defendant entry fees that is forwarded to the Virginia Alcohol Safety Action Program.

H. The chair of the Commission shall submit to the Governor and the General Assembly an annual executive summary of the interim activity and work of the Commission no later than December 1 of each year. The executive summary shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

I. Notwithstanding the provisions of Chapter 5 (§ 2.2-500 et seq.) of Title 2.2, the Attorney General shall provide representation in all cases, hearings, controversies, or matters involving the interests of the Commission. However, if, in the opinion of the Attorney General, it is impracticable or uneconomical for such legal services to be rendered by him or one of his assistants, the Commission may employ special counsel to represent it and provide such legal services. Any such special counsel shall be paid from funds appropriated to the Commission.

**§ 18.2-273.3. Additional powers and duties of the Commission.**

In addition to the powers and duties of the Commission pursuant to § 18.2-273.2, the Commission shall:

1. Approve the VASAP Certification Manual, which prescribes statewide standards, criteria, and procedures for certification, auditing, fiscal management, and overall performance of local ASAPs;
2. Prescribe a reasonable portion, not to exceed 10 percent, of the fee described in subsection B of

§ 18.2-271.1 to be forwarded monthly for deposit with the State Treasurer for expenditure by the Commission;

3. Prescribe a uniform schedule of offender fees for services provided pursuant to § 18.2-271.1;

4. Establish procedures for the collection, accounting, and use of fees for services provided pursuant to § 18.2-271.1;

5. Prescribe minimum standards for local independent policy boards, including board composition, meeting frequency, duties and procedures, and intervention by the Commission or reconstitution of a board pursuant to subsection B of § 18.2-273.5. Such procedures shall provide that (i) the composition of the board shall include at least (a) one attorney for the Commonwealth, (b) one criminal defense attorney who has specialized knowledge in representing persons charged with driving while intoxicated offenses, (c) one member of law-enforcement, and (d) one member of a local community services board and (ii) the board may appoint a local sitting or retired judge of a general district court of the Commonwealth who regularly oversees or oversaw cases involving driving while intoxicated offenses and who is familiar with the local ASAP;

6. Establish minimum standards and procedures for the designation of a fiscal agent locality, required pursuant to § 18.2-273.6, including requirements for written agreements, fiscal accountability, recordkeeping, auditing, and reporting to the Commission;

7. Establish standards and procedures pursuant to § 18.2-273.4 for requiring (i) the issuance, renewal, suspension, or revocation of certification; (ii) examination requirements; (iii) performance evaluation standards; and (iv) an appeal process;

8. Suspend, revoke, or decline to renew the certification of a local ASAP. If such action is taken by the Commission, it shall take any further action necessary to ensure continued availability of mandated alcohol safety action services within the affected judicial district;

9. Develop and administer a certification process for local ASAP employees. Such process shall include (i) successful completion of a background investigation, (ii) review of a driving history record, and (iii) passing a written certification examination approved by the Commission with a minimum score of 80 percent; and

10. Establish certification requirements and performance metrics for the director of a local ASAP, which shall include, at a minimum, competency and satisfactory performance in (i) management and supervision of local ASAP staff; (ii) fiscal and budgetary management; (iii) compliance with Commission standards and regulations; (iv) integrity and accountability in program operations; and (v) cooperation with courts, law enforcement, and community partners.

**§ 18.2-273.4. Local alcohol safety action programs.**

A. The Commission, or any county, city, or town, or any combination thereof, may establish and, if established, shall operate, in accordance with the standards and criteria required by this section, alcohol safety action programs (ASAPs) in connection with highway safety. Each such program shall operate under the direction of a local independent policy board established pursuant to § 18.2-273.5 and shall, at a minimum, (i) employ a program director and such staff as necessary to carry out the duties of such local ASAP and (ii) hold general liability, professional liability, and directors and officers insurance if such items are not provided by the fiscal agent locality of such program. Each such program shall be accessible to the public for all required services during days and hours established by the Commission, and the Commission shall prescribe acceptable methods of accessibility, including remote and electronic service delivery.

B. The Commission shall establish minimum standards and criteria for the implementation and operation of local ASAPs and shall establish procedures to certify all such programs to ensure that they meet the minimum standards and criteria stipulated by the Commission. The Commission shall also establish criteria for the administration of such programs for (i) public information activities, (ii) accounting procedures, (iii) the auditing requirements of such programs, and (iv) the allocation of supplemental or emergency funding pursuant to subsection D.

