

SAFETY ON VIRGINIA HIGHWAYS

REPORT OF

THE VIRGINIA ADVISORY LEGISLATIVE COUNCIL

to

THE GOVERNOR

and

THE GENERAL ASSEMBLY OF VIRGINIA



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COMMONWEALTH OF VIRGINIA
Department of Purchases and Supply
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SAFETY ON VIRGINIA HIGHWAYS

REPORT OF THE VIRGINIA ADVISORY LEGISLATIVE COUNCIL

Richmond, Virginia, October 31, 1963.

To:

HONORABLE A. S. HARRISON, JR., *Governor of Virginia*

and

THE GENERAL ASSEMBLY OF VIRGINIA

In 1961, 856 persons—5.3 persons for every 100-million vehicle miles of travel—died as the result of accidents on Virginia highways, and 29,235 were injured. These deaths and injuries took place despite the best law enforcement efforts of the State and local police authorities and a State safety education program which is regarded as one of the very best in the nation. Appalled by this tragic and needless record of death and suffering, the General Assembly of Virginia at its 1962 Session directed the Virginia Advisory Legislative Council to make a study of the over-all State program for safety on the highways. The resolution directing the study is as follows:

SENATE JOINT RESOLUTION NO. 45

Directing the Virginia Advisory Legislative Council to study the establishment of a program to promote highway safety.

Whereas, the General Assembly has had before it for consideration many proposals designed to improve highway safety; and

Whereas, the death and accident toll upon the highways of this State have reached alarming proportions; and •

Whereas, among other matters, the fitness of the motor vehicle operator is of paramount importance in the field of highway safety; and

Whereas, many other factors are involved in the attempt to eliminate death and accidents upon the highways; now, therefore, be it

Resolved by the Senate, the House of Delegates concurring, That the Virginia Advisory Legislative Council is directed to study the desirability of a program designed to promote highway safety. The Council may consider any and all matters pertaining to the subject, including the feasibility of a program to determine the fitness, physically, mentally and neurologically of applicants for drivers' licenses and methods which might be adopted for the renewal of such licenses. The Council shall conclude its study and make its report to the Governor and the General Assembly not later than October one, nineteen hundred sixty-three.

Pursuant to this resolution, the Council assigned the study to Edward E. Willey, member of the State Senate and a member of the Council, Richmond, and Baldwin G. Locher, member of the House of Delegates and a member of the Council, Lexington, as Cochairmen of the Committee to make the initial study and report to the Council. Selected to serve with Messrs. Willey and Locher as members of the Committee were the following: Lloyd C. Bird, member of the Senate of Virginia and Manufacturing Chemist and Pharmacist, of Chesterfield County; F. A. Carmines, Physician, Newport News; Mrs. Enders Dickinson, III, Housewife, Richmond; Felix E. Edmunds, Attorney and member of the House of Delegates, Waynesboro; Beverly T. Fitzpatrick, Judge, Municipal Court, Roanoke; William H. Irvine, Chairman of the Virginia Railway Association and former member of the House of Delegates, Richmond; Chester H. Lamb, Commissioner, Division of Motor Vehicles, Richmond; Mrs. Albert Rene' Lower, Housewife, Richmond; J. P. Mills, Jr., Engineer, Traffic and Planning Section, State Department of Highways, Richmond; C. Armonde Paxson, Attorney and member of the House of Delegates, Charlottesville; Jephtha S. Rogers, Attorney and former agent of the Federal Bureau of Investigation, McLean; E. H. Williams, Jr., a former member of the House of Delegates, and Executive Vice-President of the Virginia Highway Users Association, Richmond; Alexander L. Wilson, Attorney, Arlington; Colonel C. W. Woodson, Jr., Superintendent of State Police, Richmond; Landon R. Wyatt, member of the Senate of Virginia, Danville.

John B. Boatwright, Jr. and Wildman S. Kincheloe, Jr. served as Secretary and Recording Secretary, respectively, to the Committee.

The Committee held numerous consultations with persons having special knowledge of, or experience with, particular phases of highway safety. It consulted with physicians, attorneys, judges, police officers, and representatives of highway safety organizations. It invited the views and experiences of persons from other states who have experimented with various highway safety programs. After wide publicity, it held a series of public hearings throughout the State at which it solicited and received suggestions from the public for means of curbing the steadily rising injury and death tolls on our highways.

After reviewing the many suggestions made to it and considering the experience of authorities in this State and of other states, the Committee completed its deliberations and made its report to the Council. The Council has reviewed the report of the Committee and now presents its findings and recommendations, and the reasons therefor.

RECOMMENDATIONS

1. That operators' and chauffeurs' licenses be graded by the type of vehicle or combination of vehicles, and by gross weight and number of axles if a property carrying vehicle; and by the seating capacity if a passenger carrying vehicle.

2. That the General Assembly direct the State Health Commissioner to appoint a committee of qualified professional people to determine and recommend minimum visual standards for operating a motor vehicle. Such standards should be used by the Commissioner of Motor Vehicles in determining visual requisites for issuing, suspending or revoking operators' licenses.

3. That a State-wide uniform minimum age of sixteen years for obtaining an operator's license be adopted.

4. That the operator's license fee be increased to four dollars (\$4.00) for a three (3) year period. The present chauffeur's license fee and period for renewal should not be changed. The operators' or chauffeurs' licenses of those persons seventy-five years of age or over should be revalidated each year.

5. That the State Department of Highways be given authority to prohibit the use of controlled access highways by pedestrians, bicycles, horse-drawn vehicles, self-propelled farm or construction machinery or equipment, and animals led, ridden or driven on the hoof.

6. That the present laws be amended to allow trucks the same speed limits as automobiles and buses on interstate highways and other controlled access highways.

7. That the Commissioner of Motor Vehicles shall release, periodically, through daily and weekly newspapers of general circulation and, upon request, through other news media, the names and addresses of all persons whose operators' licenses have been suspended or revoked. The Commissioner shall release the name and address of any particular individual only once during such period of revocation or suspension, and such news release shall set forth the respective periods of suspension or revocation. He shall request that such list be published as a public service. The Commissioner and his agents, as well as any news media publishing such information, shall be granted immunity from suits for unintentional erroneous publication, provided the error is suitably corrected.

8. That it shall be unlawful for any person whose operator's license is under suspension or revocation to operate any self-propelled farm machinery or construction equipment on any highway of this State.

9. That the General Assembly request the State Board of Pharmacy to study the need for additional laws to prevent the illegal sale of dangerous drugs to motor vehicle operators. Enforcement efforts should be strengthened and enlarged.

10. That the present law be amended to require a mandatory jail sentence for operating a motor vehicle after the operator's license has been revoked or suspended by providing that under no circumstances shall the sentence be suspended, except in cases of emergency involving danger to the life or health of any person, or property.

11. That the judge or jury, as the case may be, be allowed to review the traffic record of the accused after guilt has been determined, but before imposing sentence in cases involving moving traffic violations.

12. That the Implied Consent Law be amended to conform substantially with the Implied Consent Bill recommended by the Virginia Advisory Legislative Council and introduced at the 1962 Session of the General Assembly.

13. That the Virginia Advisory Legislative Council be directed to continue the study of all phases of highway safety.

FINDINGS, RECOMMENDATIONS AND REASONS THEREFOR

During the 1962 Session of the General Assembly of Virginia, there were some ninety resolutions and bills relating to Highway Safety introduced. Since these bills varied so widely in scope and dimension, the patrons of Senate Joint Resolution Number 45 proposed a thorough study

of all phases of the problem of Highway Safety. Realizing that there is no single answer, it was hoped that a balanced program to promote highway safety could be accomplished.

The problem of promoting highway safety is no simple one. There are a great many factors which must be considered in an overall effective program to promote highway safety. Such factors range from psychological testing techniques for determining the driver's attitude to the problems of highway engineering and designs. We recognize the need for sound, realistic and balanced programs of traffic laws; highway, automotive and traffic engineering; driver licensing and driver education; collection, analysis, and use of traffic records; coordination of effort in states and communities by all agencies with traffic responsibility; and a responsive community climate developed by public understanding and support. Obviously, legislative action is not the only answer to all the factors involved, but the Council feels that the legislature by forthright action in these areas, can establish a framework upon which a sound safety program can be built.

