

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 18.2-266.1, 18.2-268.3, 18.2-270.1, 18.2-271, 18.2-271.1, 46.2-391, and*  
 3 *46.2-391.2 of the Code of Virginia, relating to driving while intoxicated; refusal of tests; repeat offenders;*  
 4 *ignition interlocks.*

5 [H 561]

6 Approved

7 **Be it enacted by the General Assembly of Virginia:**8 **1. That §§ 18.2-266.1, 18.2-268.3, 18.2-270.1, 18.2-271, 18.2-271.1, 46.2-391, and 46.2-391.2 of the Code**  
 9 **of Virginia are amended and reenacted as follows:**10 **§ 18.2-266.1. Persons younger than 21 years of age driving after illegally consuming alcohol;**  
 11 **penalty.**12 A. It ~~shall be~~ *is* unlawful for any person ~~under the age of~~ *younger than 21 years of age* to operate any  
 13 motor vehicle after illegally consuming alcohol. Any such person with a blood alcohol concentration of 0.02  
 14 percent or more by weight by volume or 0.02 grams or more per 210 liters of breath but less than 0.08 by  
 15 weight by volume or less than 0.08 grams per 210 liters of breath as indicated by a chemical test administered  
 16 as provided in this article shall be in violation of this section.17 B. A violation of this section is a Class 1 misdemeanor. Punishment shall include (i) forfeiture of such  
 18 person's license to operate a motor vehicle for a period of one year from the date of conviction and (ii) a  
 19 mandatory minimum fine of \$500 or performance of a mandatory minimum of 50 hours of community  
 20 service. This suspension period shall be in addition to the suspension period provided under § 46.2-391.2.  
 21 The penalties and license forfeiture provisions set forth in §§ 16.1-278.9, 18.2-270 and 18.2-271 shall not  
 22 apply to a violation of this section. Any person convicted of a violation of this section shall be eligible to  
 23 attend an Alcohol Safety Action Program under the provisions of § 18.2-271.1 and may, ~~in the discretion of~~  
 24 ~~the court,~~ be issued a restricted license during the term of license suspension, *provided, however, that such*  
 25 *person is required to install an ignition interlock system pursuant to § 18.2-270.1 for a period not to exceed*  
 26 *one year.*27 C. Notwithstanding §§ 16.1-278.8 and 16.1-278.9, upon adjudicating a juvenile delinquent based upon a  
 28 violation of this section, the juvenile and domestic relations district court shall order disposition as provided  
 29 in subsection B.30 **§ 18.2-268.3. Refusal of tests; penalties; procedures.**31 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  
 32 of § 18.2-272 or of a similar ordinance to unreasonably refuse to have samples of his breath taken for  
 33 chemical tests to determine the alcohol content of his blood as required by § 18.2-268.2, and any person who  
 34 so unreasonably refuses is guilty of a violation of this subsection, which is punishable as follows:35 1. A first violation is a civil offense. For a first offense, the court shall suspend the defendant's privilege to  
 36 drive for a period of one year. This suspension period is in addition to the suspension period provided under  
 37 § 46.2-391.2.38 2. If a person is found to have violated this subsection and within 10 years prior to the date of the refusal  
 39 he was found guilty of any of the following: a violation of this section, a violation of § 18.2-266, or a  
 40 violation of any offense listed in subsection E of § 18.2-270 arising out of separate occurrences or incidents,  
 41 he is guilty of a Class 1 misdemeanor. A conviction under this subdivision shall of itself operate to deprive  
 42 the person of the privilege to drive for a period of three years from the date of the judgment of conviction.  
 43 This revocation period is in addition to the suspension period provided under § 46.2-391.2.44 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  
 45 § 18.2-272 or of a similar ordinance to unreasonably refuse to have samples of his blood taken for chemical  
 46 tests to determine the alcohol or drug content of his blood as required by § 18.2-268.2 and any person who so  
 47 unreasonably refuses is guilty of a violation of this subsection, which is a civil offense and is punishable as  
 48 follows:49 1. For a first offense, the court shall suspend the defendant's privilege to drive for a period of one year.  
 50 This suspension period is in addition to the suspension period provided under § 46.2-391.2.51 2. If a person is found to have violated this subsection and within 10 years prior to the date of the refusal  
 52 he was found guilty of any of the following: a violation of this section, a violation of § 18.2-266, or a  
 53 violation of any offense listed in subsection E of § 18.2-270 arising out of separate occurrences or incidents,  
 54 such violation shall of itself operate to deprive the person of the privilege to drive for a period of three years  
 55 from the date of the judgment. This revocation period is in addition to the suspension period provided under  
 56 § 46.2-391.2.

