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INTRODUCED

HB672

1 **HOUSE BILL NO. 672**

2 Offered January 10, 2018

3 Prefiled January 9, 2018

4 A BILL to amend and reenact §§ 5.1-88.3, 5.1-88.9, 46.2-361, 46.2-411, 46.2-412, and 46.2-708 of the  
5 Code of Virginia and to repeal Article 13 (§§ 46.2-417 through 46.2-429) of Chapter 3 of Title 46.2  
6 of the Code of Virginia, relating to suspension of license for unsatisfied judgments and after certain  
7 accidents.

8 Patrons—Kilgore, Lopez and Hugo

9  
10 Referred to Committee on Transportation  
1112 **Be it enacted by the General Assembly of Virginia:**13 1. That §§ 5.1-88.3, 5.1-88.9, 46.2-361, 46.2-411, 46.2-412, and 46.2-708 of the Code of Virginia are  
14 amended and reenacted as follows:15 **§ 5.1-88.3. Certain sections of Code incorporated by reference; definitions.**16 The provisions of §§ 46.2-424, 46.2-447, 46.2-448, 46.2-449, 46.2-450, 46.2-451, 46.2-452, 46.2-456,  
17 46.2-457, 46.2-458, 46.2-461, and 46.2-463 shall apply to all policies of insurance or other evidence of  
18 financial responsibility furnished hereunder except that whenever the word "Commissioner" appears in  
19 any of said sections it shall be taken to mean the Director of the Department of Aviation; and whenever  
20 the word "Department" or "Department of Motor Vehicles" appears, it shall be taken to mean as well  
21 the Department of Aviation.22 **§ 5.1-88.9. Certain sections of Code incorporated by reference; definitions.**23 The provisions of §§ 46.2-424, 46.2-447 through 46.2-452, 46.2-456 through 46.2-458, 46.2-461, and  
24 46.2-463 shall apply to all policies of insurance or other evidence of financial responsibility hereunder  
25 except that whenever the word "Commissioner" appears in any of said sections it shall be taken to mean  
26 the Director of the Department of Aviation; and whenever the word "Department" or "Department of  
27 Motor Vehicles" appears, it shall also be taken to mean the Department of Aviation and "vehicle" or  
28 "motor vehicle" shall be taken to mean "aircraft."29 **§ 46.2-361. Restoration of privilege after driving while license revoked or suspended for failure  
30 to pay fines or costs, furnish proof of financial responsibility or pay uninsured motorist fee.**31 A. Any person who has been found to be an habitual offender, where the determination or  
32 adjudication was based in part and dependent on a conviction as set out in subdivision 1 c of former  
33 § 46.2-351, may, after three years from the date of the final order of a court entered under this article,  
34 or if no such order was entered then the notice of the determination or adjudication by the  
35 Commissioner, petition the court in which he was found to be an habitual offender, or the circuit court  
36 in the political subdivision in which he then resides, for restoration of his privilege to drive a motor  
37 vehicle in the Commonwealth. In no event, however, shall the provisions of this subsection apply when  
38 such person's determination or adjudication was also based in part and dependent on a conviction as set  
39 out in subdivision 1 b of former § 46.2-351. In such case license restoration shall be in compliance with  
40 the provisions of § 46.2-360.41 B. Any person who has been found to be an habitual offender, where the determination or  
42 adjudication was based entirely upon a combination of convictions of § 46.2-707 and convictions as set  
43 out in subdivision 1 c of former § 46.2-351, may, after payment in full of all outstanding fines, costs  
44 and judgments relating to his determination, and furnishing proof of (i) financial responsibility and (ii)  
45 compliance with the provisions of Article 8 (§ 46.2-705 et seq.) of Chapter 6 of this title or both, if  
46 applicable, petition the court in which he was found to be an habitual offender, or the circuit court in  
47 the political subdivision in which he then resides, for restoration of his privilege to drive a motor  
48 vehicle in the Commonwealth.49 C. This section shall apply only where the conviction or convictions as set out in subdivision 1 c of  
50 former § 46.2-351 resulted from a suspension or revocation ordered pursuant to (i) § 46.2-395 for failure  
51 to pay fines and costs, (ii) § 46.2-459 for failure to furnish proof of financial responsibility, or (iii) §-  
52 46.2-417 for failure to satisfy a judgment, provided the judgment has been paid in full prior to the time  
53 of filing the petition or was a conviction under § 46.2-302 or former § 46.1-351.54 D. On any such petition, the court, in its discretion, may restore to the person his privilege to drive a  
55 motor vehicle, on whatever conditions the court may prescribe, if the court is satisfied from the evidence  
56 presented that the petitioner does not constitute a threat to the safety and welfare of himself or others  
57 with respect to the operation of a motor vehicle, and that he has satisfied in full all outstanding court  
58 costs, court fines and judgments relating to determination as an habitual offender and furnished proof of

59 financial responsibility, if applicable.