The broad areas of the study were classified as follows:

- (1) The licensing of persons to drive motor vehicles; revocation of licenses, and matters in connection therewith;
- (2) Engineering matters, including the extent to which the design of highways leads to, or can reduce, highway accidents;
- (3) Enforcement problems, including the extent to which emphasis should be placed upon preventive plans rather than punitive measures;
- (4) Public education in the field of highway safety, which would include appropriate means to bring to the attention of all segments of society the danger implicit in driving upon the highways, and how each individual may contribute to safety upon the highways.

The privilege to operate a motor vehicle on the highways is an important one. In fact, to many of our citizens it is, in reality, a necessity of life in our present economic clime. We are aware of this and therefore do not believe that any citizen should be deprived of this privilege without just cause. However, we also believe that the privilege, being a crucial one, must be used with great care and discretion. As our highway statistics prove, the automobile is a very dangerous weapon in the hands of an incompetent or irresponsible person. It is our firm belief that such incompetent or irresponsible drivers must be eliminated from our highways.

Licensing procedures vary widely among the several states. In twenty-four states, licenses are issued for a period of two years, three states issue them for a period of one year, eleven states for a period of three years, and four states for a period of four years. Eight states have varying or indefinite licensing periods. Generally, only part of the driving population obtains license renewals in any one year.

In thirty-four of the states, the operators' licenses are renewed during the birth month of the driver; in eight states they are renewed on anniversaries of the dates they were originally issued; and in eight states they are renewed during the year on dates set by law.

There are no statistics at hand favoring any particular length of time for the issuance of an operator's license as it relates to improving highway safety. However, it is generally believed that the period should not be too great. By requiring reissue within reasonable lengths of time the Division of Motor Vehicles can maintain the operator's identifi-

cation in a reasonably current status. The various physical limitations set forth thereon can be updated and checked by the Division of Motor Vehicles to eliminate those drivers who are obviously unable to operate a motor vehicle.

The fee for issuing or reissuing operator's licenses should be sufficient to cover the direct costs of the Division of Motor Vehicles relating to the licensing and control of the operators. The various activities of the Division are increasing at a rapid pace. It is for these reasons that the Council recommends an increase in the fee for operators' permits to four dollars for a three year period.

Serious difficulty has been encountered in determining the proper definition and classification of the chauffeur's license provisions in our present law. It has also been observed that under our present laws a person having an operator's license may operate any vehicle on the highways regardless of size or lack of experience as long as it is not on a for-hire basis. There is inherent danger when an inexperienced operator attempts to drive a large multiple axle vehicle on our highways. Therefore, to promote safety and to obviate the difficulty of enforcement, the Council recommends that the operators' and chauffeurs' licenses be graded with reference to the type of vehicle or combination of vehicles; by the gross weight and number of axles if a property carrying vehicle; and by the seating capacity if a passenger carrying vehicle.

Consideration was also given to the use of colored licenses for reissuance, for specified periods, after a permit had been revoked or suspended. However, it was felt that such permits might prejudice the licensee's rights on subsequent occasions. Since the licensee uses his operator's license for identification purposes and because such permits are susceptible to alteration, colored permits could be issued to persons under a certain age to prevent their use in securing alcoholic beverages unlawfully. We felt, however, that this problem was somewhat afield of the problem of highway safety.

Requirements for obtaining an operator's permit also vary greatly among the several states. It is generally agreed that this is the point at which the incompetent or irresponsible applicant should be eliminated from the highways. The standards upon which such requirements are based must be reasonable and based upon established facts if we are not to unreasonably deprive certain citizens of the privilege to drive.

Under the present Virginia law, the minimum age for obtaining an operator's license is fifteen; however, the localities which meet certain population requirements may prohibit minors under the age of eighteen years from driving therein. Therefore, it is possible to operate a motor vehicle at the age of fifteen in some areas in Virginia while in other areas a person must wait until he reaches the age of sixteen years. There seems to be no substantial reason for this age distinction. It is also generally agreed that under the present heavy traffic conditions a higher degree of maturity of judgment and attitudes are required than was necessary several years ago. For these reasons it is recommended that a State-wide uniform minimum age of sixteen years for obtaining an operator's license be adopted.

The Council also considered the plausibility of adopting a curfew restriction on drivers under the age of eighteen years. Statistics indicate that many of our younger drivers are killed or injured in accidents occurring between the hours of 11:00 P.M. and 6:00 A.M. If such crash incidents continue to mount it may be necessary, at some future date, to

restrict the driving privilege of the extremely young drivers during these crucial night hours. Any such legislation should grant authority to the Commissioner of Motor Vehicles to deal with emergency situations such as driving to and from work during such hours.

One of the major needs in traffic accident prevention today is to be able to define the specifics of good driving and bad driving and to predict how safely a person is likely to drive. While few significant relationships have been found between physical characteristics of the driver and accident frequencies, there is mounting evidence that the basic personality of the driver is an important influence upon his driving habits. Various studies show that accident and violation-involved drivers are generally more aggressive, more impulsive, more inclined to take risks; they come from less satisfactory home backgrounds than the average good driver. These factors most likely cause a deficiency in the judgment and attitude component of the driving task.

While tests and inventories used in the studies cited above were administered *ex post facto*, it seems plausible that such personality profiles and inventories could be developed into a practical pen-and-pencil test to be administered to all initial applicants. However, there are at the present time no known reliable psychological tests which can be used to eliminate the psychologically unsafe drivers. The Council urges that the interested State agencies keep abreast with developments in this field so that when such tests reach a reasonable degree of reliability they may be adopted as part of the applicant's examination for obtaining an operator's license.

The applicant for an operator's license is required to meet some form of visual standards in every state. However, there is little uniformity of requirements to be found among them. There is great uncertainty as to what the minimum acceptable standards should be. Vision tests among the states vary from a simple test of visual acuity on a wall chart to instruments that measure phorias, stereopsis and visual fields. The problem of arriving at acceptable standards is further complicated by the fact that studies of characteristics common to drivers involved in accidents revealed only a slight relationship between selected single visual conditions and accident frequencies. Also, two years ago a study conducted by the National Safety Council revealed that a small group of professional drivers who for twenty years or more had not had a preventable accident, were average or below on standard vision tests.

Because of the need for expert professional help in arriving at appropriate visual standards and the techniques for determining whether the applicant meets such standards, it is recommended that the General Assembly direct the Commissioner of Health to appoint a Committee of qualified professional people to recommend appropriate minimum visual standards to the Commissioner of Motor Vehicles.

The fact that an applicant meets certain minimum visual standards does not mean that he will use his visual abilities to their full capacity. The Council believes that the driver must be trained to use his vision properly in evaluating the ever changing traffic situations.

The great majority of operator's licenses are issued to persons between the ages of sixteen and twenty-one years. While the applicant at that age may be able to meet the required standards to operate a motor vehicle, there is no assurance that he will remain proficient in all of the required areas. Various visual or other physical infirmities may develop with the passing of time which could seriously impede the licensees' ability to operate a motor vehicle.

The Council carefully considered the compulsory periodic re-examination programs for all motor vehicle operators in force in other states. We believe that periodic re-examination imposes a harassing burden on the great majority of prudent drivers while giving no assurance of eliminating a substantial number of careless and reckless drivers from our highways. It may be necessary and appropriate to adopt such a program at a later date when reliable psychological tests have been developed to eliminate the careless and reckless drivers.

Present day traffic conditions are such that the driver must have every conceivable aid to help him correctly appraise and anticipate the changing traffic situations as he moves along our highways. Too often, in Virginia, the signals and pavement markings are not uniform and the right to place such markings or signs on the highways is abused. Such conditions do not promote attentiveness on the part of the driver, but a spirit of disregard.

Under the present law cities and towns are required to design and place highway signs in accordance with standards set by the Virginia Department of Highways, but there is no provision for uniformity as to signals or pavement markings. We, therefore, urge the Department of Highways to recommend appropriate legislation to the General Assembly to allow it to provide for uniformity of highway signals and pavement markings as well.

The Highway Department, by law, is also required to furnish each school with portable school-zone signs. These signs are to be placed on the highways in school zones during appropriate hours of the day to promote careful driving during peak danger periods. However, the use of these signs is abused throughout the State. In many cases the signs are left in place all day. In other cases they are still in place at night. The results of such abuse is poor observance of the signs by the traveling public. It is therefore recommended that the Department of Highways seek legislation to allow them to remove the signs when their use is abused.

At present, some twenty-four states have adopted some form of a point system for motor vehicle operators. A point system, as it is commonly called, provides that a specified number of points are assigned for each traffic offense, depending on its seriousness, for which the operator is convicted. After a certain number of points are accumulated within a specified period, the operator's license is suspended or revoked. Most such programs are essentially the same, differing only in the number of points assigned for the various offenses.