57 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  
58 § 18.2-272 or of a similar ordinance and such person refuses to permit blood or breath or both blood and  
59 breath samples to be taken for testing as required by § 18.2-268.2, the arresting officer shall advise the  
60 person, from a form provided by the Office of the Executive Secretary of the Supreme Court (i) that a person  
61 who operates a motor vehicle upon a highway in the Commonwealth is deemed thereby, as a condition of  
62 such operation, to have consented to have samples of his blood and breath taken for chemical tests to  
63 determine the alcohol or drug content of his blood, (ii) that a finding of unreasonable refusal to consent may  
64 be admitted as evidence at a criminal trial, (iii) that the unreasonable refusal to do so constitutes grounds for  
65 the revocation of the privilege of operating a motor vehicle upon the highways of the Commonwealth, (iv) of  
66 the civil penalties for unreasonable refusal to have blood or breath or both blood and breath samples taken,  
67 and (v) of the criminal penalty for unreasonable refusal to have breath samples taken within 10 years of a  
68 prior conviction for driving while intoxicated or unreasonable refusal, which is a Class 1 misdemeanor. The  
69 form from which the arresting officer shall advise the person arrested shall contain a brief statement of the  
70 law requiring the taking of blood or breath samples, a statement that a finding of unreasonable refusal to  
71 consent may be admitted as evidence at a criminal trial, and the penalties for refusal. The Office of the  
72 Executive Secretary of the Supreme Court shall make the form available on the ~~Internet~~ *internet* and the form  
73 shall be considered an official publication of the Commonwealth for the purposes of § 8.01-388.

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

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

97 F. A defendant who is found guilty of a first offense and whose license is suspended pursuant to  
98 subdivision A 1 or B 1 may petition the court ~~30 days after the date of conviction~~ for a restricted license and  
99 the court may, for good cause shown, provide that the defendant is issued a restricted license during the  
100 remaining period of suspension, or any portion thereof, for any of the purposes set forth in subsection E of  
101 § 18.2-271.1. No restricted license issued pursuant to this subsection shall permit any person to operate a  
102 commercial motor vehicle as defined in the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.).  
103 If the court grants such petition and issues the defendant a restricted license, the court shall order (i) that  
104 reinstatement of the defendant's license to drive be conditioned upon (a) the installation of an ignition  
105 interlock system on each motor vehicle, as defined in § 46.2-100, owned by or registered to the person, in  
106 whole or in part, for a period of time not to exceed the period of license suspension and restriction, not less  
107 than six consecutive months without alcohol-related violations of the interlock requirements and (b) the  
108 requirement that such person not operate any motor vehicle that is not equipped with such a system for the  
109 period of time that the interlock restriction is in effect and (ii) that, as a condition of probation or otherwise,  
110 the defendant enter into and successfully complete an alcohol safety action program in the judicial district in  
111 which such charge is brought or in any other judicial district upon such terms and conditions as the court may  
112 set forth. However, upon motion of a person convicted of any such offense following an assessment of the  
113 person conducted by an alcohol safety action program, the court, for good cause, may decline to order  
114 participation in such a program if the assessment conducted by the alcohol safety action program indicates  
115 that intervention is not appropriate for such person. In no event shall such persons be permitted to enter any  
116 such program that is not certified as meeting minimum standards and criteria established by the Commission  
117 on the Virginia Alcohol Safety Action Program (VASAP) pursuant to this section and to § 18.2-271.2. The  
118 court shall require the person entering such program under the provisions of this section to pay a fee of no

119 less than \$250 but no more than \$300. A reasonable portion of such fee, as may be determined by the  
 120 Commission on VASAP, but not to exceed 10 percent, shall be forwarded monthly to be deposited with the  
 121 State Treasurer for expenditure by the Commission on VASAP, and the balance shall be held in a separate  
 122 fund for local administration of driver alcohol rehabilitation programs. Upon a positive finding that the  
 123 defendant is indigent, the court may reduce or waive the fee. In addition to the costs of the proceeding, fees as  
 124 may reasonably be required of defendants referred for intervention under any such program may be charged.

