

**PETITION FOR RESTORATION OF DRIVING
PRIVILEGE - HABITUAL OFFENDER
COMMONWEALTH OF VIRGINIA**

Case No

HEARING DATE AND TIME

.....
CITY OR COUNTY

Circuit Court

.....
PETITIONER'S NAME

.....
ADDRESS

COMPLETE DATA BELOW IF KNOWN

RACE	SEX	BORN			HT.		WGT.	EYES	HAIR
		Mo.	DAY	YR.	FT.	IN.			
SSN									
VA. D.L. # (IF DIFFERENT FROM SSN)									

TO THE JUDGE OF THE ABOVE-NAMED COURT:

I respectfully represent that on , I was adjudged/determined to be an habitual offender by
DATE

the Court, the Department of Motor Vehicles,
based on the following convictions which brought me within the definition of "habitual offender":

OFFENSE	OFFENSE DATE	CONVICTION DATE	CONVICING COURT

I have attached a certified "Habitual Offender Restoration Transcript" of my driving record from the Department of Motor Vehicles.

CHECK ONE BOX AS THE BASIS OF YOUR PETITION:

A. Restoration under Va. Code § 46.2-360(1). (Eligibility only after five (5) years from the date of your adjudication or determination unless you are entitled to credit under subsection (iii) below.) I have been adjudged/determined to be an habitual offender based in part on and dependent upon convictions of Va. Code § 18.2-266, § 18.2-51.4 or Subsection A of § 46.2-341.24 or valid local ordinance or law of another state or jurisdiction relating to operating a motor vehicle under the influence of intoxicants or drugs.

I represent that:

- (i) At the time of my convictions, I was addicted to or psychologically dependent on the use of alcohol or other drugs; and
- (ii) At this time I am no longer addicted to or psychologically dependent on the use of alcohol or other drugs; and
- (iii) At least five years have passed from the date on which I was adjudged/determined to be an habitual offender.
[For the purposes of determining eligibility under this section, I rely on a period of credit for an administrative suspension by the Department of Motor Vehicles pursuant to Va. Code § 46.2-391(B) (for third offense drunk driving) prior to my adjudication/determination.

Yes No if yes, period of suspension under § 46.2-391(B):

- to]; and
- (iv) I do not constitute a threat to the safety and welfare of myself or others with respect to the operation of a motor vehicle.

I request that the Court restore my privilege to operate a motor vehicle in the Commonwealth upon my evaluation by the Virginia Alcohol Safety Action Program.

B. Restricted License under Va. Code § 46.2-360(2). (Eligibility only after three (3) years from the date of your adjudication or determination - unless you are entitled to credit under (iii) below.) I have been adjudged/determined to be an habitual offender based in part on and dependent upon convictions of Va. Code § 18.2-266, § 18.2-51.4 or Subsection A of § 46.2-341.24 or valid local ordinance or law of another state or jurisdiction relating to operating a motor vehicle under the influence of intoxicants or drugs.

I represent that:

- (i) At the time of my convictions, I was addicted to or psychologically dependent on the use of alcohol or other drugs; and
- (ii) At this time I am no longer addicted to or psychologically dependent on the use of alcohol or other drugs; and
- (iii) At least *three* years have passed from the date on which I was adjudged/determined to be an habitual offender [For the purposes of determining eligibility under this section, I rely on a period of credit for administrative suspension by the Department of Motor Vehicles pursuant to Va. Code § 46.2-391(B) (for third offense drunk driving) prior to my adjudication/determination:

Yes No if yes, period of suspension:

_____ to _____]; and

- (iv) I do not constitute a threat to the safety and welfare of myself or others with respect to the operation of a motor vehicle.

I request that the Court order the issuance of a restricted license to allow me to drive to and from work and during the course of my employment, upon evaluation by the Virginia Alcohol Safety Action Program.

NAME AND ADDRESS OF EMPLOYER

DAYS AND HOURS WORKED

C. Restoration under Va. Code § 46.2-361(A). (Eligibility only after three (3) years from the adjudication/ determination and after all fines, court costs, forfeitures, restitution, penalties and/or judgments have been paid in full.) I have been adjudged/determined to be an habitual offender and such adjudication/determination was not based on any drunk driving conviction(s), but was based *in part* and dependent upon a conviction(s) of driving while my license or privilege to drive was suspended or revoked where the suspension or revocation was only for:

- failure to pay fines, costs, forfeitures, restitution and/or penalties; or
- failure to furnish proof of financial responsibility; or
- failure to satisfy a judgment.

I attach proof that all fines, costs, forfeitures, restitution, penalties and/or judgments have been paid in full, and I attach proof of financial responsibility.