C. Each program director of the local ASAP shall be subject to an annual performance evaluation conducted by the Executive Director of the Commission or his designee. A program director shall be required to achieve and maintain, at minimum, a satisfactory performance rating as a condition of continued certification. Failure to maintain such required certification or a satisfactory performance rating (i) may result in suspension or revocation of certification and (ii) shall render such person ineligible to serve as a program director or employee of any local ASAP.

D. Each county, city, or town that has established, or jointly participates in, a local ASAP shall provide for the financial support of such program through annual appropriations in its local budget or through such other funding mechanisms as may be agreed upon by the participating localities. Each local ASAP serving multiple localities shall, as a condition of certification, have a written funding agreement among all participating localities that equitably allocates costs of program operation. Such agreement shall be filed with the Commission and reviewed for compliance with Commission standards. The Commission shall not be responsible for routine operational or personnel funding of local ASAPs. The Commission may, subject to the availability of funds, provide supplemental or emergency assistance to a local ASAP or its fiscal agent

locality if the Commission determines that (i) financial hardship threatens continued operation of the local ASAP, (ii) the local ASAP has demonstrated compliance with all Commission standards, and (iii) the participating localities have contributed funding in accordance with this subsection. In the event any locality fails to provide financial support pursuant to this subsection, such locality may be subject to a fine as prescribed by the Commission.

E. Each local ASAP shall (i) maintain financial records in accordance with generally accepted accounting principles; (ii) be subject to local, state, and federal audits; and (iii) submit monthly financial reports to the Commission by the fifteenth day of the following month and an annual income statement by August 1 of each year. Any local ASAP that fails to timely file such information shall be subject to daily late fees, prescribed by the Commission, and potential decertification.

F. Any local ASAP revenues that are derived from offender fees or other sources shall only be used for the administration of such local ASAP and are subject to Commission oversight. The Commission may collect unexpended revenue or reserve balances from any local ASAP to ensure statewide fiscal accountability and maintain program standards.

G. Each local ASAP shall submit an annual operating budget and corresponding financial documents to the Commission for approval by May 1 of each year in a format prescribed by the Commission. In the event a local ASAP fails to submit, correct, or operate under an approved budget as required by the Commission, the Commission may (i) withhold or recover any state-controlled or supplemental funds, (ii) suspend or revoke certification of the local ASAP, (iii) suspend new offender referrals to the local ASAP, (iv) initiate temporary administration or reorganization under § 18.2-273.7, or (v) take such other actions as necessary to ensure compliance and fiscal accountability.

H. Each local ASAP shall operate under a program agreement approved by the Commission. Such agreement shall (i) delineate the responsibilities of the Commission and the local ASAP; (ii) specify conditions for receipt of any supplemental or emergency funding; (iii) identify performance measures related to offender compliance, fiscal management, and program efficiency; and (iv) provide procedures for monitoring, and remediation of, noncompliance. The Commission may withhold or recover funds or suspend certification for failure of the local ASAP to comply with the terms of such agreement.

I. Two or more certified local ASAPs may, with the approval of the Commission, enter into joint service agreements to provide education, monitoring, or administrative services and to share fiscal, personnel, or technological resources. Any such agreement shall specify the (i) duration, purpose, and method of administration; (ii) allocation of costs; and (iii) responsibilities of each participating program. Such agreement shall be filed with the Commission for review and approval. However, participation in any such agreement shall not relieve a local ASAP of its obligations under this article or regulations of the Commission.

J. Funds paid to the Commonwealth hereunder shall be utilized in the discretion of the Commission to offset the costs of state programs and local programs run in conjunction with any county, city, or town and costs incurred by the Commission. The Commission shall include in the executive summary required pursuant to subsection H of § 18.2-273.2 all actions taken pursuant to this section.

**§ 18.2-273.5. Powers and duties of the local independent policy board.**

A. The local independent policy board responsible for directing the operation of a local ASAP established pursuant to § 18.2-273.4 shall have the following powers and duties:

1. Review and approve the annual program budget prior to the submission of such budget to the Commission in consultation with the fiscal agent locality designated pursuant to § 18.2-273.6;

2. Participate in the hiring and firing of the program director and other personnel and consult with the fiscal agent locality to ensure such hiring and firing is consistent with the personnel policies and procedures of the locality; and

3. Meet as required by the regulations of the Commission and maintain minutes and records of such meetings in accordance with the standards established by the Commission.

