

HOUSE BILL 3202/CHAPTER 896

CIVIL REMEDIAL FEES

New Virginia Code § 46.2-206.1

This is a general explanation of the new civil remedial fees. It has been prepared by staff of the Office of the Executive Secretary of the Supreme Court, which is the administrative office of the Virginia court system. It has not been reviewed by the Justices of the Supreme Court of Virginia. It does not represent an order of or statement by the Supreme Court of Virginia. This general explanation is meant neither as legal advice nor as a “how to” guide. Any questions regarding a court’s assessment of the civil remedial fee in a particular instance should be directed to your attorney or to the court assessing the fee.

During its 2007 Session, the General Assembly of Virginia passed House Bill 3202 (Chapter 896), which was designed to provide additional funds to address various transportation needs in the Commonwealth. (See this link for the bill: <http://leg1.state.va.us/cgi-bin/legp504.exe?ses=071&typ=bil&val=hb3202>.) The legislation requires branches and agencies of state government which implement parts of the legislation to make accessible to the public information about those efforts.

(1) Civil Remedial Fees. The legislation enacts Virginia Code § 46.2-206.1, which creates “civil remedial fees” to be assessed against Virginia residents convicted of certain motor vehicle-related or driving crimes. These civil remedial fees will not apply to traffic infractions like speeding. They apply only to certain motor vehicle-related or driving felonies and misdemeanors (certain motor vehicle-related or driving offenses which are crimes). The civil remedial fees will be assessed against juveniles who have been found delinquent because they committed one of these motor vehicle-related or driving felonies or misdemeanors. The civil remedial fees will not be assessed if the juvenile court defers a final judgment and does not find the juvenile to be delinquent.

(2) Purpose. The statute states the purpose of these fees is “to generate revenue from drivers whose proven dangerous driving behavior places significant financial burdens upon the Commonwealth.”

(3) Effective date. These fees are assessed upon convictions of the applicable offenses only if the crime was committed on or after July 1, 2007.

(4) An additional fee. In one important way, these fees are like court costs. That is, if the fee is applicable to a particular conviction, the court must assess the entire civil remedial fee. However, these civil remedial fees cannot be suspended or reduced. Instead,

by law, an applicable civil remedial fee must be assessed by the court in full. Finally, the law provides that “The civil remedial fees established by this section shall be in addition to any other fees, costs, or penalties imposed pursuant to the Code of Virginia.”

(5) Virginia residents only. The civil remedial fee is applicable to Virginia “residents” convicted of these crimes. The law provides that “The civil remedial fees established by this section shall be assessed on any resident of Virginia operating a motor vehicle on the highways of Virginia, including persons to whom Virginia driver's licenses, commercial driver's licenses, or learner's permits have been issued pursuant to this title; and persons operating motor vehicles without licenses or whose license has been revoked or suspended.”

(6) Three-part fee. The civil remedial fees are imposed in three equal parts. If the fee applies, the court will order the first part of the fee to be paid to the court following the conviction. The court will also order that the second and third parts of the fee must be paid to the Department of Motor Vehicles (DMV) within 14 months and, then, within 26 months of the conviction. DMV will tell people who owe the second and third parts of the civil remedial fees when those parts of their fees will be due.

(7) Fee schedule. The civil remedial fees are as follows:

(a) *Driving on a suspended license*: \$250 to the court upon conviction, with two additional payments of \$250 each due to DMV, one within 14 months of conviction and the second within 26 months of conviction.

(b) *Reckless driving*: \$350 to the court upon conviction, with two additional payments of \$350 each due to DMV, one within 14 months of conviction and the second within 26 months of conviction.

(c) *DUI and related offenses* (§§ 18.2-266, -266.1, 46.2-341.24): \$750 to the court upon conviction, with two additional payments of \$750 each due to DMV, one within 14 months of conviction and the second within 26 months of conviction.