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

141 F. G. Notwithstanding any other provisions of this section or of § 18.2-271.1, nothing in this section shall  
 142 permit the court to suspend, reduce, limit, or otherwise modify any disqualification from operating a  
 143 commercial motor vehicle imposed under the provisions of the Virginia Commercial Driver's License Act  
 144 (§ 46.2-341.1 et seq.).

145 **§ 18.2-270.1. Ignition interlock systems; penalty.**

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

147 "Commission" means the Commission on VASAP.

148 "Department" means the Department of Motor Vehicles.

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

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

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

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

179 Whenever an ignition interlock system is required, the court may order the installation of an ignition  
 180 interlock system to commence immediately upon conviction. A fee of \$20 to cover court and administrative

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

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

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

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

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

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

241 G. No person shall start or attempt to start a motor vehicle equipped with an ignition interlock system for  
242 the purpose of providing an operable motor vehicle to a person who is prohibited under this section from

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

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

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

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

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

268 **§ 18.2-271. Forfeiture of driver's license for driving while intoxicated.**

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

275 B. If a person (i) is tried on a process alleging a second offense of violating § 18.2-266 or subsection A of  
 276 § 46.2-341.24, or any substantially similar local ordinance, or law of any other jurisdiction, within ten 10  
 277 years of a first offense for which the person was convicted, or found guilty in the case of a juvenile, under  
 278 § 18.2-266 or subsection A of § 46.2-341.24 or any valid local ordinance or any law of any other jurisdiction  
 279 substantially similar to § 18.2-266 or subsection A of § 46.2-341.24 and (ii) is convicted thereof, such  
 280 conviction shall of itself operate to deprive the person so convicted of the privilege to drive or operate any  
 281 motor vehicle, engine, or train in the Commonwealth for a period of three years from the date of the judgment  
 282 of conviction and such person shall have his license revoked as provided in subsection A of § 46.2-391. The  
 283 court trying such case shall order the surrender of the person's driver's license, to be disposed of in  
 284 accordance with § 46.2-398, and shall notify such person that his license has been revoked for a period of  
 285 three years and that the penalty for violating that revocation is as set out in § 46.2-391. This suspension  
 286 period shall be in addition to the suspension period provided under § 46.2-391.2. Any period of license  
 287 suspension or revocation imposed pursuant to this section, in any case, shall run consecutively with any  
 288 period of suspension for failure to permit a blood or breath sample to be taken as required by §§ 18.2-268.1  
 289 through 18.2-268.12 or §§ 46.2-341.26:1 through 46.2-341.26:11 or any period of suspension for a previous  
 290 violation of § 18.2-266, 18.2-266.1, or 46.2-341.24.

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

303 D. Notwithstanding any other provision of this section, the period of license revocation or suspension  
 304 shall not begin to expire until the person convicted has surrendered his license to the court or to the

305 Department of Motor Vehicles.

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

309 **§ 18.2-271.1. Probation, education, and rehabilitation of person charged or convicted; person**  
310 **convicted under law of another state or federal law.**

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

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

338 C. Upon conviction of a violation of § 18.2-266 or any ordinance of a ~~county, city or town~~ *locality* similar  
339 to the provisions thereof, or subsection A of § 46.2-341.24, the court shall impose the sentence authorized by  
340 § 18.2-270 or 46.2-341.28 and the license revocation as authorized by § 18.2-271. In addition, if the  
341 conviction was for a ~~second offense committed within less than 10 years after an offense other than a first~~  
342 ~~such~~ offense, the court shall order that restoration of the person's license to drive be conditioned upon the  
343 installation of an ignition interlock system on each motor vehicle, as defined in § 46.2-100, owned by or  
344 registered to the person, in whole or in part, for a period of 12 consecutive months without alcohol-related  
345 violations of the interlock requirements ~~beginning at the end of the three-year license revocation, unless such~~  
346 ~~a system has already been installed for 12 consecutive months without alcohol-related violations of the~~  
347 ~~interlock requirements prior to that time pursuant to a restricted license order under subsection E.~~ Upon a  
348 finding that a person so convicted is required to participate in the program described herein, the court shall  
349 enter the conviction on the warrant, and shall note that the person so convicted has been referred to such  
350 program. The court may then proceed to issue an order in accordance with subsection E, if the court finds that  
351 the person so convicted is eligible for a restricted license. If the court finds good cause for a person not to  
352 participate in such program or subsequently that such person has violated, without good cause, any of the  
353 conditions set forth by the court in entering the program, the court shall dispose of the case as if no program  
354 had been entered, in which event the revocation provisions of § 46.2-389 and subsection A of § 46.2-391  
355 shall be applicable to the conviction. The court shall, upon final disposition of the case, send a copy of its  
356 order to the Commissioner of the Department of Motor Vehicles. If such order provides for the issuance of a  
357 restricted license, the Commissioner of the Department of Motor Vehicles, upon receipt thereof, shall issue a  
358 restricted license. The period of time during which the person (i) is prohibited from operating a motor vehicle  
359 that is not equipped with an ignition interlock system, (ii) is required to have an ignition interlock system  
360 installed on each motor vehicle owned by or registered to the person, in whole or in part, or (iii) is required to  
361 use a remote alcohol monitoring device shall be calculated from the date the person is issued a restricted  
362 license by the court; however, such period of time shall be tolled upon the expiration of the restricted license  
363 issued by the court until such time as the person is issued a restricted license by the Department of Motor  
364 Vehicles. Appeals from any such disposition shall be allowed as provided by law. The time within which an  
365 appeal may be taken shall be calculated from the date of the final disposition of the case or any motion for  
366 rehearing, whichever is later.

