

# VIRGINIA ACTS OF ASSEMBLY - 2026 RECONVENED SESSION

## CHAPTER 1112

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

[H 561]

Approved May 14, 2026

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

**1. That §§ 18.2-266.1, 18.2-268.3, 18.2-270.1, 18.2-271, 18.2-271.1, 46.2-391, and 46.2-391.2 of the Code of Virginia are amended and reenacted as follows:**

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

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

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

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

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

A. It is unlawful for a person who is arrested for a violation of § 18.2-266 or 18.2-266.1 or subsection B of § 18.2-272 or of a similar ordinance to unreasonably refuse to have samples of his breath taken for chemical tests to determine the alcohol content of his blood as required by § 18.2-268.2, and any person who so unreasonably refuses is guilty of a violation of this subsection, which is punishable as follows:

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

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

B. It is unlawful for a person who is arrested for a violation of § 18.2-266 or 18.2-266.1 or subsection B of § 18.2-272 or of a similar ordinance to unreasonably refuse to have samples of his blood taken for chemical tests to determine the alcohol or drug content of his blood as required by § 18.2-268.2 and any person who so unreasonably refuses is guilty of a violation of this subsection, which is a civil offense and is punishable as follows:

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

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

F. 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. The court shall require the person entering such program under the provisions of this section to pay a fee of no less than \$250 but no more than \$300. A reasonable portion of such fee, as may be determined by the

Commission on VASAP, but not to exceed 10 percent, shall be forwarded monthly to be deposited with the State Treasurer for expenditure by the Commission on VASAP, and the balance shall be held in a separate fund for local administration of driver alcohol rehabilitation programs. Upon a positive finding that the defendant is indigent, the court may reduce or waive the fee. In addition to the costs of the proceeding, fees as may reasonably be required of defendants referred for intervention under any such program may be charged.

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

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

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

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

"Commission" means the Commission on VASAP.

"Department" means the Department of Motor Vehicles.

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

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

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

B. In addition to any penalty provided by law for a conviction under § 18.2-51.4 or clauses (i), (ii), or (iv) of § 18.2-266 *or § 18.2-266.1* or a substantially similar ordinance of any ~~county, city, or town~~ *locality*, any court of proper jurisdiction shall, as a condition of a restricted license, prohibit an offender from operating a motor vehicle that is not equipped with a functioning, certified ignition interlock system for any period of time not to exceed the period of license suspension and restriction, not less than 12 consecutive months without alcohol-related violations of the interlock requirements. In addition to any penalty provided by law for a conviction under clauses (iii) or (v) of § 18.2-266 or a substantially similar ordinance of any ~~county, city, or town~~ *locality*, any court of proper jurisdiction may, for a first offense, as a condition of a restricted license, prohibit an offender from operating a motor vehicle that is not equipped with a functioning, certified ignition interlock system for any period of time not to exceed the period of license suspension and restriction, not less than 12 consecutive months without alcohol-related violations of the interlock requirements. The court shall, as a condition of a restricted license for a conviction under § 18.2-51.4, a second or subsequent offense of § 18.2-266 or a substantially similar ordinance of any ~~county, city, or town~~ *locality*, or as a condition of license restoration pursuant to subsection C of § 18.2-271.1 or § 46.2-391, require that such a system be installed on each motor vehicle, as defined in § 46.2-100, owned by or registered to the offender, in whole or in part, for any period of time not less than 12 consecutive months without alcohol-related violations of the interlock requirements. Such condition shall be in addition to any purposes for which a 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 to conditions established by regulation under § 18.2-270.2 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~~ locality; (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 shall comply with all conditions established by regulation under § 18.2-270.2 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 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. Forfeiture of driver's license for driving while intoxicated.**

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

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

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

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

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

**§ 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~~ violation of § 18.2-266, or any ordinance of a ~~county, city, or town~~ locality similar to the provisions thereof, or provisions of subsection A of § 46.2-341.24, shall 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. 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~~ locality 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~~ locality 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 an offense other than 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~~ *locality* 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 forthwith sent to the Commissioner of the Department of Motor Vehicles. The period of time during which the person (a) is prohibited from operating a motor vehicle that is not equipped with an ignition interlock system or (b) 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.