(d) *Other misdemeanors*, “Any other misdemeanor conviction for a driving and/or motor vehicle related violation of Title 18.2 or [Title 46.2] that is not included in one of the preceding three subdivisions”: \$300 to the court upon conviction, with two additional payments of \$300 each due to DMV, one within 14 months of conviction and the second within 26 months of conviction.

(e) *Felony convictions*, “Any felony conviction for a driving or motor vehicle-related offense under Title 18.2 or [Title 46.2]”: \$1,000 to the court upon conviction, with two additional payments of \$1,000 each due to DMV, one within 14 months of conviction and the second within 26 months of conviction.

(8) Installment or deferred payment plans. The civil remedial fees charged by the courts (the first part of the three-part civil remedial fee) may be included in the installment or deferred payment plans which courts use now for the payment of fines and costs, upon request and approval. The judge or the clerk of the court which convicts the person sets up the payment plan. These court-ordered installment or deferred payment plans will not apply to second and third parts of the civil remedial fee, which are to be paid to DMV.

(9) List of offenses. The list of offenses to which the civil remedial fees applies follows. The list is arranged numerically by citation to the Code of Virginia. It contains a brief description of the offense, a reference to the part of the civil remedial fee statute imposing the particular fee, the amount of the civil remedial fee, and the “class” of the offense (which indicates how serious is the particular offense). The offenses are color-coded to reflect both the particular paragraph of subsection C of § 46.2-206.1, the civil remedial fee statute, and the specific civil remedial fee.

Here is that subsection of the statute, with the colors imposed to match up with the following list:

§ 46.2-206.1 (C). The court shall assess a person with the following fees upon each conviction of the following offenses:

1. Driving while his driver’s license was suspended or revoked pursuant to § 18.2-272, 46.2-301, 46.2-302, 46.2-341.21, or 46.2-391 shall be assessed a fee to be paid in three annual payments of \$250 each;

2. Reckless driving in violation of Article 7 (§ 46.2-852 et seq.) of Chapter 8 or aggressive driving in violation of § 46.2-868.1 shall be assessed a fee to be paid in three annual payments of \$350 each;

3. Driving while intoxicated in violation of § 18.2-266, 18.2-266.1, or 46.2-341.24 shall be assessed a fee to be paid in three annual payments of \$750 each;

4. Any other misdemeanor conviction for a driving and/or motor vehicle related violation of Title 18.2 or this title that is not included in one of the preceding three subdivisions shall be assessed a fee to be paid in three annual payments of \$300 each; and

5. Any felony convictions for a driving or motor vehicle-related offense under Title 18.2 or this title, shall be assessed a fee to be paid in three annual payments of \$1,000 each.