Such a system involves a great deal of cost to the taxpayer and an added burden to the vast majority of careful drivers. Because it involves an intricate system of record keeping and other administrative processing, it is estimated that it would cost one-half million dollars per year, or more, to put a point system into operation in Virginia. While its purpose is to remove the chronic careless and reckless driver from the highway it is only a primary tool, and to be completely effective must be supplemented with discretionary power to revoke if the particular circumstances of the case indicate that immediate revocation is necessary. At present, in Virginia, any operator can be re-examined at any time if the Division has reason to believe such re-examination is necessary. Based on the results of such examination the operator's license may be revoked.

While the system has some distinct advantages, it is in essence, primarily curative rather than essentially preventive. It moves the Division of Motor Vehicles into the realm ordinarily reserved to the police and courts.

We believe effective progress requires a well balanced program of legislation aimed primarily at eliminating careless and reckless drivers from the highway as soon as their disregard for the safety of others is demonstrated. We further believe that Virginia's present laws coupled with the legislation recommended in this report meet this well balanced legislative criterion.

Most states require a simplified form of physical observation by the examiner to determine whether the applicant has the necessary faculties for the safe operation of a motor vehicle. If answers to questions or the observation reveal a need for medical examination, the same is required.

Only one state requires a medical examination of an applicant for an operator's license. This program has been in operation for two and one-half years and only 1,882,000 of the 6,000,000 licensed drivers have been examined. They plan to complete the examination of these licensed drivers by 1970. Thereafter each driver will be required to be re-examined every ten years. Only about 11,000 drivers have been rejected under the program and some 3,400 have voluntarily relinquished their operator's privilege. We believe the cost of such a program is disproportionately high when compared with the number of unsafe drivers uncovered and eliminated.

At present, Virginia's laws provide for a maximum of 65 miles per hour on the Interstate System of Highways and other controlled access highways. Virginia, unlike most other states allowing increased speed limits on super highways, provides for a reduced speed differential between automobiles and buses and trucks. We believe such differential requires an inordinate amount of passing maneuvers, thereby increasing the possibility of accidents. We have therefore recommended that this speed differential for trucks be eliminated on such highways.

Under § 46.1-193 the State Highway Commission may decrease or increase certain speed limits set forth therein only after an engineering and traffic investigation of such highway. Also by § 46.1-345 the Highway Commissioner and local authorities of cities, towns and counties, where the highway or streets are under their jurisdiction, may temporarily reduce the speed limits during repairs to the highways. We strongly urge the Commissioner to supervise the proper use of signs warning motorists of such temporary speed limit reduction in these areas.

A very real hazard on our highways is the unnecessarily slow driver. The hazards created by such drivers are sometimes described as worse than that created by the drinking driver. When an automobile is operated at a speed slower than the average safe speed of the other traffic moving along the same highway, a great many additional passing maneuvers are required which increases the possibility of accidents. The decreased speed of such a slow moving vehicle is difficult to perceive when the average speed of the traffic flow is considerably greater. Probably the greatest hazard created by the slow driver is the unwise maneuvers made by irritated drivers in trying to pass the slower moving vehicles at dangerous intersections, on hills or around curves.

We compared our law with that of other states and the Uniform Vehicle Code and found that Virginia's present slow-driver law compares favorably with all. It is, of course, difficult to obtain convictions under our law since the entire traffic situation and road conditions must be considered to determine if such speed was unreasonably slow. The courts also allow some leeway to the driver in determining the proper speed for the conditions as he sees them. We do not believe any further legislation is warranted in this area.

The pedestrian segment of our safety program has shown vast improvement. Pedestrian deaths dropped from an all-time high of 343 in 1941 to an all-time low of 142 in 1958. However, we must not become complacent as the pedestrian deaths are the most senseless of all. To keep apace with the changing traffic situations in this respect we recommend that the Department of Highways be given authority to prohibit the use of controlled access highways by pedestrians, bicycles, horse-drawn vehicles, self-propelled farm or construction machinery and equipment and animals led, ridden or driven on the hoof, when they deem it necessary in the interest of safety. Such restrictions should not create any particular hardship on anyone since such highways are usually paralleled by other road systems.

The proper enforcement of the traffic laws is of major importance in a balanced program of highway safety. The Virginia Code is replete with laws governing the proper operation of motor vehicles on the highways. The problem of enforcement, however, is not simply a matter of passing laws. Proper enforcement depends upon many factors such as the attitude of the public and the courts, as well as the quantity and quality of the enforcement arm.

We feel there are some areas of the law which could be improved. At present, § 46.1-350 provides for confinement in jail and a heavy fine for the first offense of driving while the license is under suspension or revocation. All too often the jail sentence is suspended by the courts. By driving while his operator's license is suspended or revoked such person has already demonstrated his disregard for the law, and further leniency should not be shown by the courts. We, therefore, have recommended that the Code be amended to provide that in no case shall the jail sentence be suspended by the court, except in cases of emergency involving danger to the health or life of persons or property.

To prevent the use of motor vehicles by careless and reckless drivers whose licenses have been suspended or revoked and to aid in the enforcement of the laws providing for suspension or revocation, we recommend that the Division of Motor Vehicles be required to release, periodically, through daily and weekly newspapers of general circulation and, upon request, through other news media, the names and addresses of those persons whose licenses are under suspension or revocation. However, an individual's name and address should be released by the Commissioner only once during a period of suspension or revocation, and in all cases the duration of the period of such revocation or suspension should be set forth. To encourage such publication, the Commissioner and his agents, as well as the news media performing this public service, should be relieved from liability for unintentional erroneous publication of any person's name and address, provided the error is suitably corrected.

The chronic offender is one of our most serious enforcement problems. Our present laws are ample for disciplining the inadvertent or non-chronic offender, but do not at present allow any significance to be attached to the prior driving record of a chronic offender. While we do not believe the operator should be prejudiced while his guilt is being determined for any particular offense with which he is charged, we do believe the punishment for the chronic offender should be set after a review of his prior driving record by the court or jury, as the case may be.

There seems to be a difference of opinion among prosecuting attorneys and the courts as to whether a complete past record of the defendant can be alleged and proven. While in some instances prior convictions can be alleged and proved in the case being tried, these prior

convictions are confined to a period of twelve months prior to the trial except for the trial of a person for drunk driving. Any prior conviction for drunk driving within a period of ten years can be alleged and proved. In any case such prior convictions must be of the same nature and does not make the entire driving record of the accused available to the court or jury. However, even if the prosecuting attorneys and judges who are of the opinion that the entire past record of the person being tried can be alleged and proved are correct, it can do no harm to amend the traffic laws so that their enforcement will be uniform throughout the State.

As we have stated previously, there is no one simple answer to the problem of highway safety. However, we believe that if any one particular area of a well-balanced safety program could be designated as the most important, education would be that subject. If every responsible citizen were made aware of the seriousness of the problem and his responsibility in relation thereto, we believe our problem would be greatly reduced.

It is significant to point out that the 1962 Session of the General Assembly established provisions for the inauguration of a state-wide program for driver education. The operator's license fee was increased by one dollar. This additional revenue goes into a driver education fund administered by the State Department of Education. Money for the program will be paid to school districts where practice driving (behind-the-wheel) courses are offered, at a rate not to exceed \$25.00 per student taking the course. However, establishment of a driver education program under the present law is a matter of local option. It is also significant to point out that in the area of driver education the use of certain driving simulators as a means of providing part of the practice driving instruction has recently been approved.

To insure that all pupils in the public elementary and secondary schools in Virginia will receive instruction and functional experience in traffic safety education, the instructional program has been incorporated into the curriculum of the schools as a vital and integral part of the total health, safety and physical education program. It operates under the leadership of a supervisor of health, safety and physical education, who, with his staff of assistant supervisors, works in close cooperation with the Department of State Police, the Division of Motor Vehicles, the Governor's Highway Safety Committee, and the State Corporation Commission.

At the present time only 32% of our high schools are offering the complete course to only 14% of our eligible students. Local enthusiasm has been intense, and we anticipate that approximately 70% of the schools will offer the complete course starting this fall. However, the number of pupils they can handle will depend on two things: (1) qualified teachers, and (2) practice cars. There is a critical shortage of qualified teachers, and new instructors will have to pass a three-semester hour summer school course to be qualified to teach driver education. These courses will be available at nine colleges throughout the State for either three or six week periods.

