

18102021D

HOUSE BILL NO. 672

Offered January 10, 2018

Prefiled January 9, 2018

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 Code of Virginia and to repeal Article 13 (§§ 46.2-417 through 46.2-429) of Chapter 3 of Title 46.2 of the Code of Virginia, relating to suspension of license for unsatisfied judgments and after certain accidents.

Patrons—Kilgore, Lopez and Hugo

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

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 amended and reenacted as follows:

§ 5.1-88.3. Certain sections of Code incorporated by reference; definitions.

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, 46.2-457, 46.2-458, 46.2-461, and 46.2-463 shall apply to all policies of insurance or other evidence of financial responsibility furnished hereunder except that whenever the word "Commissioner" appears in any of said sections it shall be taken to mean the Director of the Department of Aviation; and whenever the word "Department" or "Department of Motor Vehicles" appears, it shall be taken to mean as well the Department of Aviation.

§ 5.1-88.9. Certain sections of Code incorporated by reference; definitions.

The provisions of §§ ~~46.2-424~~, 46.2-447 through 46.2-452, 46.2-456 through 46.2-458, 46.2-461, and 46.2-463 shall apply to all policies of insurance or other evidence of financial responsibility hereunder except that whenever the word "Commissioner" appears in any of said sections it shall be taken to mean the Director of the Department of Aviation; and whenever the word "Department" or "Department of Motor Vehicles" appears, it shall also be taken to mean the Department of Aviation and "vehicle" or "motor vehicle" shall be taken to mean "aircraft."

§ 46.2-361. Restoration of privilege after driving while license revoked or suspended for failure to pay fines or costs, furnish proof of financial responsibility or pay uninsured motorist fee.

A. Any person who has been found to be an habitual offender, where the determination or adjudication was based in part and dependent on a conviction as set out in subdivision 1 c of former § 46.2-351, may, after three years from the date of the final order of a court entered under this article, or if no such order was entered then the notice of the determination or adjudication by the Commissioner, petition the court in which he was found to be an habitual offender, or the circuit court in the political subdivision in which he then resides, for restoration of his privilege to drive a motor vehicle in the Commonwealth. In no event, however, shall the provisions of this subsection apply when such person's determination or adjudication was also based in part and dependent on a conviction as set out in subdivision 1 b of former § 46.2-351. In such case license restoration shall be in compliance with the provisions of § 46.2-360.

B. Any person who has been found to be an habitual offender, where the determination or adjudication was based entirely upon a combination of convictions of § 46.2-707 and convictions as set out in subdivision 1 c of former § 46.2-351, may, after payment in full of all outstanding fines, costs and judgments relating to his determination, and furnishing proof of (i) financial responsibility and (ii) compliance with the provisions of Article 8 (§ 46.2-705 et seq.) of Chapter 6 of this title or both, if applicable, petition the court in which he was found to be an habitual offender, or the circuit court in the political subdivision in which he then resides, for restoration of his privilege to drive a motor vehicle in the Commonwealth.

C. This section shall apply only where the conviction or convictions as set out in subdivision 1 c of former § 46.2-351 resulted from a suspension or revocation ordered pursuant to (i) § 46.2-395 for failure to pay fines and costs, (ii) § 46.2-459 for failure to furnish proof of financial responsibility, or (iii) ~~§ 46.2-417 for failure to satisfy a judgment, provided the judgment has been paid in full prior to the time of filing the petition or~~ was a conviction under § 46.2-302 or former § 46.1-351.

D. On any such petition, the court, in its discretion, may restore to the person his privilege to drive a motor vehicle, on whatever conditions the court may prescribe, if the court is satisfied from the evidence presented that the petitioner does not constitute a threat to the safety and welfare of himself or others with respect to the operation of a motor vehicle, and that he has satisfied in full all outstanding court costs, court fines and judgments relating to determination as an habitual offender and furnished proof of

INTRODUCED

HB672

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

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

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

§ 46.2-412. Time suspension or revocation.

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

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

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

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

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

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