Convictions to be Assessed Civil Remedial Fees Under § 46.2-206.1

Conviction Code	Conviction Description	§ 46.2-206.1 Subsection	Annual Fee	Offense Class
18.2-35	MANSLAUGHTER - VEHICLE	(C)5	\$1,000	Felony 5
18.2-36	INVOLUNTARY MANSLAUGHTER - VEHICLE	(C)5	\$1,000	Felony 5
18.2-36.1	INVOLUNTARY MANSLAUGHTER/ALCOHOL	(C)5	\$1,000	Felony 5
18.2-36.1	INVOLUNTARY MANSLAUGHTER/AGGRAVATED	(C)5	\$1,000	Felony 3
18.2-51.4	DRIVING WHILE INTOXICATED, MAIMING 1ST	(C)5	\$1,000	Felony 6
18.2-51.4	DRIVING WHILE INTOXICATED, MAIMING 2ND	(C)5	\$1,000	Felony 6
18.2-51.4	DRIVING WHILE INTOXICATED, MAIMING 3RD OR SUBSEQUENT	(C)5	\$1,000	Felony 6
18.2-102	UNAUTHORIZED USE OF MOTOR VEHICLE - FELONY	(C)5	\$1,000	Felony 6
18.2-102	UNAUTHORIZED USE OF MOTOR VEHICLE - MISDEMEANOR	(C)4	\$300	Misdemeanor 1
18.2-147	ENTER/SET IN MOTION VEHICLE	(C)4	\$300	Misdemeanor 1
18.2-266	DRIVING WHILE INTOXICATED, 1ST	(C)3	\$750	Misdemeanor 1
18.2-266	DRIVING WHILE INTOXICATED, 2ND	(C)3	\$750	Misdemeanor 1
18.2-266	DRIVING WHILE INTOXICATED, 3RD OR SUBSEQUENT	(C)5	\$1,000	Felony 6
18.2-266	DRIVING UNDER INFLUENCE DRUGS, 1ST	(C)3	\$750	Misdemeanor 1
18.2-266	DRIVING UNDER INFLUENCE DRUGS, 2ND	(C)3	\$750	Misdemeanor 1
18.2-266	DRIVING UNDER INFLUENCE DRUGS, 3RD OR SUBSEQUENT	(C)5	\$1,000	Felony 6
18.2-266	DRIVING UNDER INFLUENCE DRUGS/ALCOHOL, 1ST	(C)3	\$750	Misdemeanor 1
18.2-266	DRIVING UNDER INFLUENCE DRUGS/ALCOHOL, 2ND	(C)3	\$750	Misdemeanor 1
18.2-266	DRIVING INFLUENCE DRUGS/ALCOHOL, 3RD OR SUBSEQUENT	(C)5	\$1,000	Felony 6
18.2-266.1	DRIVING AFTER ILLEGALLY CONSUMING ALCOHOL/UNDER 21	(C)3	\$750	Misdemeanor 3
18.2-268.3	REFUSED BLOOD/BREATH, 2ND OFFENSE	(C)4	\$300	Misdemeanor 2
18.2-268.3	REFUSED BLOOD/BREATH, 3RD OFFENSE	(C)4	\$300	Misdemeanor 1
18.2-272	OPERATING SUSPENDED/REVOKED BASED UPON 18.2-272	(C)1	\$250	Misdemeanor 1
18.2-272	OPERATING SUSPENDED/REVOKED, 3RD IN 10 YRS - FELONY	(C)5	\$1,000	Felony 6
18.2-323.1	CONSUMING ALCOHOLIC BEVERAGE WHILE DRIVING	(C)4	\$300	Misdemeanor 4
46.2-300	NO DRIVER'S LICENSE - VEHICLE/MOTORCYCLE	(C)4	\$300	Misdemeanor 2
46.2-301	DRIVING UNDER REVOCATION OR SUSPENSION	(C)1	\$250	Misdemeanor 1
46.2-301.1(E)	AUTHORIZE DUI OR HAB OFF/DUI SUSPENDED TO DRIVE	(C)4	\$300	Misdemeanor 1
46.2-302	DRIVE SUSPENDED BEFORE PROOF FINANCIAL RESPONDS	(C)1	\$250	Misdemeanor 1/2
46.2-328	DRIVE WITHOUT LICENSE ENDORSEMENT(S)	(C)4	\$300	Misdemeanor 1
46.2-329	OPERATE IN VIOLATION RESTRICTED LICENSE	(C)4	\$300	Misdemeanor 2
46.2-335	LEARNER'S PERMIT VIOLATION	(C)4	\$300	Misdemeanor 2
46.2-339	OPERATE SCHOOL BUS WITHOUT LICENSE	(C)4	\$300	Misdemeanor 2