Adult courses in driver education are presently conducted as part of the Virginia education program. During the 1961-62 school year, eighteen school divisions offered driver education courses for out of school youths and adults in twenty-two individual schools. In all probability, the majority of drivers from age thirty-one years or older never has had an opportunity to receive driver education instruction, as this program was begun officially on September 10, 1947.

According to the *Virginia Traffic Crash Facts, 1961*, the age group having the highest number of death and injury accidents was the 25-34 group. The second highest group was in the ages from 35-44. By increasing the number of these courses it seems logical to assume that the number of traffic accidents causing deaths and serious injury may be partially reduced.

We believe that a complete system of driver education operated by the Department of Education in cooperation with the State Highway Department, the Department of State Police, and the Division of Motor Vehicles is a necessary phase in the overall program of traffic safety. The program should include a self-sustained adult driver education program as well. Such a compulsory program for initial applicants for an operator's license is one of the more costly items of the well-balanced safety program. While Virginia is well on the way to the establishment of such a program, we do not feel that such a program could be made mandatory at the present time. Before such a program can be instituted, the facilities, instructors and various driver aides must be made available. We feel that under the present rate of growth of our driver education program, 1968 would be a reasonable target date for a compulsory education program for initial applicants.

To reduce the cost of such a program proper allowances could be made for private organizations to administer driver education courses. However, to prevent abuse in such private systems, the Department of Education should closely supervise the quality of the courses in such institutions.

Problems created by the motorist who drives while under the influence of intoxicating liquors are of continuing concern to all organizations and individuals interested in traffic safety and sound traffic laws. This concern is demonstrated by the existence of laws prohibiting such conduct in every state in the Nation.

During the last twenty years, these laws have been refined to provide for fairer and more consistent enforcement. An important part of the refinement, based on a gradual acceptance of technological developments and practical chemical analysis, is reflected in what are termed "chemical tests" laws. These laws provide statutory standards for interpreting the results of chemical tests performed on a person charged with the offense of driving under the influence of intoxicating liquors. Prior to 1963, State legislatures in thirty-six states and the District of Columbia had enacted chemical test laws.

Another and more recent part of the refinement, which originated in New York in 1953, is popularly known as the "Implied Consent" law. In effect, this form of statute declares that a person who operates a vehicle on the highways of the enacting state consents to the taking of a specimen of bodily substance (generally breath, blood or urine) for chemical analysis if he is arrested for the offense of driving while under the influence of intoxicating liquors. Refusal to submit to the test, legitimately requested, results in a suspension or revocation of the accused person's license or privilege to drive. Prior to 1963 ten states had enacted implied consent laws.

Alarmed by the growing number of fatalities on Virginia's highways and aware of the facts indicating that alcoholic intoxication frequently contributes to tragedies, the General Assembly of Virginia in 1958 directed the Virginia Advisory Legislative Council to study the program of driving under the influence of intoxicants and statutes relating thereto.

After more than a year of research and reflective consideration, the Council recommended, as a possible solution, an implied consent statute which would require a motorist, when arrested for driving under the influence of intoxicants, either to submit voluntarily to a chemical test for intoxication or forfeit his driving privileges for a statutory period. Such a law, it was thought, would have a two-fold purpose in that it would deter the drinking driver from venturing onto the highways and increase significantly the number of convictions obtained under the existing drunk driving statutes.

Unfortunately, the Implied Consent provision of the proposed bill did not pass the General Assembly. However, the Council was directed by House Joint Resolution to continue its study and when it reported to the General Assembly in October, 1961, it again urged that an Implied Consent statute would be a feasible and practical solution to Virginia's intoxicated driver problem. At this time, the Implied Consent provision of the bill passed with many amendments. We believe that the present law should be repealed and that a new Implied Consent Law, in substantial conformity with that recommended by the Virginia Advisory Legislative Council and introduced at the 1962 Session of the General Assembly, should be enacted.

While searching for an overall approach to the problem of highway safety, the Council's attention was directed to the fact that there is an increasing rate of sales of illegal drugs to drivers on the highways. This is especially true in the case of drivers of commercial vehicles. The sale and use of such drugs adds a useless danger to the already complex driving situations. It is difficult enough for drivers who have the presence of all their faculties to operate a motor vehicle safely on the highways, let alone the driver who would intentionally deprive himself of the proper use of all his faculties. Therefore, the Council strongly urges that the State Board of Pharmacy be requested to review the laws concerning the sale and use of illegal drugs and make recommendations to strengthen them. We further believe that the enforcement arm of the Board should be considerably strengthened.

We further recommend that legislation be adopted making it unlawful for anyone whose operator's or chauffeur's license is under suspension or revocation to operate any self-propelled farm machinery or construction equipment on the highways of this State. It is felt that the privilege to operate such machinery and equipment is abused by persons whose operators' licenses have been suspended or revoked, so as to negate the effect of such suspension or revocation. The use of farm machinery or construction equipment on our highways as utility vehicles in lieu of motor vehicles simply adds an unnecessary hazard to our overcrowded highways.

To enable the Division of Motor Vehicles to keep proper and accurate records, and to assist it in its efforts to rid our highways of the unsafe drivers, the judges and clerks of the various courts throughout the State are urged to set forth the Code section or ordinance provision under which an operator has been convicted on the abstracts which the law requires to be sent to the Division of Motor Vehicles. This will aid the Division in determining the exact nature of the offense committed.

Finally, we urge the Commissioner of Motor Vehicles to broaden and strengthen his discretionary program, under the present law, to require hearings for cause shown. We, of course, acknowledge the difficulty which has been encountered in securing properly qualified people to administer this program and the expense involved.

CONCLUSION

We desire to thank the members of the Committee for the time and effort given by them in carefully and thoroughly studying this crucial problem. We also express our appreciation to the many individuals, officials and organizations who afforded the Committee the benefit of their experience, research and suggestions.

Bills and resolutions to carry out the recommendations made herein are attached.

Respectfully submitted,

CHARLES K. HUTCHENS, Chairman

EDWARD E. WILLEY, Vice-Chairman

C. W. CLEATON

JOHN WARREN COOKE

JOHN H. DANIEL

CHARLES R. FENWICK

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LEWIS A. McMURRAN, JR.

* MOSBY G. PERROW, JR.

ARTHUR H. RICHARDSON

STATEMENT OF MOSBY G. PERROW, JR.

I approve of the report generally but believe that the present Implied Consent Law should be repealed, and that no Implied Consent Law should be enacted in lieu thereof, because such a law violates personal liberties and rights.

MOSBY G. PERROW, JR.

A BILL to amend and reenact §§ 46.1-190, 46.1-193, 46.1-350 and 46.1-357, as amended, 46.1-373, and 46.1-380, as amended, of the Code of Virginia, relating to reckless driving, speed limits, driving while license suspended or revoked, and operators' and chauffeurs' licenses; and to amend the Code of Virginia by adding sections numbered 46.1-171.1 and 46.1-383.2, to authorize the State Highway Commission to prohibit certain uses of the Interstate highways, and to require release for publication, under certain conditions, of names of persons whose licenses have been suspended or revoked.

Be enacted by the General Assembly of Virginia:

1. That §§ 46.1-190, 46.1-193, 46.1-350 and 46.1-357, as amended, 46.1-373, and 46.1-380, as amended, of the Code of Virginia be amended and reenacted, and that the Code of Virginia be amended by adding sections numbered 46.1-171.1 and 46.1-383.2, as follows:

§ 46.1-171.1. The State Highway Commission may, when necessary to promote safety, prohibit the use of Interstate highways, as described in § 33-36.1 of this Code, and other controlled access highways or any part thereof by any or all of the following:

(1) pedestrians, (2) persons riding bicycles, (3) horse-drawn vehicles, (4) self-propelled farm machinery or construction equipment, and (5) animals led, ridden or driven on the hoof.

The termini of any section of Interstate highway or other controlled access highways, use of which is restricted under the provisions of this section, shall be clearly indicated by a conspicuous marker.

Any person violating the provisions of this section shall be guilty of a misdemeanor.

Note: This is a new section giving the Highway Commission authority to restrict the use of Interstate or other controlled access highways by pedestrians, bicycles, horse-drawn vehicles, self-propelled farm machinery and construction equipment and animals.