60 E. A copy of any petition filed hereunder shall be served on the attorney for the Commonwealth for  
61 the jurisdiction wherein the petition was filed, and shall also be served on the Commissioner of the  
62 Department of Motor Vehicles, who shall provide to the attorney for the Commonwealth a certified copy  
63 of the petitioner's driving record. The Commissioner shall also advise the attorney for the  
64 Commonwealth whether there is anything in the records maintained by the Department that might make  
65 the petitioner ineligible for restoration, and may also provide notice of any potential ineligibility to the  
66 Attorney General's Office, which may join in representing the interests of the Commonwealth where it  
67 appears that the petitioner is not eligible for restoration. The hearing on a petition filed pursuant to this  
68 article shall not be set for a date sooner than thirty days after the petition is filed and served as provided  
69 herein.

70 **§ 46.2-411. Reinstatement of suspended or revoked license or other privilege to operate or  
71 register a motor vehicle; proof of financial responsibility; reinstatement fee.**

72 A. The Commissioner may refuse, after a hearing if demanded, to issue to any person whose license  
73 has been suspended or revoked any new or renewal license, or to register any motor vehicle in the name  
74 of the person, whenever he deems or in case of a hearing finds it necessary for the safety of the public  
75 on the highways in the Commonwealth.

76 B. Before granting or restoring a license or registration to any person whose driver's license or other  
77 privilege to drive motor vehicles or privilege to register a motor vehicle has been revoked or suspended  
78 pursuant to § 46.2-389, 46.2-391, or 46.2-391.1, or 46.2-417, the Commissioner shall require proof of  
79 financial responsibility in the future as provided in Article 15 (§ 46.2-435 et seq.), but no person shall  
80 be licensed who may not be licensed under the provisions of §§ Article 12 (§ 46.2-389 et seq.) through  
81 or § 46.2-430 or 46.2-431.

82 C. Whenever the driver's license or registration cards, license plates and decals, or other privilege to  
83 drive or to register motor vehicles of any resident or nonresident person is suspended or revoked by the  
84 Commissioner or by a district court or circuit court pursuant to the provisions of Title 18.2 or this title,  
85 or any valid local ordinance, the order of suspension or revocation shall remain in effect and the driver's  
86 license, registration cards, license plates and decals, or other privilege to drive or register motor vehicles  
87 shall not be reinstated and no new driver's license, registration cards, license plates and decals, or other  
88 privilege to drive or register motor vehicles shall be issued or granted unless such person, in addition to  
89 complying with all other provisions of law, pays to the Commissioner a reinstatement fee of \$30. The  
90 reinstatement fee shall be increased by \$30 whenever such suspension or revocation results from  
91 conviction of involuntary manslaughter in violation of § 18.2-36.1; conviction of maiming resulting from  
92 driving while intoxicated in violation of § 18.2-51.4; conviction of driving while intoxicated in violation  
93 of § 18.2-266 or 46.2-341.24; conviction of driving after illegally consuming alcohol in violation of  
94 § 18.2-266.1 or failure to comply with court imposed conditions pursuant to subsection D of  
95 § 18.2-271.1; unreasonable refusal to submit to drug or alcohol testing in violation of § 18.2-268.2;  
96 conviction of driving while a license, permit or privilege to drive was suspended or revoked in violation  
97 of § 46.2-301 or 46.2-341.21; disqualification pursuant to § 46.2-341.20; violation of driver's license  
98 probation pursuant to § 46.2-499; failure to attend a driver improvement clinic pursuant to § 46.2-503 or  
99 habitual offender interventions pursuant to former § 46.2-351.1; conviction of eluding police in violation  
100 of § 46.2-817; conviction of hit and run in violation of § 46.2-894; conviction of reckless driving in  
101 violation of Article 7 (§ 46.2-852 et seq.) of Chapter 8 of Title 46.2 or a conviction, finding or  
102 adjudication under any similar local ordinance, federal law or law of any other state. Five dollars of the  
103 additional amount shall be retained by the Department as provided in this section and \$25 shall be  
104 transferred to the Commonwealth Neurotrauma Initiative Trust Fund established pursuant to Article 12  
105 (§ 51.5-178 et seq.) of Chapter 14 of Title 51.5. When three years have elapsed from the termination  
106 date of the order of suspension or revocation and the person has complied with all other provisions of  
107 law, the Commissioner may relieve him of paying the reinstatement fee.

108 D. No reinstatement fee shall be required when the suspension or revocation of license results from  
109 the person's suffering from mental or physical infirmities or disabilities from natural causes not related  
110 to the use of self-administered intoxicants or drugs. No reinstatement fee shall be collected from any  
111 person whose license is suspended by a court of competent jurisdiction for any reason, other than a  
112 cause for mandatory suspension as provided in this title, provided the court ordering the suspension is  
113 not required by § 46.2-398 to forward the license to the Department during the suspended period.

114 E. Except as otherwise provided in this section and § 18.2-271.1, reinstatement fees collected under  
115 the provisions of this section shall be paid by the Commissioner into the state treasury and shall be set  
116 aside as a special fund to be used to meet the expenses of the Department.