Convictions to be Assessed Civil Remedial Fees Under § 46.2-206.1

Conviction Code	Conviction Description	§ 46.2-206.1 Subsection	Annual Fee	Offense Class
46.2-341.6	DRIVE CMV - MORE THAN ONE LICENSE	(C)4	\$300	Misdemeanor 2
46.2-341.7	DRIVE CMV WITHOUT LICENSE	(C)4	\$300	Misdemeanor 2
46.2-341.7	DRIVE CMV WITHOUT CDL OR PROPER CLASS	(C)4	\$300	Misdemeanor 2
46.2-341.10	CDL INSTRUCTION PERMIT VIOLATION	(C)4	\$300	Misdemeanor 2
46.2-341.16	OPERATE CMV WITHOUT ENDORSEMENT(S)	(C)4	\$300	Misdemeanor 2
46.2-341.19	USE CMV TO DISTRIBUTE CONTROLLED SUBSTANCE	(C)4	\$300	Misdemeanor 1
46.2-341.21	VIOLATING OUT OF SERVICE ORDER	(C)1	\$250	Misdemeanor 1/2
46.2-341.21	DRIVING CMV WHILE DISQUALIFIED	(C)1	\$250	Misdemeanor 1/2
46.2-341.24	DRIVE CMV - BAC .04 OR MORE	(C)3	\$750	Misdemeanor 3
46.2-341.25	DRIVE CMV - BAC .08 OR MORE, 1ST	(C)3	\$750	Misdemeanor 1
46.2-341.24	DRIVE CMV - BAC .08 OR MORE, 2ND WITHIN 5 YEARS	(C)3	\$750	Misdemeanor 1
46.2-341.24	DRIVE CMV - BAC .08 OR MORE, 3RD	(C)3	\$750	Misdemeanor 1
46.2-341.24	DRIVE CMV - BAC .08 OR MORE/DRUGS	(C)3	\$750	Misdemeanor 1
46.2-341.26	DRIVE CMV UNDER INFLUENCE DRUGS/ALCOHOL, 1ST	(C)3	\$750	Misdemeanor 1
46.2-341.24	DRIVE CMV UNDER INFLUENCE DRUGS/ALCOHOL, 2ND	(C)3	\$750	Misdemeanor 1
46.2-341.24	DRIVE CMV UNDER INFLUENCE DRUGS/ALCOHOL, 3RD	(C)3	\$750	Misdemeanor 1
46.2-341.25	DRIVE CMV UNDER INFLUENCE DRUGS, 1ST	(C)3	\$750	Misdemeanor 1
46.2-341.24	DRIVE CMV UNDER INFLUENCE DRUGS, 2ND	(C)3	\$750	Misdemeanor 1
46.2-341.24	DRIVE CMV UNDER INFLUENCE DRUGS, 3RD	(C)3	\$750	Misdemeanor 1
46.2-346	DRIVER'S LICENSE VIOLATION	(C)4	\$300	Misdemeanor 2
46.2-349	PERMIT UNLICENSED PERSON TO DRIVE	(C)4	\$300	Misdemeanor 2
46.2-357	OPERATING AFTER DECLARED HAB OFF - MISDEMEANOR	(C)4	\$300	Misdemeanor 1
46.2-357	OPERATING AFTER DECLARED HAB OFF - FELONY	(C)5	\$1,000	Felony 6
46.2-371	INJURY OR DEATH - FAIL TO NOTIFY POLICE OF ACCIDENT	(C)4	\$300	Misdemeanor 4
46.2-391(D)	DRIVING WHEN REVOKED FOR DUI/2ND - MISDEMEANOR	(C)1	\$250	Misdemeanor 1
46.2-391(D)	DRIVING WHEN REVOKED FOR DUI/2ND - FELONY	(C)5	\$1,000	Felony 6
46.2-391(D)	DRIVING WHEN REVOKED FOR DUI/3RD - MISDEMEANOR	(C)1	\$250	Misdemeanor 1
46.2-391(D)	DRIVING WHEN REVOKED FOR DUI/3RD - FELONY	(C)5	\$1,000	Felony 6
46.2-704	OPERATE OVERWEIGHT OR BEFORE PAYMENT OF FEE	(C)4	\$300	Misdemeanor 2
46.2-704	REFUSE TO HAVE VEHICLE WEIGHED	(C)4	\$300	Misdemeanor 2
46.2-707	OPERATE OR PERMIT OPERATION UNINSURED MOTOR VEHICLE	(C)4	\$300	Misdemeanor 3
46.2-707	KNOWINGLY OPERATE UNINSURED MOTOR VEHICLE	(C)4	\$300	Misdemeanor 3
46.2-815	HAUL PROHIBITED CARGO THROUGH TUNNEL	(C)4	\$300	Misdemeanor 4