§ 46.1-190. A person shall be guilty of reckless driving who shall:

(a) Drive a vehicle when not under proper control or with inadequate or improperly adjusted brakes upon any highway of this State;

(b) While driving a vehicle, overtake and pass another vehicle proceeding in the same direction, upon or approaching the crest of a grade or upon or approaching a curve in the highway, where the driver's view along the highway is obstructed, except where the overtaking vehicle is being operated on a highway having two or more designated lanes of roadway for each direction of travel or on a designated one-way street or highway;

(c) Drive a vehicle when it is so loaded, or when there are in the front seat such number of persons, as to obstruct the view of the driver to the front or sides of the vehicle or to interfere with the driver's control over the driving mechanism of the vehicle;

(d) Pass or attempt to pass two other vehicles abreast, moving in the same direction, except on highways having separate roadways of three or more lanes for each direction of travel, or on designated one-way streets or highways;

(e) Overtake or pass any other vehicle proceeding in the same direction at any steam, diesel or electric railway grade crossing or at

any intersection of highways unless such vehicles are being operated on a highway having two or more designated lanes of roadway for each direction of travel or on a designated one-way street or highway, or while pedestrians are passing or about to pass in front of either of such vehicles, unless permitted so to do by a traffic light or police officers;

(f) Fail to stop at a school bus whether publicly or privately owned and whether transporting children to, from, or in connection with, a public or private school stopped on the highway for the purpose of taking on or discharging school children, when approaching the same from any direction and to remain stopped until all school children are clear of the highway and the bus is put in motion, provided, however, that this shall apply only to school buses marked or identified as provided in the regulations of the State Board of Education;

(g) Fail to give adequate and timely signals of intention to turn, partly turn, slow down or stop, as required by §§ 46.1-216 through 46.1-220;

(h) Exceed a reasonable speed under the circumstances and traffic conditions existing at the time regardless of any posted speed limit;

(i) Drive a motor vehicle upon the highways of this State at a speed in excess of 75 miles per hour; except as provided in sub-section (1) of this section;

(j) Fail to bring his vehicle to a stop immediately before entering a highway from a side road when there is traffic approaching upon such highway within five hundred feet of such point of entrance, unless a "Yield Right of Way" sign is posted; or where such sign is posted, fail, upon entering such highway, to yield the right of way to the driver of a vehicle approaching on such highway from either direction; or

(k) Drive or operate any automobile or other motor vehicle upon any driveway or premises of a church, or school, or of any recreational facilities or of any business property open to the public, recklessly or at a speed or in a manner so as to endanger the life, limb or property of any person.

(l) Drive a truck or tractor or tractor-truck, or a motor vehicle being used to tow a vehicle designed for self-propulsion, or a house trailer, or combination of vehicles designed to transport property, upon the highways of this State at a speed in excess of 65 miles per hour *on highways where the maximum allowable speed for such vehicles is 50 miles per hour or less.*

Note: This section was amended to coincide with § 46.1-193 as amended herein.

§ 46.1-193. The maximum and minimum speed limits on highways of this State shall be as hereinafter prescribed:

(1) Maximum limits.

(a) Sixty-five miles per hour on the Interstate System of Highways or other limited access highways with divided roadways if the vehicle is a passenger motor vehicle, passenger bus, United States post-office bus, pick-up or panel truck, * *truck, road tractor, tractor-truck, or combination of vehicles designed to transport property*, or a motorcycle; and fifty miles per hour on such highways if the vehicle is a * motor vehicle being used to tow a vehicle designed for self-propulsion, or a house trailer.

(b) Sixty miles per hour on nonlimited access highways having four or more lanes, with the roadway for traffic traveling in one direction

separated from the roadway for traffic traveling in the other direction by a physical barrier or an unpaved area; if the vehicle is a passenger motor vehicle, passenger bus, United States post-office bus, pick-up or panel truck not exceeding an actual gross weight of five thousand pounds, or a motorcycle; and fifty miles per hour on such highways if the vehicle is a truck, road tractor, tractor-truck, or combination of vehicles designed to transport property, or is a motor vehicle being used to tow a vehicle designed for self-propulsion, or a house trailer, provided that for such highways such speed has been prescribed by the State Highway Commission, or other authority having jurisdiction over highways, after an engineering and traffic investigation. On any highway where such speed is prescribed, the speed shall be plainly indicated upon the highway by signs; and where the speed limit is indicated by posted signs, there shall be a prima facie presumption that such engineering and traffic investigation was made.

(c) Fifty-five miles per hour on highways not included in (a) or (b) if the vehicle is a passenger motor vehicle, passenger bus, United States post-office bus, pick-up or panel truck not exceeding an actual gross weight of five thousand pounds, or a motorcycle; and forty-five miles per hour on such highways if the vehicle is a truck, road tractor, tractor-truck, or combination of vehicles designed to transport property, or is a motor vehicle being used to tow a vehicle designed for self-propulsion, or a house trailer.

(d) Thirty-five miles per hour on any highway if the vehicle is being used as a school bus carrying children.

(e) Forty-five miles per hour on any highway if the vehicle or combination of vehicles is operating under a special permit issued by the State Highway Commission in accordance with §§ 46.1-330 and 46.1-343. The State Highway Commission may, however, prescribe a speed limit of less than forty-five miles per hour on any permit issued in accordance with §§ 46.1-330 and 46.1-343.

(f) Twenty-five miles per hour between portable signs or fixed blinking signs placed in or along any highway bearing the word "school." Such word shall indicate that school children are present in the immediate vicinity. Any signs erected under this section shall be placed not more than three hundred feet from the limits of the school property. If the portion of the highway to be posted is within the limits of a city or town, such portable signs shall be furnished and delivered by such city or town. If the portion of highway to be posted is outside the limits of a city or town such portable signs shall be furnished and delivered by the State Highway Department. It shall be the duty of the principal or chief administrative officer of each school or some responsible person designated by the school board to place such portable signs in the highway at a point not more than three hundred feet from the limits of the school property and remove such signs when their presence is no longer required by this subsection. Such portable or fixed blinking signs shall be placed in a position plainly visible to vehicular traffic approaching from either direction but shall not be placed so as to obstruct the roadway. Such portable signs shall be in a position for thirty minutes preceding regular school hours and for thirty minutes thereafter and during such other times as the presence of children on such school property reasonably requires a special warning to motorists. Provided, however, the governing body of any city or town may, if the portion of the highway to be posted is within the limits of such city or town, decrease the speed limit provided in this subsection, and provided further that no such decrease in speed limit shall

be effective unless such decreased speed limit is conspicuously posted upon the portable or fixed blinking signs required by this subsection.

(g) Twenty-five miles per hour on highways in a business or residential district, except upon interstate or other limited access highways with divided roadways.

(h) Thirty-five miles per hour on highways in any city or town, except upon interstate or other limited access highways with divided roadways.

(2) Minimum speed limits.

(a) No person shall drive a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.

(b) Whenever the State Highway Commission or local authorities within their respective jurisdictions determine on the basis of an engineering and traffic investigation that slow speeds on any part of a highway consistently impede the normal and reasonable movement of traffic, the Commission or such local authority may determine and declare a minimum speed limit to be set forth on signs posted on such highway below which no person shall drive a vehicle except when necessary for safe operation or in compliance with law, provided that such minimum speed limit shall not apply to a school bus carrying children.

(3) Notwithstanding the foregoing provisions, the State Highway Commission or other authority having jurisdiction over highways may decrease the speed limits set forth in subsections (1) (a) through (1) (c) of this section and may increase or decrease the speed limits set forth in subsections (1) (f) through (1) (h) of this section on any highway under its jurisdiction. Such increased or decreased speed limits shall be effective only when prescribed after an engineering and traffic investigation and when indicated upon the highway by signs.

Any person violating this section shall be guilty of a misdemeanor and upon conviction shall be punished as provided in § 46.1-16.

Note: This section was amended to remove the speed differential for trucks on interstate and other limited access highways.

§ 46.1-350. (a) No person resident or nonresident whose operator's or chauffeur's license or instruction permit has been suspended or revoked by any court or by the Commissioner or by operation of law pursuant to the provisions of this title or of § 18.1-59 or who has been forbidden as prescribed by law by the Commissioner, the State Corporation Commission, the State Highway Commissioner, or the Superintendent of State Police, to operate a motor vehicle in this State shall thereafter drive any motor vehicle *or any self-propelled farm machinery or construction equipment on any highway* in this State unless and until the period of such suspension or revocation shall have terminated.

(b) Any person violating this section shall for the first offense be confined in jail not less than ten days nor more than six months; and may in addition be fined not less than one hundred dollars nor more than two hundred dollars; and for the second or any subsequent offense be confined in jail not less than two months nor more than one year; and may in addition be fined not less than two hundred dollars nor more than one thousand dollars. *The court shall not suspend the jail sentence in any case, provided that this provision, in the discretion of the court, shall not*

apply if the operation of the motor vehicle was due to an emergency involving danger to the health or life of any person, or to property.