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

E. Except as otherwise provided herein, if a person enters a certified program pursuant to this section, and such person's license to operate a motor vehicle, engine, or train in the Commonwealth has been suspended or revoked, or a person's license to operate a motor vehicle, engine, or train in the Commonwealth has been suspended or revoked pursuant to former § 18.2-259.1 or 46.2-390.1, 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 for any of the following purposes: (i) travel to and from his place of employment; (ii) travel to and from an alcohol rehabilitation or safety action program; (iii) travel during the hours of such person's employment if the operation of a motor vehicle is a necessary incident of such employment; (iv) travel to and from school if such person is a student, upon proper written verification to the court that such person is enrolled in a continuing program of education; (v) travel for health care services, including medically necessary transportation of an elderly parent or, as designated by the court, any person residing in the person's household with a serious medical problem upon written verification of need by a licensed health professional; (vi) travel necessary to transport a minor child under the care of such person to and from school, day care, and facilities housing medical service providers; (vii) travel to and from court-ordered visitation with a child of such person; (viii) travel to a screening, evaluation, and education program entered pursuant to § 18.2-251 or subsection H of § 18.2-258.1; (ix) travel to and from court appearances in which he is a subpoenaed witness or a party and appointments with his probation officer and to and from any programs required by the court or as a condition of probation; (x) travel to and from a place of religious worship one day per week at a specified time and place; (xi) travel to and from appointments approved by the Division of Child Support Enforcement of the Department of Social Services as a requirement of participation in an administrative or court-ordered intensive case monitoring program for child support for which the participant maintains written proof of the appointment, including written proof of the date and time of the appointment, on his person; (xii) travel to and from jail to serve a sentence when such person has been convicted and sentenced to confinement in jail and pursuant to § 53.1-131.1 the time to be served is on weekends or nonconsecutive days; (xiii) travel to and from the facility that installed or monitors the ignition interlock in the person's vehicle; (xiv) travel to and from a job interview for which he maintains on his person written proof from the prospective employer of the date, time, and location of the job interview; or (xv) travel to and from the offices of the Virginia Employment Commission for the purpose of seeking employment. However, (a) any such person who is eligible to receive a restricted license as provided in subsection C of § 18.2-270.1 or (b) any such person ordered to use a remote alcohol monitoring device pursuant to subsection E of § 18.2-270.1 who has a functioning, certified ignition interlock system as required by law may be issued a restricted permit to operate a motor vehicle for any lawful purpose. 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.). The court shall order the surrender of such person's license to operate a motor vehicle 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, which shall specifically enumerate the restrictions imposed and contain such information regarding the person to whom such a permit is issued as is reasonably necessary to identify such person. The court shall also provide a copy of its order to the person so convicted who may operate a motor vehicle on the order until receipt from the Commissioner of the Department of Motor Vehicles of a restricted license, if the order provides for a restricted license for that time period. A copy of such order and, after receipt thereof, the restricted license shall be carried at all times while operating a motor vehicle. Any person who operates a motor vehicle in violation of any restrictions imposed pursuant to this section is guilty of a violation of § 18.2-272. Such restricted license shall be conditioned upon enrollment within 15 days in, and successful completion of, a program as described in subsection A *and the installation of an ignition interlock system pursuant to § 18.2-270.1*. ~~No restricted license shall be issued during the first four months of a revocation imposed pursuant to subsection B of § 18.2-271 or subsection A of § 46.2-391 for a second offense of the type described therein committed within 10 years of a first such offense. No restricted license shall be issued during the first year of a revocation imposed pursuant to subsection B of § 18.2-271 or subsection A of § 46.2-391 for a second offense of the type described therein committed within five years of a first such offense. No restricted license shall be issued during any revocation period imposed pursuant to subsection C of § 18.2-271 or subsection B of § 46.2-391.~~ Notwithstanding the provisions of § 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~~ *locality*, 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~~ *Of* such reinstatement fee, ~~\$40~~ 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~~ *locality* 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~~ *locality* 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~~ *locality* 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~~ *locality* 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~~ *locality*, 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~~ locality 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 (§ 46.2-341.1 et seq.).

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

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

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

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

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

*submitted to the court, and the court shall give the recommendations such weight as the court deems appropriate.*

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

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

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

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

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

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

substantially similar law or ordinance of another jurisdiction, irrespective of whether the driving of itself endangers the life, limb, or property of another and the person has been previously convicted of a violation of § 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, or law of another jurisdiction, such person is guilty of a felony punishable by confinement in a state correctional facility for not less than one year nor more than five years, one year of which shall be a mandatory minimum term of confinement or, in the discretion of the jury or the court trying the case without a jury, by mandatory minimum confinement in jail for a period of 12 months and no portion of such sentence shall be suspended or run concurrently with any other sentence.

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

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

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

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

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

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

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

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 results show a blood alcohol content of 0.08 percent or more by weight by volume or 0.08 grams or more per 210 liters of breath, or (ii) the results, for persons ~~under~~ *younger than* 21 years of age, show a blood alcohol concentration of 0.02 percent or more by weight by volume or 0.02 grams or more per 210 liters of breath or (iii) the person refuses to submit to the breath or blood test in violation of § 18.2-268.3 or any similar ordinance or § 46.2-341.26:3, and upon issuance of a petition or summons, or upon issuance of a warrant by the magistrate, for a violation of § 18.2-51.4, 18.2-266, or 18.2-266.1, or any similar ordinance, or § 46.2-341.24 or upon the issuance of a warrant or summons by the magistrate or by the arresting officer at a medical facility for a violation of § 18.2-268.3, or any similar ordinance, or § 46.2-341.26:3, the person's license shall be suspended immediately or in the case of (a) an unlicensed person, (b) a person whose license is otherwise suspended or revoked, or (c) a person whose driver's license is from a jurisdiction other than the Commonwealth, such person's privilege to operate a motor vehicle in the Commonwealth shall be suspended immediately. The period of suspension of the person's license or privilege to drive shall be seven days, unless the petition, summons or warrant issued charges the person with a second or subsequent offense. If the person is charged with a second offense the suspension shall be for 60 days. If not already expired, the period of suspension shall expire on the day and time of trial of the offense charged on the petition, summons, or warrant, except that it shall not so expire during the first seven days of the suspension. If the person is charged with a third or subsequent offense, the suspension shall be until the day and time of trial of the offense charged on the petition, summons, or warrant. *Any person whose license is suspended under this section after being charged with a second offense may petition the general district court where the charge occurred, or, if a nonresident of the Commonwealth, the general district court where the charge occurred for a restricted license and installation of an ignition interlock system pursuant to § 18.2-270.1. Any person granted a restricted license pursuant to this subsection shall be required, by court order, to enter into an alcohol safety action program to 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.*

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

jurisdiction over juveniles of the jurisdiction in which the arrest was made and (2) the Commissioner. Transmission of this information may be made by electronic means.

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

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

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

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

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

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