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Convictions to be Assessed Civil Remedial Fees Under § 46.2-206.1

Conviction Code	Conviction Description	§ 46.2-206.1 Subsection	Annual Fee	Offense Class
46.2-817	ELUDE POLICE - MISDEMEANOR	(C)4	\$300	Misdemeanor 3
46.2-817	ELUDE POLICE - FELONY	(C)5	\$1,000	Felony 6
46.2-817	DISREGARD POLICE SIGNAL TO STOP	(C)4	\$300	Misdemeanor 3
46.2-817	ATTEMPT TO ELUDE POLICE	(C)4	\$300	Misdemeanor 3
46.2-818	STOP VEHICLE TO IMPEDE TRAVEL/BLOCK/DAMAGE	(C)4	\$300	Misdemeanor 1
46.2-829	RD - PASS OR OVERTAKE EMERGENCY VEHICLE	(C)4	\$300	Misdemeanor 1
46.2-852	RD - GENERALLY - MISDEMEANOR	(C)2	\$350	Misdemeanor 1
46.2-852	RD - GENERALLY - FELONY	(C)5	\$1,000	Felony 6
46.2-853	RD - OPERATE IMPROPER BRAKES - MISDEMEANOR	(C)2	\$350	Misdemeanor 1
46.2-853	RD - OPERATE IMPROPER BRAKES - FELONY	(C)5	\$1,000	Felony 6
46.2-853	RD - IMPROPER CONTROL - MISDEMEANOR	(C)2	\$350	Misdemeanor 1
46.2-853	RD - IMPROPER CONTROL - FELONY	(C)5	\$1,000	Felony 6
46.2-854	RD - PASS ON CREST OF HILL - MISDEMEANOR	(C)2	\$350	Misdemeanor 1
46.2-854	RD - PASS ON CREST OF HILL - FELONY	(C)5	\$1,000	Felony 6
46.2-855	RD - VIEW OBSTRUCTED - MISDEMEANOR	(C)2	\$350	Misdemeanor 1
46.2-855	RD - VIEW OBSTRUCTED - FELONY	(C)5	\$1,000	Felony 6
46.2-856	RD - PASS TWO VEH ABREAST - MISDEMEANOR	(C)2	\$350	Misdemeanor 1
46.2-856	RD - PASS TWO VEH ABREAST - FELONY	(C)5	\$1,000	Felony 6
46.2-857	RD - DR TWO VEH ABREAST - MISDEMEANOR	(C)2	\$350	Misdemeanor 1
46.2-857	RD - DR TWO VEH ABREAST - FELONY	(C)5	\$1,000	Felony 6
46.2-858	RD - PASS AT RR CROSSING - MISDEMEANOR	(C)2	\$350	Misdemeanor 1
46.2-858	RD - PASS AT RR CROSSING-FELONY	(C)5	\$1,000	Felony 6
46.2-859	RD - PASS SCHOOL BUS - MISDEMEANOR	(C)2	\$350	Misdemeanor 1
46.2-859	RD - PASS SCHOOL BUS - FELONY	(C)5	\$1,000	Felony 6
46.2-860	RD - FAIL TO GIVE PROPER SIGNAL - MISDEMEANOR	(C)2	\$350	Misdemeanor 1
46.2-860	RD - FAIL TO GIVE PROPER SIGNAL - FELONY	(C)5	\$1,000	Felony 6
46.2-861	RD - DRIVE TOO FAST FOR CONDITIONS - MISDEMEANOR	(C)2	\$350	Misdemeanor 1
46.2-861	RD - DRIVE TOO FAST FOR CONDITIONS - FELONY	(C)5	\$1,000	Felony 6
46.2-862	RD - SPEEDING EXCESS OF 80 MPH - MISDEMEANOR	(C)2	\$350	Misdemeanor 1
46.2-862	RD - SPEEDING EXCESS OF 80 MPH - FELONY	(C)5	\$1,000	Felony 6
46.2-862	RD - SPEED 20/MORE ABOVE SPEED LIMIT - MISDEMEANOR	(C)2	\$350	Misdemeanor 1
46.2-862	RD - SPEED 20/MORE ABOVE SPEED LIMIT - FELONY	(C)5	\$1,000	Felony 6
46.2-863	RD - FAIL TO STOP ENTERING HIGHWAY - MISDEMEANOR	(C)2	\$350	Misdemeanor 1