Note: This section was amended to prohibit the operation of farm machinery or construction equipment by any operator whose license is under suspension or revocation. It also provides that the court should not suspend the mandatory jail sentence, except under certain circumstances.

§ 46.1-357. (a) No operator's license shall be issued to any person under the age of eighteen years except as hereinafter provided and no chauffeur's license shall be issued to any person under the age of eighteen years except that:

(1) An operator's license may be issued to a minor over the age of * *sixteen* years and under the age of eighteen years upon proper application therefor and upon satisfactory evidence that the minor is mentally, physically and otherwise qualified to drive a motor vehicle with safety. The application must be signed by the father and mother of the applicant, except that if there be only one surviving parent or one parent has sole custody of the minor, as indicated by an appropriate statement on the application, or if in any case the Commissioner determines that for good cause it is not feasible to secure the signature of both parents, it shall be sufficient that the application be signed by the surviving parent or parent having sole custody of the minor, or the parent whose signature can be obtained, otherwise by the guardian having custody of such minor or in the event a minor under the age of eighteen years has no father, mother or guardian, then an operator's license shall not be issued to the minor unless his application therefor is signed by the judge of the juvenile and domestic relations court of the city or county in which the applicant resides. *If the minor making such application is married, in lieu of the consent required in the preceding sentence, upon proper evidence of the solemnization of the marriage, the spouse of such minor may sign the application, if the spouse is over the age of eighteen years.* Any father and mother, surviving parent, parent having custody, or, in the discretion of the Commissioner, either parent, in case both are not present within the State, *spouse* or guardian, as the case may be, may thereafter file with the Division a written request that the license of said minor so granted be cancelled. Thereupon, the Division shall cancel the license of said minor and such license shall not thereafter be reissued by the Division until a period of six months has elapsed from the date of cancellation. The minor shall be required to state in his application whether or not he has been convicted of an offense triable by, or tried in, a juvenile and domestic relations court. If it appears that such minor has been adjudged not innocent of the offense alleged the Division shall not issue a license without the written approval of the judge of the juvenile and domestic relations court making an adjudication as to such minor or the like approval of a similar court of the county or city in which the parent, guardian, *spouse* or employer respectively of the child resides.

(2) *Each operator's or chauffeur's license issued or renewed to any person seventy-five years of age or over and each operator's license issued pursuant to the provisions of paragraph (1) hereof shall contain thereon a suitable legend that such license must be revalidated by the Division of Motor Vehicles within twelve months from the date of * issuance and each succeeding twelve month period thereafter, or until the holder thereof attains the age of eighteen years if such license was obtained pursuant to paragraph (1) of this section, unless such license is sooner revoked, suspended or cancelled in accordance with other provisions of law. The absence of such evidence of revalidation appearing on such license shall be consid-*

ered sufficient to prohibit and make unlawful the operation of any motor vehicle in this State by the licensee if such operation occurs after twelve months from the date of issue or last revalidation stamp appearing on such license. The holder of each such operator's or chauffeur's license * must apply in person to any point designated by the Division for the examination of operator's or chauffeur's licenses and *those operators under eighteen years of age* must be accompanied by a parent, spouse or guardian from whom the original consent for the issuance of such license was obtained and such consent shall be reaffirmed by such person at the time of appearance; provided, however, the Division may waive this requirement for good cause shown. The Division, upon receipt of application for revalidation, shall examine the driving record of each such applicant and may revalidate the license or take such other action as may be appropriate in accordance with any other provision of law.

(3) The Division upon receiving from any person over the age of * *sixteen* years an application for a temporary instruction permit may in its discretion issue such a permit entitling the applicant while having such a permit in his immediate possession, to drive a motor vehicle upon the highways for a period of ninety days and to students in a public or parochial school driver training course which has been approved by the State Department of Education, for a period of one hundred and eighty days, when accompanied by a licensed operator or chauffeur who is actually occupying a seat by the driver.

(4) *The provisions of this section shall not invalidate the operators' licenses or permits issued to persons fifteen years of age prior to July one, nineteen hundred sixty-four.*

Note: This section was amended to provide for a uniform minimum age of sixteen years, and to provide for revalidation of licenses of operators who are over seventy-five years of age.

§ 46.1-373. The Division shall issue to every person licensed as an operator, an operator's license and to every person licensed as a chauffeur, a chauffeur's license. *Every such license applied for and issued or renewed, on and after July one, nineteen hundred sixty-four, shall contain an appropriate endorsement or indication where applicable that the licensee has been licensed (1) to operate passenger carrying buses equipped with more than 32 passenger seats or, (2) to operate any vehicle or combination of vehicles having three or more axles with an actual gross weight in excess of 40,000 pounds.*

Every applicant intending to operate one or more of the motor vehicles described above, when applying for an operator's or chauffeur's license, shall state in his application, if applicable, that he has driven at least 500 miles in the vehicle of the classification which he intends to operate and for which he seeks to be licensed, or such person shall submit to, and pass, the examination provided for in § 46.1-369, using the type of vehicle for which he seeks to be licensed. The Division shall be vested with authority to effect such changes in the endorsements during the validity of the license as may be appropriate.

The provisions of this section shall be applicable to persons applying for temporary instruction permits as otherwise provided for in this title.

Every person issued an operator's or chauffeur's license on or after July one, nineteen hundred sixty-four, who operates any motor vehicle of the classifications herein described, and whose operator's or chauffeur's

license does not carry an endorsement or indication that such licensee is licensed as herein provided shall be guilty of a misdemeanor.

Note: This section was amended to provide for graded operator's and chauffeur's licenses by endorsement and examination.

§ 46.1-380. Any operator's license issued in accordance with the provisions of this chapter shall be issued to expire three years from the date of issuance thereof and may thereafter upon proper application, and in the discretion of the Division, be renewed without examination of the applicant. * All original operator's licenses * shall be valid for three years from the birthday month of the applicant nearest to the month in which the license is issued. Thereafter, all such licenses shall be renewed in the birthday month of the licensee and shall be valid for three years. Any chauffeur's license so issued * may * upon proper application and in the discretion of the Division be renewed without examination of the applicant and every such license shall be issued to expire one year from the date of issuance thereof. For each operator's license issued or renewed as herein provided the fee shall be * four dollars and for each chauffeur's license issued or renewed as herein provided the fee shall be three dollars. Within ninety days prior to the date shown on the operator's license as the date of expiration, * the Division shall mail notice to the holder thereof, at the address shown on the records of the Division in its operators' license file, that such license will expire on a date related therein. Nonreceipt of such notice shall not serve to extend the period of validity of such operator's license beyond the expiration date shown thereon. * One dollar of such fees shall be paid into the Driver Education Fund of the State treasury, and expended as provided for in § 22-235.1. Unexpended funds from the Driver Education Fund shall be retained in such Fund and be available for expenditure in ensuing years as provided herein.

Note: This section was amended to increase the operator's license fee from two to four dollars. Obsolete language was deleted.

§ 46.1-383.2. *The Commissioner shall, periodically, release through all daily and weekly newspapers of general circulation, in this State, and upon request, through other news media in this State, the names and addresses, as shown on the records of the Division of Motor Vehicles, of any person whose operator's or chauffeur's license has been suspended or revoked, for any reason, during the period of revocation or suspension of such person's license. Provided, however, the name and address of such person shall not be released more than once during such period of revocation or suspension to any newspaper or other news media. The duration of the period of revocation and suspension shall be set forth in the Commissioner's release. The Commissioner shall request such newspapers or other news media to publish such information as a public service.*

The Commissioner, his agents and assistants and any news media publishing such names and addresses at the request of the Commissioner shall be absolved from any and all legal liability which may arise out of the erroneous publication of any name or address of any person in connection herewith, provided that such erroneous publication is suitably corrected.

Note: This is a new section which requires the Commissioner to release, to certain news media, the names and addresses of persons whose licenses are under suspension or revocation. It also provides immunity from suits for unintentional erroneous publication, provided the error is corrected.

A BILL to amend and reenact §§ 18.1-56, 18.1-57 and 18.1-59 as amended, of the Code of Virginia, and to amend the Code of Virginia by adding thereto a new section numbered 18.1-55.1, the new and amended sections relating to consent for the taking of blood samples of persons arrested for operating motor vehicles while under the influence of intoxicants or drugs; how such consent shall be implied; testing blood samples for alcoholic content; consequence of refusal to consent; suspension of driving privileges and licenses by the Commissioner of the Division of Motor Vehicles for failure to consent; administration of test; costs; admissibility in evidence of results of analysis; evidentiary effect of test; terms of suspension of such privileges and licenses under certain circumstances; and to repeal § 18.1-55, as amended, of the Code of Virginia, relating to the same subjects.