B. Failure of a policy board to meet as required by subdivision A 3 shall constitute grounds for intervention by the Commission, including the reconstitution or replacement of the policy board, appointment of interim members, or any other corrective action the Commission deems necessary to ensure compliance and continuity of program operations.

**§ 18.2-273.6. Fiscal agent locality.**

A. Each local ASAP shall, as a condition of certification by the Commission, designate a county, city, or town for which it serves to act as its fiscal agent locality. Such fiscal agent locality shall (i) be responsible for the receipt, disbursement, and accounting of all local ASAP funds in accordance with such standards established by the Commission; (ii) serve as the employer of record for all local ASAP personnel, including the program director; and (iii) provide payroll, benefits administration, and human resources functions on behalf of the local ASAP. For any local ASAP that serves multiple jurisdictions, such jurisdictions shall designate, by written agreement approved by the governing body of each respective jurisdiction, a single jurisdiction to serve as the fiscal agent locality. Such fiscal agent locality shall file such agreement with the Commission.



B. Any payroll and benefits paid by the fiscal agent locality shall be derived from offender fees paid to the local ASAP and remitted by such local ASAP to the fiscal agent locality prior to disbursement. Additionally, the fiscal agent locality may, at the beginning of each fiscal year, collect up to 10 percent of the Commission-approved annual budget for such local ASAP for the administration of such services.

C. The local independent policy board established pursuant to § 18.2-273.5 shall retain the authority to hire and recommend termination of the local program director and other local program personnel, subject to applicable personnel policies of the fiscal agent locality. Any employment action taken by such board shall be subject to the personnel policies, grievance procedures, and due process protections of the fiscal agent locality.

D. The Commission shall not certify, recertify, or continue certification of any local ASAP that fails to maintain a valid fiscal agent locality pursuant to this section. In the event any local ASAP fails to maintain a valid fiscal agent locality, such locality shall be subject to a fine as prescribed by the Commission not to exceed \$5,000 and shall be responsible for any administration costs incurred by the Commission in directly administering or contracting for the administration of an interim program to provide mandatory alcohol safety action services pursuant to § 18.2-273.7.

**§ 18.2-273.7. Procedure when suspension, revocation, etc., of certification of local ASAP.**

A. Every local ASAP shall be certified at least every three years. Any local ASAP that is found not in compliance shall submit an action plan within 10 days of notice from the Commission that such local ASAP is not in compliance. The Commission may issue conditional certification, extend corrective periods, or revoke certification for noncompliance. The Commission may regionalize, merge, reorganize, or decertify any local ASAPs as necessary to maintain statewide standards and may establish regional leadership teams to assist programs in achieving compliance. The executive finance committee of the Commission may, for a period not to exceed 90 days, suspend the certification of a local ASAP when the committee determines that such action is necessary due to (i) noncompliance with Commission standards or regulations; (ii) fiscal mismanagement; or (iii) any other conduct that threatens the integrity, efficiency, or public confidence in the statewide ASAP system. Upon suspension by the executive finance committee, the Executive Director of the Commission may take such administrative action necessary to protect program integrity, including prohibiting the suspended local ASAP from receiving new referrals and restricting the suspended local ASAP from accessing any information systems provided by or through the Commission. In the event the Commission suspends, revokes, or declines to renew the certification of a local ASAP, the Commission shall take such actions as necessary to ensure the continued availability of mandatory alcohol safety action services within the affected judicial district. A local ASAP that has had its certification suspended shall continue to provide services for referrals received prior to the effective date of the suspension unless otherwise directed by the Commission.

B. The Commission may, for a period not to exceed 12 months, directly administer or contract for the administration of an interim program to provide mandatory alcohol safety action services. During such interim period, the Commission shall have all powers and duties of a certified local program pursuant to § 18.2-273.4. In lieu of direct administration, the Commission may authorize one or more neighboring certified local ASAPs to provide services to offenders residing or convicted within the affected jurisdiction under such terms and conditions as the Commission deems appropriate to maintain service continuity and judicial compliance.

C. The Commission may enter into temporary contracts with qualified public or private entities that meet minimum standards established by the Commission to provide assessment, monitoring, education, and related services during the interim period.

D. Upon the decertification of a local ASAP, all unexpended revenues, reserve balances, accounts receivable, and other funds or assets held by, or for the benefit of, the decertified program shall immediately revert to the Commission. Such funds and assets shall be deposited with the State Treasurer for use solely in the administration of interim services and the reestablishment, certification, or reformation of a new local ASAP to serve the affected area.