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

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

397 E. Except as otherwise provided herein, if a person enters a certified program pursuant to this section, and  
 398 such person's license to operate a motor vehicle, engine, or train in the Commonwealth has been suspended or  
 399 revoked, or a person's license to operate a motor vehicle, engine, or train in the Commonwealth has been  
 400 suspended or revoked pursuant to former § 18.2-259.1 or 46.2-390.1, the court may, ~~in its discretion and~~ for  
 401 good cause shown, provide that such person be issued a restricted permit to operate a motor vehicle for any of  
 402 the following purposes: (i) travel to and from his place of employment; (ii) travel to and from an alcohol  
 403 rehabilitation or safety action program; (iii) travel during the hours of such person's employment if the  
 404 operation of a motor vehicle is a necessary incident of such employment; (iv) travel to and from school if  
 405 such person is a student, upon proper written verification to the court that such person is enrolled in a  
 406 continuing program of education; (v) travel for health care services, including medically necessary  
 407 transportation of an elderly parent or, as designated by the court, any person residing in the person's  
 408 household with a serious medical problem upon written verification of need by a licensed health professional;  
 409 (vi) travel necessary to transport a minor child under the care of such person to and from school, day care,  
 410 and facilities housing medical service providers; (vii) travel to and from court-ordered visitation with a child  
 411 of such person; (viii) travel to a screening, evaluation, and education program entered pursuant to § 18.2-251  
 412 or subsection H of § 18.2-258.1; (ix) travel to and from court appearances in which he is a subpoenaed  
 413 witness or a party and appointments with his probation officer and to and from any programs required by the  
 414 court or as a condition of probation; (x) travel to and from a place of religious worship one day per week at a  
 415 specified time and place; (xi) travel to and from appointments approved by the Division of Child Support  
 416 Enforcement of the Department of Social Services as a requirement of participation in an administrative or  
 417 court-ordered intensive case monitoring program for child support for which the participant maintains written  
 418 proof of the appointment, including written proof of the date and time of the appointment, on his person; (xii)  
 419 travel to and from jail to serve a sentence when such person has been convicted and sentenced to confinement  
 420 in jail and pursuant to § 53.1-131.1 the time to be served is on weekends or nonconsecutive days; (xiii) travel  
 421 to and from the facility that installed or monitors the ignition interlock in the person's vehicle; (xiv) travel to  
 422 and from a job interview for which he maintains on his person written proof from the prospective employer  
 423 of the date, time, and location of the job interview; or (xv) travel to and from the offices of the Virginia  
 424 Employment Commission for the purpose of seeking employment. However, (a) any such person who is  
 425 eligible to receive a restricted license as provided in subsection C of § 18.2-270.1 or (b) any such person  
 426 ordered to use a remote alcohol monitoring device pursuant to subsection E of § 18.2-270.1 who has a  
 427 functioning, certified ignition interlock system as required by law may be issued a restricted permit to operate  
 428 a motor vehicle for any lawful purpose. No restricted license issued pursuant to this subsection shall permit

