



State:

Virginia

Statute/Law:

Section 18.2-266: *Driving motor vehicle, engine, etc., while intoxicated, etc.*

Per Se Law?:

Yes

Statute/Law Language:

It shall be unlawful for any person to drive or operate any motor vehicle, engine or train (i) while such person has a blood alcohol concentration of 0.08 percent or more by weight by volume or 0.08 grams or more per 210 liters of breath as indicated by a chemical test administered as provided in this article, (ii) while such person is under the influence of alcohol, (iii) while such person is under the influence of any narcotic drug or any other self-administered intoxicant or drug of whatsoever nature, or any combination of such drugs, to a degree which impairs his ability to drive or operate any motor vehicle, engine or train safely, (iv) while such person is under the combined influence of alcohol and any drug or drugs to a degree which impairs his ability to drive or operate any motor vehicle, engine or train safely, or (v) while such person has a blood concentration of any of the following substances at a level that is equal to or greater than: (a) 0.02 milligrams of cocaine per liter of blood, (b) 0.1 milligrams of methamphetamine per liter of blood, (c) 0.01 milligrams of phencyclidine per liter of blood, or (d) 0.1 milligrams of 3,4-methylenedioxymethamphetamine per liter of blood.

Penalties Following Conviction:

A. First Offense: Any person violating any provision of § 18.2-266 shall be guilty of a Class 1 misdemeanor with a mandatory minimum fine of \$250. Defendant shall be confined in jail for an additional mandatory minimum period of five-10 days.

B. 1. Any person convicted of a second offense committed within five years shall be punished by a mandatory minimum fine of \$500 and by confinement in jail for not less than one month nor more than one year. Twenty days of such confinement shall be a mandatory minimum sentence.

C. 1. Any person convicted of three offenses within a 10-year period shall upon conviction of the third offense be guilty of a Class 6 felony. The sentence of any person convicted of three offenses of § 18.2-266 committed within a 10-year period shall include a mandatory minimum sentence of 90 days, unless the three offenses were committed within a five-year period, in which case the sentence shall include a



mandatory minimum sentence of confinement for six months. In addition, such person shall be fined a mandatory minimum fine of \$1,000.

2. The punishment of any person convicted of a fourth or subsequent offense of § 18.2-266 committed within a 10-year period shall, upon conviction, include a mandatory minimum term of imprisonment of one year. In addition, such person shall be fined a mandatory minimum fine of \$1,000. Unless otherwise modified by the court, the defendant shall remain on probation and under the terms of any suspended sentence for the same period as his operator's license was suspended, not to exceed three years.

Discretionary Court-Ordered Penalties:

The court may order the jail sentence to be served via house arrest with electronic monitoring or may place a Defendant on probation. The court may also order restitution to be paid directly to a victim and must impose a \$100 laboratory fee. First time offenders shall be required by court order, as a condition of probation or otherwise, to enter into and successfully complete an alcohol safety action program and pay a fee of \$250-\$300.

For more information:

<https://vacode.org/2016/18.2/7/2/18.2-266/>

Current as of August 2016