117 F. Before granting or restoring a license or registration to any person whose driver's license or other  
118 privilege to drive motor vehicles or privilege to register a motor vehicle has been revoked or suspended,  
119 the Commissioner shall collect from such person, in addition to all other fees provided for in this  
120 section, an additional fee of \$40. The Commissioner shall pay all fees collected pursuant to this

121 subsection into the Trauma Center Fund, created pursuant to § 18.2-270.01, for the purpose of defraying  
122 the costs of providing emergency medical care to victims of automobile accidents attributable to alcohol  
123 or drug use.

124 G. Whenever any person is required to pay a reinstatement fee pursuant to subsection C or pursuant  
125 to subsection E of § 18.2-271.1 and such person has more than one suspension or revocation on his  
126 record for which reinstatement is required, then such person shall be required to pay one reinstatement  
127 fee, the amount of which shall equal the full reinstatement fee attributable to the one of his revocations  
128 or suspensions that would trigger the highest reinstatement fee, plus an additional \$5 fee for  
129 administrative costs associated with compliance for each additional suspension or revocation. Fees  
130 collected pursuant to this subsection shall be set aside as a special fund to be used to meet the expenses  
131 of the Department.

132 **§ 46.2-412. Time suspension or revocation.**

133 Every suspension or revocation shall remain in effect and the Commissioner shall not issue any new  
134 or renewal license or register in his name any motor vehicle, until permitted under the provisions of this  
135 chapter. When three years shall have elapsed from the date of the termination of the revocation provided  
136 by § 46.2-389 or § 46.2-391, or in the ease of a suspension pursuant to the provisions of § 46.2-417,  
137 when three years has elapsed from the date of satisfaction of the judgment or judgments, the person may  
138 be relieved of giving proof of his financial responsibility in the future, provided he is not required to  
139 furnish or maintain proof of financial responsibility under any other provision of this chapter. The  
140 requirement of this section for giving and maintaining proof of financial responsibility shall not,  
141 however, apply in the case of a person whose license has been suspended under § 46.2-400.

142 **§ 46.2-708. Suspension of driver's license and registration when uninsured motor vehicle is  
143 involved in reportable accident; hearing prior to suspension.**

144 When it appears to the Commissioner from the records of his office that an uninsured motor vehicle  
145 as defined in § 46.2-705, subject to registration in the Commonwealth, is involved in a reportable  
146 accident in the Commonwealth resulting in death, injury or property damage with respect to which  
147 motor vehicle the owner thereof has not paid the uninsured motor vehicle fee as prescribed in  
148 § 46.2-706, the Commissioner shall, in addition to enforcing the applicable provisions of Article 13  
149 (§ 46.2-417 et seq.) of Chapter 3, suspend such owner's driver's license and all of his license plates and  
150 registration certificates until such person has complied with Article 13 of Chapter 3 and has paid to the  
151 Commissioner a fee of \$500, to be disposed of as provided by § 46.2-710, with respect to the motor  
152 vehicle involved in the accident and furnishes proof of future financial responsibility in the manner  
153 prescribed in Article 15 (§ 46.2-435 et seq.) of Chapter 3. However, no order of suspension required by  
154 this section shall become effective until the Commissioner has offered the person an opportunity for an  
155 administrative hearing to show cause why the order should not be enforced. Notice of the opportunity  
156 for an administrative hearing may be included in the order of suspension. Any request for an  
157 administrative hearing made by such person must be received by the Department within 180 days of the  
158 issuance date of the order of suspension unless the person presents to the Department evidence of  
159 military service as defined by the federal Servicemembers Civil Relief Act (50 U.S.C. § 3901 et seq.),  
160 incarceration, commitment, hospitalization, or physical presence outside the United States at the time the  
161 order of suspension was issued.

162 However, when three years have elapsed from the effective date of the suspension herein required,  
163 the Commissioner may relieve such person of the requirement of furnishing proof of future financial  
164 responsibility. The presentation by a person subject to the provisions of this section of a certificate of  
165 insurance, executed by an agent or representative of an insurance company qualified to do business in  
166 this Commonwealth, showing that on the date and at the time of the accident the vehicle was an insured  
167 motor vehicle as herein defined, or, presentation by such person of evidence that the additional fee  
168 applicable to the registration of an uninsured motor vehicle had been paid to the Department prior to the  
169 date and time of the accident, shall be sufficient bar to the suspension provided for in this section.

170 **2. That Article 13 (§§ 46.2-417 through 46.2-429) of Chapter 3 of Title 46.2 of the Code of Virginia  
171 is repealed.**

172 **3. That the Commissioner of the Department of Motor Vehicles shall return or reinstate a person's  
173 driver's license that was suspended prior to July 1, 2018, by the Commissioner solely pursuant to  
174 Article 13 (§ 46.2-417 et seq.) of Chapter 3 of Title 46.2 of the Code of Virginia, and no fee shall  
175 be charged for such return or reinstatement of a person's driver's license. Nothing herein shall  
176 require the Commissioner to return or reinstate a person's driver's license if such license has  
177 otherwise been lawfully suspended.**