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

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

468 G. For the purposes of this section, any court that has convicted a person of a violation of § 18.2-266,  
 469 subsection A of § 46.2-341.24, any ordinance of a ~~county, city, or town~~ *locality* similar to the provisions of  
 470 § 18.2-266, or any reckless driving violation under Article 7 (§ 46.2-852 et seq.) of Chapter 8 of Title 46.2  
 471 and such person was initially charged with a violation of § 18.2-266, subsection A of § 46.2-341.24, or any  
 472 ordinance of a ~~county, city, or town~~ *locality* similar to the provisions of § 18.2-266 shall have continuing  
 473 jurisdiction over such person during any period of license revocation related to that conviction, for the limited  
 474 purposes of (i) referring such person to a certified alcohol safety action program, (ii) providing for a restricted  
 475 permit for such person in accordance with the provisions of subsection E, and (iii) imposing terms,  
 476 conditions, and limitations for actions taken pursuant to clauses (i) and (ii), whether or not it took either such  
 477 action at the time of the conviction. ~~This continuing jurisdiction is subject to the limitations of subsection E~~  
 478 ~~that provide that no restricted license shall be issued during a revocation imposed pursuant to subsection C of~~  
 479 ~~§ 18.2-271 or subsection B of § 46.2-391 or during the first four months or first year, whichever is applicable,~~  
 480 ~~of the revocation imposed pursuant to subsection B of § 18.2-271 or subsection A of § 46.2-391. The~~  
 481 ~~provisions of this subsection shall apply to a person convicted of a violation of § 18.2-266, subsection A of~~  
 482 ~~§ 46.2-341.24, any ordinance of a county, city, or town locality similar to the provisions of § 18.2-266, or any~~  
 483 ~~reckless driving violation under Article 7 (§ 46.2-852 et seq.) of Chapter 8 of Title 46.2 and such person was~~  
 484 ~~initially charged with a violation of § 18.2-266, subsection A of § 46.2-341.24, or any ordinance of a county,~~  
 485 ~~city, or town locality similar to the provisions of § 18.2-266 on, after, and at any time prior to July 1, 2003.~~

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

490 I. The Commission on VASAP, or any ~~county, city, or town~~ *locality*, or any combination thereof, may

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

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

513 **§ 46.2-391. Revocation of license for multiple convictions of driving while intoxicated; exception;**  
 514 **petition for restoration of privilege.**

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

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

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

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

553 *any, be conducted by a Virginia Alcohol Safety Action Program and recommendations therefrom be*  
 554 *submitted to the court, and the court shall give the recommendations such weight as the court deems*  
 555 *appropriate.*

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

576 ~~2.~~ 3. For a restricted license to authorize such person to drive a motor vehicle in the Commonwealth in the  
 577 course of his employment and to drive a motor vehicle to and from his home to the place of his employment  
 578 after the expiration of three years from the date of his last conviction unless such person's last conviction  
 579 resulted from a final order being entered by a court after the successful completion of a Veterans Treatment  
 580 Court Program, behavioral health docket, or other specialty docket established pursuant to § 18.2-254.2 or  
 581 18.2-254.3 or Rule 1:25 of the Rules of Supreme Court of Virginia. If such person's last conviction resulted  
 582 from a final order being entered by a court after the successful completion of a Veterans Treatment Court  
 583 Program, behavioral health docket, or other specialty docket established pursuant to § 18.2-254.2 or  
 584 18.2-254.3 or Rule 1:25 of the Rules of Supreme Court of Virginia, such person may file a petition for a  
 585 restricted license to be issued in accordance with the provisions of this subdivision without having to wait for  
 586 the expiration of three years from the date of his last conviction, regardless of the date of such conviction.  
 587 The court may order that a restricted license for such purposes be issued in accordance with the procedures of  
 588 subsection E of § 18.2-271.1 if the court is satisfied from the evidence presented that (i) at the time of the  
 589 previous convictions, the petitioner was addicted to or psychologically dependent on the use of alcohol or  
 590 other drugs; (ii) at the time of the hearing on the petition, he is no longer addicted to or psychologically  
 591 dependent on the use of alcohol or such other drugs; and (iii) the defendant does not constitute a threat to the  
 592 safety and welfare of himself and others with regard to the driving of a motor vehicle. The court shall prohibit  
 593 the person to whom a restricted license is issued from operating a motor vehicle that is not equipped with a  
 594 functioning, certified ignition interlock system during all or any part of the term for which the restricted  
 595 license is issued, in accordance with the provisions set forth in § 18.2-270.1. However, prior to acting on the  
 596 petition, the court shall order that an evaluation of the person, to include an assessment of his degree of  
 597 alcohol abuse and the appropriate treatment therefor, if any, be conducted by a Virginia Alcohol Safety  
 598 Action Program and recommendations therefrom be submitted to the court, and the court shall give the  
 599 recommendations such weight as the court deems appropriate. The Virginia Alcohol Safety Action Program  
 600 shall, during the term of the restricted license, monitor the person's compliance with the terms of the  
 601 restrictions imposed by the court. Any violation of the restrictions shall be reported to the court, and the court  
 602 may ~~then~~ modify the restrictions or revoke the license.