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Convictions to be Assessed Civil Remedial Fees Under § 46.2-206.1

Conviction Code	Conviction Description	§ 46.2-206.1 Subsection	Annual Fee	Offense Class
46.2-863	RD - FAIL TO STOP ENTERING HIGHWAY - FELONY	(C)5	\$1,000	Felony 6
46.2-864	RD - ON PARKING LOTS, ETC - MISDEMEANOR	(C)2	\$350	Misdemeanor 1
46.2-864	RD - ON PARKING LOTS, ETC - FELONY	(C)5	\$1,000	Felony 6
46.2-865	RD - RACING - MISDEMEANOR	(C)2	\$350	Misdemeanor 1
46.2-865	RD - RACING - FELONY	(C)5	\$1,000	Felony 6
46.2-865.1	INJURING PERSON/CAUSING DEATH WHILE RACING - FELONY	(C)5	\$1,000	Felony 6
46.2-866	AID AND ABET RACING	(C)4	\$300	Misdemeanor 1
46.2-868.1	AGGRESSIVE DRIVING	(C)2	\$350	Misdemeanor 1
46.2-894	FAIL STOP SCENE ACCIDENT - FELONY	(C)5	\$1,000	Felony 5
46.2-894	FAIL STOP SCENE ACCIDENT - MISDEMEANOR	(C)4	\$300	Misdemeanor 1
46.2-896	FAIL REPORT ACCIDENT/UNATTENDED PROPERTY/LESS \$250	(C)4	\$300	Misdemeanor 4
46.2-896	FAIL STOP SCENE ACCIDENT/UNATTENDED PROPERTY	(C)4	\$300	Misdemeanor 1
46.2-896	FAIL STOP SCENE ACCIDENT/UNATTEND PROP/EXCESS \$500	(C)4	\$300	Misdemeanor 1
46.2-909	IMPROPER OPERATION/RIDING MOTORCYCLE	(C)4	\$300	Misdemeanor 3
46.2-921.1	EMERGENCY VEHICLE VIOLATION	(C)4	\$300	Misdemeanor 1
46.2-933	FAIL STOP FOR PEDESTRIAN WITH WHITE CANE	(C)4	\$300	Misdemeanor 3
46.2-1042	OPERATE MOTOR VEHICLE WITH BELOW-STANDARD TIRES	(C)3	\$300	Misdemeanor 1
46.2-1077.01	OBSCENE VIDEO IMAGE VISIBLE OUTSIDE VEHICLE	(C)4	\$300	Misdemeanor 4
46.2-1086	OPERATE WITH SMOKE SCREEN/FELONY	(C)5	\$1,000	Felony 6
46.2-1088.4	OPERATE MOTOR VEHICLE WITH WORKING N2O DEVICE	(C)3	\$300	Misdemeanor 3
46.2-1090	OPERATE SCHOOL BUS WITHOUT WARNING DEVICE	(C)3	\$300	Misdemeanor 3
46.2-1091	OPERATE SCHOOL BUS TRANSPORT CHILD W/O SAFETY BELT	(C)4	\$300	Misdemeanor 3
46.2-1104	EXCESS WEIGHT/HEIGHT/SIZE/SPEED ON RESTRICTED HWY	(C)4	\$300	Misdemeanor 2
46.2-1134	FAIL TO DISCONTINUE OPERATING CMV	(C)3	\$300	Misdemeanor 4
46.2-1137	REFUSING TO DRIVE TO WEIGH STATION	(C)4	\$300	Misdemeanor 4
46.2-1139	VIOLATE HIGHWAY HAUL PERMIT	(C)4	\$300	Misdemeanor 1