I represent that:

- (i) At least *three* years have passed since the date of my adjudication/determination as an habitual offender.
- (ii) I do not constitute a threat to the safety and welfare of myself or others with respect to the operation of a motor vehicle.

I request that the Court restore my privilege to operate a motor vehicle in the Commonwealth.

D. Restoration under Va. Code § 46.2-361(B). (Immediate eligibility after all fines, court costs, forfeitures, restitutions, penalties and/or judgments have been paid.) I have been adjudged/determined to be an habitual offender based *entirely* upon convictions of driving while my license or privilege to drive was suspended or revoked where the suspension or revocation was only for:

- failure to pay fines, costs, forfeitures, restitution and/or penalties; or
- failure to furnish proof of financial responsibility; or
- failure to satisfy a judgment.

I attach proof that all fines, costs, forfeitures, restitution, penalties and/or judgments have been paid in full, and I attach proof of financial responsibility.

I represent that I do not constitute a threat to the safety and welfare of myself or others with respect to the operation of a motor vehicle. I request that the Court restore my privilege to operate a motor vehicle in the Commonwealth.

E. Restoration under Va. Code § 46.2-359. (Eligibility upon reaching eighteen years of age.) I have been adjudged/determined to be an habitual offender based in whole or in part on findings of not innocent while I was a juvenile. I am now eighteen years of age or older. I request that the Court restore my privilege to operate a motor vehicle in the Commonwealth.

F. Restoration under Va. Code § 46.2-358. (Eligibility after five (5) years from the adjudication/determination where adjudication/determination was based on no drunk driving conditions.) I have been adjudged/determined to be an habitual offender and none of the convictions which brought me within the definition of "habitual offender" were for drunk driving and at least *five* years have now passed since the date of such adjudication/determination. I represent that I do not constitute a threat to the safety and welfare of myself or others with regard to the driving of a motor vehicle. I request that the Court restore my privilege to operate a motor vehicle in the Commonwealth.

I request that the Court hold a hearing on my petition not less than thirty (30) days from the date that the petition is served on the Commonwealth's Attorney and the Commissioner of the Department of Motor Vehicles.

I understand that the Commonwealth's Attorney or the Commissioner of the Department of Motor Vehicles may object to my petition and the Court may deny my request to restore my privilege to operate a motor vehicle in the Commonwealth, may deny the issuance of a restricted driver's license or may place conditions on my privilege to operate a motor vehicle.

.....
DATE

PETITIONER'S SIGNATURE

RETURN - COMMONWEALTH'S ATTORNEY	
SERVED ON	
	NAME
.....	
DATE	SERVING OFFICER
FOR	

RETURN - COMMISSIONER OF DMV:	
SERVED ON	
	NAME
.....	
DATE	SERVING OFFICER
FOR	

**ORDER RESTORING DRIVING PRIVILEGE –
HABITUAL OFFENDER**
COMMONWEALTH OF VIRGINIA

Case No.

..... Circuit Court
CITY OR COUNTY

.....
PETITIONER'S NAME

.....
ADDRESS

COMPLETE DATA BELOW IF KNOWN

RACE	SEX	BORN			HT.		WGT.	EYES	HAIR
		MO.	DAY	YR.	FT.	IN.			
SSN									
VA. D.L. # (IF DIFFERENT FROM SSN)									

ON THE PETITION FOR RESTORATION OF DRIVING PRIVILEGE, AND ON THE EVIDENCE HEARD, INCLUDING THE EVALUATION OF THE VIRGINIA ALCOHOL SAFETY ACTION PROGRAM, IF APPLICABLE, THE COURT FINDS THAT:

The Petitioner was adjudged/determined to be an habitual offender by

the Court

Department of Motor Vehicles on
DATE

AND THAT:

A. (Va. Code § 46.2-360(1)) The Petitioner has been adjudged/determined to be an habitual offender based in part on and dependent upon convictions of Va. Code § 18.2-266, § 18.2-51.4 or Subsection A of § 46.2-341.24 or valid local ordinance or law of another state of jurisdiction relating to operating a motor vehicle under the influence of intoxicants or drugs, and:

- (i) At the time of the previous convictions, Petitioner was addicted to or psychologically dependent on the use of alcohol or other drugs; and
- (ii) At this time he is no longer addicted to or psychologically dependent on the use of alcohol or other drugs; and
- (iii) *Five* years have passed from the date on which Petitioner was adjudged/determined to be an habitual offender

[A period of credit is included for administrative suspension by the Department of Motor Vehicles pursuant to Virginia Code § 46.2-391(B) (for third offense drunk driving) prior to adjudication/determination.