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.1-56, 18.1-57 and 18.1-59 as amended, of the Code of Virginia, be amended and reenacted, and that the Code of Virginia be amended by adding thereto a new section numbered 18.1-55.1, the amended and new sections being as follows:

§ 18.1-55.1. (a) *As used in this section "license" means any operator's, chauffeur's or learner's permit authorizing the operation of a motor vehicle upon the highways.*

(b) *Any person, whether licensed by Virginia or not, who operates a motor vehicle upon a public highway in this State on and after July one, nineteen hundred sixty-four, shall be deemed thereby, as a condition of such operation, to have consented to have a sample of his blood taken for a chemical test to determine the alcoholic content thereof, if such person is arrested for a violation of § 18.1-54 or of a similar ordinance of any county, city or town within two hours of the alleged offense.*

(c) *Only a physician, registered professional nurse, graduate laboratory technician, or a technician or nurse designated by order of a court of record acting upon the recommendation of a licensed physician, shall withdraw blood for the purpose of determining the alcoholic content thereof. The blood sample shall be placed in a vial provided by the Chief Medical Examiner, which vial shall be labeled showing the name of the accused, the name of the person taking the blood sample and the date and time the blood sample was taken. The vial shall then be placed in a cardboard container provided by the Chief Medical Examiner, which container shall be sealed so as not to allow tampering, and delivered to the arresting or other accompanying officer for transporting or mailing to the Chief Medical Examiner.*

Upon receipt of the blood sample, the Chief Medical Examiner shall cause it to be examined for alcoholic content and he or an Assistant Chief Medical Examiner shall execute a certificate which shall indicate the name of the accused, the date, time and by whom the blood sample was received and examined, a statement that the container seal had not been broken or otherwise tampered with, a statement that the container was one provided by the Chief Medical Examiner and a statement of the alcoholic content of the sample. The certificate attached to the vial from which the blood sample examined was taken shall be returned either to the police officer making the arrest, the department from which it came or to the clerk of the court in which the matter will be heard.

(d) *Upon the request of the person whose blood sample was taken*

for a chemical test to determine the alcoholic content thereof, the results of such test shall be made available to him.

(e) A fee of seven dollars and fifty cents shall be allowed the person withdrawing a blood sample in accordance with this section, which fee shall be paid out of the appropriation for criminal charges. If the person whose blood sample was withdrawn is subsequently convicted for violation of § 18.1-54 or of a similar ordinance of any county, city or town, the amount of seven dollars and fifty cents shall be taxed as part of the costs of the criminal case and shall be paid into the general fund of the State treasury.

(f) This section shall not otherwise limit the introduction of any competent evidence bearing upon any question at issue before the court. If the blood sample is not given under this section, other relevant evidence of the condition of the accused shall be admissible in evidence. The failure of an accused to permit a sample of his blood to be withdrawn for a chemical test to determine the alcoholic content thereof is not evidence and shall not be subject to comment at the trial of the case.

(g) Any person arrested for violation of § 18.1-54 or of a similar ordinance of any county, city or town within two hours of the alleged offense shall be advised by the arresting or other accompanying officer that (1) the law of Virginia requires a person so arrested to permit a sample of his blood to be taken so that a test may be made to determine the alcoholic content thereof and (2) that refusal to permit such sample to be taken for such purpose constitutes grounds for the revocation of the privilege of operating a motor vehicle upon the highways of this State. If the person so arrested and so advised refuses to permit the taking of a blood sample for such test, and does further so refuse upon being taken before a committing justice and again advised as prescribed above by such committing justice, then no blood sample shall be taken. In the event of such refusal, the arresting or other accompanying officer and the committing justice shall jointly subscribe a dated certificate containing (1) the name and address of the accused (2) the date, time and place of his arrest (3) a statement that the accused was advised by the arresting or other accompanying officer and by the committing justice of the requirements of the law of Virginia concerning the taking of a blood sample and the penalty for refusal and (4) a statement that the accused refused to permit a sample of his blood to be taken.

(h) In the event of a refusal to permit a blood sample to be taken as herein provided for, the certificate prescribed in paragraph (g) above shall be attached to a copy of the summons or warrant for violation of § 18.1-54 or of a similar ordinance of any county, city or town, as the case may be, and shall be forwarded by the committing justice to the Commissioner of the Division of Motor Vehicles within ten days of the date of the warrant of arrest.

(i) Upon receipt of the certificate and copy of the summons or warrant prescribed in paragraph (h) above, the Commissioner of the Division of Motor Vehicles shall forthwith notify the person named therein, by mail, (1) that such person's license or operating privilege will be suspended for a period of ninety days for the first refusal and for six months for a second or subsequent refusal within one year of the first or other such refusal and (2) that such suspension shall become effective upon a date specified in the Commissioner's notification, which date shall be that of the tenth day next following the date upon which the Commissioner's notification is mailed, exclusive of the day of mailing,

unless prior to such specified date, the Commissioner receives a statement, signed by a physician licensed to practice medicine within this State, to the effect that the person refusing to consent to the withdrawal of a blood sample was, at the time of such refusal, suffering from a physical condition of such nature that the withdrawal of a blood sample would have endangered the life or health of the person so refusing. If no such statement is received by the Commissioner within the time prescribed above, the Commissioner shall suspend the license or operating privilege of the person so refusing effective as of the date stated in the Commissioner's notification, and the license so suspended shall be delivered to the Commissioner forthwith. If such a statement is received by the Commissioner within the time prescribed above, the license or operating privilege of the person so refusing shall not be suspended.

(j) Action by the Commissioner in accordance with the provisions of paragraph (i) of this section shall not be a bar to a prosecution under § 18.1-54 or a similar ordinance of any county, city or town; if a conviction upon such criminal charge is had the suspension of license or of the privilege of operating a motor vehicle upon the highways as a result of such conviction shall be in addition to the suspension for refusal to permit a blood sample to be taken under § 18.1-55.1 and such suspensions shall run consecutively. Acquittal under a prosecution for violation of § 18.1-54 or a similar ordinance of any county, city or town, shall not affect suspension for refusal to allow a blood sample to be taken as required by § 18.1-55.1.

§ 18.1-56. When any blood sample taken in accordance with the provisions of § * 18.1-55.1 is forwarded for analysis to the Office of the Chief Medical Examiner, a report of the results of such analysis shall be made and filed in that office. Upon proper identification of * *the vial* * *into which the blood sample was placed*, the * certificate as provided for in § * 18.1-55.1 shall, when duly attested by the Chief Medical Examiner, or any Assistant Chief Medical Examiner, be admissible in any court, in any criminal proceeding, as evidence of the facts therein stated and of the results of such analysis.

§ 18.1-57. In any prosecution for a violation of § 18.1-54, or any similar ordinance of any county, city or town, the amount of alcohol in the blood of the accused at the time of the alleged offense as indicated by a chemical analysis of the accused's blood in accordance with the provisions of § * 18.1-55.1, shall give rise to the following presumptions:

(1) If there was at that time 0.05 per cent or less by weight of alcohol in the accused's blood, it shall be presumed that the accused was not under the influence of alcoholic intoxicants;

(2) If there was at that time in excess of 0.05 per cent but less than 0.15 per cent by weight of alcohol in the accused's blood, such facts shall not give rise to any presumption that the accused was or was not under the influence of alcoholic intoxicants, but such facts may be considered with other competent evidence in determining the guilt or innocence of the accused;

(3) If there was at that time 0.15 per cent or more by weight of alcohol in the accused's blood, it shall be presumed that the accused was under the influence of alcoholic intoxicants.

§ 18.1-59. The judgment of conviction, or finding of not innocent in the case of a juvenile, if for a first offense under § 18.1-54, or for a

similar offense under any county, city or town ordinance, shall of itself operate to deprive the person so convicted or found of the right to drive or operate any such vehicle, conveyance, engine or train in this State for a period of one year from the date of such judgment, and if for a second or other subsequent offense within ten years thereof for a period of three years from the date of the judgment of conviction or finding of not innocent thereof, any such period in either case to run consecutively with any period of suspension for failure to permit a blood sample to be taken as required by § * 18.1-55.1. If any person has heretofore been convicted or found not innocent of violating any similar act of this State and thereafter is convicted or found not innocent of violating the provisions of § 18.1-54, such conviction or finding shall for the purpose of this section and § 18.1-58 be a subsequent offense and shall be punished accordingly; and the court may, in its discretion, suspend the sentence during the good behavior of the person convicted or found not innocent.