E. The Commission shall, during the interim period, facilitate the reestablishment or certification of a new local ASAP for the affected area.

F. Upon certification of the new program, or at the expiration of 12 months, whichever occurs first, the temporary administration authority under this section shall cease unless extended by the Commission for good cause. Such extension shall not exceed six months.

G. The Commission shall report all actions it takes pursuant to this section, including reasons for decertification of a local ASAP, disposition of funds or assets received, and the status of interim service delivery, in its annual report to the Governor and the General Assembly as required pursuant to § 18.2-273.4.

**§ 18.2-273.8. Requirements of employees of local ASAPs.**

A. No person shall perform duties for, or be employed by, a local ASAP unless such person has obtained and maintains a certification issued by the Commission.

B. Every case manager, and any other employee who is designated by the director of any VASAP-certified local alcohol safety action program operated pursuant to this article to provide probation and related



services, shall take an oath of office as prescribed in § 49-1, by a person authorized to administer oaths pursuant to § 49-3, before entering the duties of his office.

**§ 18.2-273.9. Ignition interlock system and remote alcohol monitoring device; certification by Commission on VASAP; regulations; sale or lease; monitoring use; reports; penalty.**

A. The Executive Director of the Commission or his designee shall, pursuant to approval by the Commission, certify ignition interlock systems for use in the Commonwealth and adopt regulations and forms for the installation, maintenance, and certification of such ignition interlock systems.

The regulations shall include requirements that ignition interlock systems:

1. Do not impede the safe operation of the vehicle;
2. Minimize opportunities to be bypassed, circumvented, or tampered with, and provide evidence thereof;
3. Correlate accurately with established measures of blood alcohol content and are calibrated according to the manufacturer's specifications;
4. Work accurately and reliably in an unsupervised environment;
5. Have the capability to provide an accurate written measure of blood alcohol content for each ignition, attempted ignition, and rolling retest, and record each attempt to circumvent or tamper with the equipment;
6. Minimize inconvenience to other users;
7. Be manufactured or distributed by an entity responsible for installation, user training, service, and maintenance, and meet the safety and operational requirements promulgated by the National Highway Transportation Safety Administration;
8. Operate reliably over the range of motor vehicle environments or motor vehicle manufacturing standards;
9. Be manufactured by an entity that is adequately insured against liability, in an amount established by the Commission, including product liability and installation and maintenance errors;
10. Provide for an electronic log of the driver's experience with the system with an information management system capable of electronically delivering information to the agency supervising the interlock user within 24 hours of the collection of such information from the datalogger; and
11. Provide for a rolling retest of the operator's blood alcohol content.

B. The Executive Director of the Commission or his designee shall, pursuant to approval by the Commission, certify remote alcohol monitoring devices for use in the Commonwealth and adopt regulations and forms for the installation, maintenance, and certification of such remote alcohol monitoring devices.

C. Such regulations shall also provide for the establishment of a fund, using a percentage of fees received by the manufacturer or distributor providing ignition interlock services or remote alcohol monitoring devices, to afford persons found by the court to be indigent all or part of the costs of an ignition interlock system or remote alcohol monitoring device.

D. The Commission shall design and adopt a warning label to be affixed to an ignition interlock system or remote alcohol monitoring device upon installation. The warning label shall state that a person tampering with or attempting to circumvent the ignition interlock system or remote alcohol monitoring device is guilty of a Class 1 misdemeanor and, upon conviction, shall be subject to a fine or incarceration or both.

E. The Commission shall publish a list of certified ignition interlock systems and remote alcohol monitoring devices and shall ensure that such systems and devices are available throughout the Commonwealth. The local ASAP shall make the list available to eligible offenders, who shall have the responsibility and authority to choose which certified ignition interlock company and certified remote alcohol monitoring company will supply the offender's equipment. A manufacturer or distributor of an ignition interlock system or a remote alcohol monitoring device that seeks to sell or lease the ignition interlock system or remote alcohol monitoring device to persons subject to the provisions of § 18.2-270.1 shall pay the reasonable costs of obtaining the required certification, as set forth by the Commission.

F. A person may not sell or lease or offer to sell or lease an ignition interlock system or a remote alcohol monitoring device to any person subject to the provisions of § 18.2-270.1 unless:

1. The system or device has been certified by the Commission; and
2. The warning label adopted by the Commission is affixed to the system.