Yes No if yes, period of suspension under § 46.2-391(B):

..... to]; and

- (iv) Petitioner does not constitute a threat to the safety and welfare of himself or others with respect to the operation of a motor vehicle; and
- (v) The Court has reviewed the evaluation of the Petitioner prepared by the Virginia Alcohol Safety Action Program and considered its recommendations.

B. (Va. Code § 46.2-360(2)) The Petitioner has been adjudged/determined to be an habitual offender based in part on and dependent upon convictions of Va. Code § 18.2-266, § 18.2-51.4 or Subsection A of § 46.2-341.24 or valid local ordinance or law of another state or jurisdiction relating to operating a motor vehicle under the influence of intoxicants or drugs, and:

- (i) At the time of the previous convictions, Petitioner was addicted to or psychologically dependent on the use of alcohol or other drugs; and
- (ii) At this time he is no longer addicted to or psychologically dependent on the use of alcohol or other drugs; and
- (iii) *Three* years have passed from the date on which Petitioner was adjudicated/determined to be an habitual offender

[A period of credit is included for administrative suspension by the Department of Motor Vehicles pursuant to Virginia Code § 46.2-391(B) (for third offense drunk driving) prior to adjudication/determination

Yes No if yes, period of suspension:

..... to]; and

- (iv) Petitioner does not constitute a threat to the safety and welfare of himself or others with respect to the operation of a motor vehicle.
- (v) The Court has reviewed the evaluation of the Petitioner prepared by the Virginia Alcohol Safety Action Program and considered its recommendations.

C. (Va. Code § 46.2-361(A)) The Petitioner has been adjudged/determined to be an habitual offender and such adjudication/determination was not based on any drunk driving conviction(s), but was *based in part* and dependent upon convictions of driving while his license or privilege to drive was suspended or revoked where the suspension or revocation was only for:

- failure to pay fines and costs; or
- failure to furnish proof of financial responsibility; or
- failure to satisfy a judgment; and
 - (i) All fines, costs and/or judgments have been paid in full; and
 - (ii) Petitioner has demonstrated proof of financial responsibility; and
 - (iii) *Three* years have passed since the date of Petitioner's adjudication/determination to be an habitual offender; and
 - (iv) Petitioner does not constitute a threat to the safety and welfare of himself or others with respect to the operation of a motor vehicle.

D. (Virginia Code § 46.2-361(B)) The Petitioner has been adjudged/determined to be an habitual offender *based entirely* upon convictions of driving while his license or privilege to drive was suspended or revoked where the suspension or revocation was only for:

- failure to pay fines and costs; or
- failure to furnish proof of financial responsibility; or
- failure to satisfy a judgment; and
 - (i) All fines, costs and/or judgments have been paid in full; and
 - (ii) Petitioner has demonstrated proof of financial responsibility; and
 - (iii) Petitioner does not constitute a threat to the safety and welfare of himself or others with respect to the operation of a motor vehicle.

- E.** (Virginia Code § 46.2-359) The Petitioner has been adjudged/determined to be an habitual offender in whole or in part based on findings of not innocent while Petitioner was a juvenile, and Petitioner is now eighteen years of age or older.
- F.** (Virginia Code § 46.2-358) The Petitioner has been adjudged/determined to be an habitual offender and such adjudication/determination was based on no drunk driving convictions, and five years have passed since the date of such adjudication/determination, and Petitioner does not constitute a threat to the safety and welfare of himself or others with regard to the operation of a motor vehicle.
- G.** The Petitioner has not demonstrated sufficient evidence to support the granting of his petition to have his privilege to drive in the Commonwealth restored.

IT IS THEREFORE ORDERED THAT:

Petitioner's privilege to drive a motor vehicle in the Commonwealth is restored under the Habitual Offender Act subject to any other requirements for restoration under other provisions of law.

Petitioner's privilege to drive a motor vehicle in the Commonwealth is restored subject to the following special conditions:

.....

.....

Petitioner is granted a restricted license to drive a motor vehicle in the Commonwealth, until, for the purposes enumerated in the restricted driver's license, during which time he shall be subject to the supervision of the Virginia Alcohol Safety Action Program.

- Travel to/from work Travel to/from VASAP Travel during work
- Travel to/from school Medically necessary travel Ignition interlock
- Travel to/from day care for child Travel to/from school for child
- Travel to/from medical service facility for child
- Travel to/from court ordered visitation with child or children
- Travel to/from appointments with probation officer
- Travel to/from programs required by court or as a condition of probation

The petition to restore driving privileges in the Commonwealth of Virginia is denied.

.....
DATE

JUDGE