2. That § 18.1-55 of the Code of Virginia, as amended, is repealed.

3. This act shall be in force and effect on and after July one, nineteen hundred sixty-four.

A BILL to amend the Code of Virginia by adding in Title 19.1 thereof a chapter numbered 8.1 containing sections numbered 19.1-186.1 through 19.1-186.5, to allow presentation and consideration by courts or juries, before imposition of sentence, of prior traffic records of persons found guilty of certain traffic offenses; to require certain information to be contained on warrants or summonses for such traffic offenses; and to prescribe the effect of failure to appear for trial of persons accused of such offenses.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia be amended by adding in Title 19.1 thereof a chapter numbered 8.1 containing sections numbered 19.1-186.1 through 19.1-186.5, as follows:

CHAPTER 8.1

§ 19.1-186.1 (a) The term "traffic offense" when used in this Chapter shall mean any moving traffic violation, including, but not limited to, violations of §§ 18.1-54, 46.1-176, 46.1-190 and 46.1-193, or of any comparable ordinance of any county, city or town.

(b) The term "Prior Traffic Record" when used in this Chapter shall mean the record of prior convictions of an operator as shown on the records of the Division of Motor Vehicles maintained pursuant to 46.1-412, 46.1-413, and 18.1-61 of the Code of Virginia.

§ 19.1-186.2. When any person is found guilty of a traffic offense, the court or jury trying the case may consider the prior traffic record of the defendant before imposing sentence as provided by law. Such record shall be prima facie evidence of the facts contained therein. The accused shall be afforded an opportunity to present evidence to controvert such record.

§ 19.1-186.3. Any warrant or summons issued against any person for a traffic offense shall indicate thereon that failure of the defendant to appear for trial at the time and place designated shall be deemed an admission of guilt by him of the offense alleged.

§ 19.1-186.4. (a) The court or clerk thereof, upon its own motion, the Attorney for the Commonwealth trying the case, or the arresting officer, may, by any convenient means of communication, request the Commissioner of the Division of Motor Vehicles to furnish a copy of the prior traffic record of the accused to the person making such request. Provided that, in order to avoid multiple requests for such prior record, the court may direct which of the above named officials or officers shall request such prior record whenever the need for the same shall arise.

(b) The Commissioner of the Division of Motor Vehicles, upon receipt of a request for the prior traffic record of any person accused of a traffic offense, shall prepare and forward, as soon as practicable, a copy of such record to the person requesting it by any convenient means of communication, including, but not limited to, mail and teletype. If the accused's record reveals no prior convictions, the Commissioner shall so indicate.

§ 19.1-186.5. If any person who is accused of a traffic offense fails to appear for trial in accordance with his bail or recognizance, he shall

be deemed to have pleaded guilty of the offense alleged, and the court without a jury may consider the defendant's prior traffic record before imposing sentence. If the sentence imposed requires a fine or jail sentence, the court may make such order as may be necessary for the execution thereof.

Note: This is a new Chapter in Title 19.1 of the Code providing that the court or jury, as the case may be, may consider the prior traffic record of the accused after his guilt is determined and before imposing sentence, in certain cases.

A BILL to amend and reenact § 53-272, as amended, of the Code of Virginia, relating to suspension of imposition or execution of sentence or commitment, or unserved portion thereof, and to probation.

Be it enacted by the General Assembly of Virginia:

1. That § 53-272, as amended, of the Code of Virginia, be amended and reenacted as follows:

§ 53-272. After a plea, a verdict or a judgment of guilty in any court having jurisdiction to hear and determine the offense, with which the prisoner at the bar is charged, if there are circumstances in mitigation of the offense, or if it appears compatible with the public interest, the court may suspend the execution of sentence, in whole or in part, or the imposition of sentence or commitment, and may also place the defendant on probation under the supervision of a probation officer, during good behavior for such time and under such conditions of probation as the court shall determine. In case the prisoner has been sentenced for a misdemeanor and committed, or in case a jail sentence has been imposed upon the prisoner upon conviction of a felony, the court, or judge of such court in vacation may at any time before the sentence has been completely served, suspend the unserved portion of any such sentence. *Provided that the court shall not suspend the execution or imposition of jail sentence, commitment, or unserved portion of sentence of any person convicted under the provisions of § 46.1-350, except as provided therein.*

In case the prisoner has been sentenced but not actually committed and delivered to the penitentiary for a felony the court which heard the case, if it appears compatible with the public interest and there are circumstances in mitigation of the offense, may place the defendant on probation under the supervision of the probation officer during good behavior, for such time and under such conditions of probation as the court shall determine.

In any case wherein a court is authorized to suspend the imposition or execution of sentence, such court may fix the period of suspension for a reasonable time, having due regard to the gravity of the offense, without regard to the maximum period for which the prisoner might have been sentenced.

In case the prisoner has been sentenced and committed to the penitentiary for a felony and the sentence is partially suspended, for purposes of good behavior credit and for parole eligibility, the term of imprisonment shall be that portion of the sentence which was not suspended.

Note: This is an amendment of § 53-272 so as to conform it to the proposed amendment of § 46.1-350.

SENATE JOINT RESOLUTION NO. ———

.Directing the State Health Commissioner to appoint a committee to study and recommend minimum visual standards for motor vehicle operators.

Whereas, the death and accident toll upon the highways of this State has reached alarming proportions; and

Whereas, the ability of the motor vehicle operator to see properly and to assess the changing traffic situations is of paramount importance in promoting safety on our highways; and

Whereas, there is little uniformity of minimum visual standards for motor vehicle operators among the several states, and there is need for professional help in arriving at reasonable standards and examination techniques; now, therefore, be it

Resolved by the Senate, the House of Delegates concurring, That the State Health Commissioner is hereby directed to appoint a Committee of qualified individuals, representing all professions and occupations concerned with diagnosis and treatment of visual defects, and prescribing for and production of devices for correction of such defects, to make a study and recommend to the Commissioner of the Division of Motor Vehicles minimum visual standards requisite for operation of a motor vehicle and techniques for determining whether a motor vehicle operator, or an applicant for license to operate a motor vehicle meets such standards.

All agencies of the State government shall assist the Committee in its study. The members of the Committee shall receive no compensation for their services but shall be paid their necessary expenses, for which, and for such secretarial and other assistance as the Committee may require, there is hereby appropriated from the contingent fund of the General Assembly the sum of one thousand dollars.

The Committee shall complete its study and make its report to the Commissioner of the Division of Motor Vehicles not later than January one, nineteen hundred sixty-five.

SENATE JOINT RESOLUTION NO. ———

Requesting the State Board of Pharmacy to study the need for additional laws and enforcement personnel to prevent the sale of dangerous drugs to motor vehicle operators.

Whereas, the use of dangerous drugs by motor vehicle operators creates a needless hazard on our highways; and

Whereas, the incidence of the sale and use of such dangerous drugs has been increasing at an alarming rate in the past several years; and

Whereas, to promote safety on our highways it is necessary that the laws prohibiting the sale to and use of dangerous drugs by motor vehicle operators be properly enforced; now, therefore, be it

Resolved by the Senate, the House of Delegates concurring, That the State Board of Pharmacy is hereby requested to make a study of the need for additional laws and enforcement personnel to prevent the sale to and use of dangerous drugs by motor vehicle operators.

All agencies of the State shall assist the State Board of Pharmacy in its study.

The Board shall complete its study and make its report to the Governor and the General Assembly not later than October one, nineteen hundred sixty-five.

SENATE JOINT RESOLUTION NO. ———

Directing the Virginia Advisory Legislative Council to make a study of

Whereas, the Virginia Advisory Legislative Council has, from time to time, made studies to improve safety on our highways for the traveling public; and

Whereas, changes in legislation relating to highway safety require continuing observation of their effect and operation in order that changes, if needed, may be proposed thereto; now, therefore, be it

Resolved by the Senate, the House of Delegates concurring, That the Virginia Advisory Legislative Council is directed to continue its study of a program and measures designed to promote highway safety. The Council shall consider any and all matters relating to such subject. All agencies of the State shall assist the Council in its study. The Council shall conclude its study and make its report to the Governor and the General Assembly not later than October one, nineteen hundred sixty-five.