G. A manufacturer or distributor of an ignition interlock system or remote alcohol monitoring device shall provide such services as may be required at no cost to the Commonwealth. Such services shall include a toll-free, 24-hour telephone number for the users of ignition interlock systems or remote alcohol monitoring devices.

**§ 46.2-507. (Effective July 1, 2026) Establishment of Intelligent Speed Assistance Program; penalty.**

A. As used in this section:

"Commission" means the Commission on the Virginia Alcohol Safety Action Program (VASAP) as established pursuant to § ~~18.2-271.2~~ 18.2-273.2.

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

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

B. The Executive Director of the Commission or his designee shall, pursuant to approval by the

Commission, establish the Intelligent Speed Assistance Program for the administration of the provisions of this section and supervise the installation and compliance of intelligent speed assistance systems.

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

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

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

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

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

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

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

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

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

1. Do not impede the safe operation of the motor vehicle;

2. Minimize opportunities to be bypassed, circumvented, or tampered with, and provide evidence that such system has not been bypassed, circumvented, or tampered with;

3. Work accurately and reliably in an unsupervised environment;

4. Have the capability to provide an accurate measure of speed and record each attempt to bypass, circumvent, or tamper with such intelligent speed assistance systems;

5. Minimize inconvenience to other users of the motor vehicle;

6. Be manufactured or distributed by an entity that is responsible for the installation, user training, service, and maintenance of such intelligent speed assistance systems;

7. Operate reliably over the range of motor vehicle environments or motor vehicle manufacturing standards;

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

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

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

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

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

1. The intelligent speed assistance system has been certified by the Commission; and

2. The warning label adopted by the Commission pursuant to subsection N is affixed to the intelligent speed assistance system.

L. A manufacturer or distributor of an intelligent speed assistance system shall provide such support

services as may be required at no cost to the Commonwealth. Such services shall include a toll free, 24-hour telephone number for the users of intelligent speed assistance systems.

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

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

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

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

**2. That §§ 18.2-270.2, 18.2-271.2, and 18.2-271.4 of the Code of Virginia are repealed.**

**3. That the Commission on the Virginia Alcohol Safety Action Program (VASAP), as created by this act, shall promulgate regulations for the implementation of this act. Such regulations shall include procedures for the collection and reporting of data necessary for statewide performance monitoring while protecting the confidentiality of individual offender information in compliance with federal and state law.**

**4. That this act shall not be construed to affect existing appointments to the Commission on the Virginia Alcohol Safety Action Program (VASAP) for the terms that have not expired. However, all new appointments to the Commission on VASAP established pursuant to § 18.2-273.2 of the Code of Virginia, as created by this act, made on or after July 1, 2026, shall be made in accordance with the provisions of this act.**

**5. That the regulations of any department or agency related to the existing Virginia Alcohol Safety Action Program (VASAP) affected by this act that are in effect on the effective date of this act shall continue in effect to the extent that they are not in conflict with this act and shall be deemed to be regulations adopted under this act.**

**6. That each local alcohol safety action program shall designate a fiscal agent locality, required pursuant to § 18.2-273.6 of the Code of Virginia, as created by this act, by January 1, 2028.**

**7. That the provisions of subsection D of § 18.2-273.4 and § 18.2-273.6 of the Code of Virginia, as created by this act, shall become effective January 1, 2028.**

**8. That the Commission on the Virginia Alcohol Safety Action Program (the Commission) shall convene a work group to review the sustainability of the structure and funding model for the Virginia Alcohol Safety Action Program (VASAP), including (i) a review of funding models for similar programs in other states; (ii) factors affecting funding sustainability of the program, including fees and funding sources for the program; and (iii) factors affecting operational stability of the system of local alcohol safety action programs (ASAPs). Such review shall include an assessment of the minimum standards and criteria for the implementation and operation of local ASAPs, recommended funding levels for successful operations and programming, the appropriate structure for staffing and accountability at all levels of a local ASAP, and the roles and responsibilities of VASAP to ensure the success of local ASAPs. The work group shall include Commission staff and representatives of local ASAPs; staff of the House Committee on Appropriations and Senate Committee on Finance and Appropriations; representatives of the Virginia Association of Counties and the Virginia Municipal League; and any other relevant stakeholders. The work group shall submit a report of its findings and recommendations, if any, to the Commission and the Chairs of the House Committees on Appropriations and for Courts of Justice and the Senate Committees on Finance and Appropriations and for Courts of Justice by October 1, 2026.**