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

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

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

614 2. a. If such driving (i) of itself endangers the life, limb, or property of another or (ii) takes place while

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

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

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

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

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

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

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

641 **§ 46.2-391.2. Administrative suspension of license or privilege to operate a motor vehicle.**

642 A. If a breath test is taken pursuant to § 18.2-268.2 or any similar ordinance or § 46.2-341.26:2 and (i) the  
 643 results show a blood alcohol content of 0.08 percent or more by weight by volume or 0.08 grams or more per  
 644 210 liters of breath, or (ii) the results, for persons ~~under~~ *younger than* 21 years of age, show a blood alcohol  
 645 concentration of 0.02 percent or more by weight by volume or 0.02 grams or more per 210 liters of breath or  
 646 (iii) the person refuses to submit to the breath or blood test in violation of § 18.2-268.3 or any similar  
 647 ordinance or § 46.2-341.26:3, and upon issuance of a petition or summons, or upon issuance of a warrant by  
 648 the magistrate, for a violation of § 18.2-51.4, 18.2-266, or 18.2-266.1, or any similar ordinance, or  
 649 § 46.2-341.24 or upon the issuance of a warrant or summons by the magistrate or by the arresting officer at a  
 650 medical facility for a violation of § 18.2-268.3, or any similar ordinance, or § 46.2-341.26:3, the person's  
 651 license shall be suspended immediately or in the case of (a) an unlicensed person, (b) a person whose license  
 652 is otherwise suspended or revoked, or (c) a person whose driver's license is from a jurisdiction other than the  
 653 Commonwealth, such person's privilege to operate a motor vehicle in the Commonwealth shall be suspended  
 654 immediately. The period of suspension of the person's license or privilege to drive shall be seven days, unless  
 655 the petition, summons or warrant issued charges the person with a second or subsequent offense. If the person  
 656 is charged with a second offense the suspension shall be for 60 days. If not already expired, the period of  
 657 suspension shall expire on the day and time of trial of the offense charged on the petition, summons, or  
 658 warrant, except that it shall not so expire during the first seven days of the suspension. If the person is  
 659 charged with a third or subsequent offense, the suspension shall be until the day and time of trial of the  
 660 offense charged on the petition, summons, or warrant. *Any person whose license is suspended under this*  
 661 *section after being charged with a second offense may petition the general district court where the charge*  
 662 *occurred, or, if a nonresident of the Commonwealth, the general district court where the charge occurred for*  
 663 *a restricted license and installation of an ignition interlock system pursuant to § 18.2-270.1. Any person*  
 664 *granted a restricted license pursuant to this subsection shall be required, by court order, to enter into an*  
 665 *alcohol safety action program to pre-qualify with the program to have an ignition interlock system installed*  
 666 *on any motor vehicle owned or operated by him and may have such ignition interlock system installed. Any*  
 667 *installation period of time accrued by such person prior to trial for the pending charge shall count toward*  
 668 *any (i) ignition interlock or restricted license period of time ordered by a court or (ii) restricted license,*  
 669 *suspension, or revocation issued by the Department of Motor Vehicles pursuant to § 46.2-389.*

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

677 suspension shall be forwarded forthwith to both (1) the general district court or, as appropriate, the court with  
678 jurisdiction over juveniles of the jurisdiction in which the arrest was made and (2) the Commissioner.  
679 Transmission of this information may be made by electronic means.

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

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

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

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

708 D. If a person whose license or privilege to operate a motor vehicle is suspended under subsection A is  
709 convicted under § 18.2-36.1, 18.2-51.4, 18.2-266, or 18.2-266.1 or subdivision A 1 or B 1 of § 18.2-268.3, or  
710 any similar ordinance, or § 46.2-341.24 during the suspension imposed by subsection A, and if the court  
711 decides to issue the person a restricted permit under subsection E of § 18.2-271.1 or subsection ~~E~~ F of  
712 § 18.2-268.3, such restricted permit shall not be issued to the person before the expiration of the first seven  
713 days of the suspension imposed under subsection A.

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